



Willows Library Board of Trustees Meeting

August 28, 2025
Willows Civic Center, Eubanks Room
11:00 AM

Board of Trustees
Dan Gupton, President
Ardythe Brandon, Vice-President
Lisa Kennedy, Secretary
Brian Ramos, Trustee
Kristel Bettencourt, Trustee
Matt Busby, City Council Liaison

City Librarian
Christine Watson

201 North Lassen Street
Willows, CA 95988
(530) 934-7041

Agenda

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC COMMENT & CONSENT CALENDAR FORUM

The Public Comment Forum is an opportunity to address the Board of Trustees on any matter for which another opportunity to speak is not provided on the agenda, and which is within the purview of the Willows Library Board to resolve. Any interested members of the public wishing to communicate with the Board of Trustees may do so by contacting the Board President at the beginning of the meeting. For questions about any agenda items, please contact Christine Watson, City Librarian, cwatson@cityofwillows.org.

a. Minutes Approval

Recommended Action: Approve the July 24, 2025, meeting minutes.

5. DISCUSSION & ACTION CALENDAR

All matters on the Discussion & Action Calendar will be discussed and acted on individually. Individuals wishing to speak on any of these items should request to be acknowledged by the Board President. Comments should be directed to the Board of Trustees and are limited to three minutes. By law, the Board of Trustees cannot discuss or take action on items not listed on the posted agenda.

a. Library Flooring

Recommended Action: Review and consider costs and bids for improving the flooring of the library's backroom, and direct staff accordingly including a possible project budget amount not to exceed \$20,000 using funds from the Francis King Trust.

b. Purchase of New Computers

Recommended Action: Authorize the City Librarian to purchase up to six public computers for an amount not to exceed \$14,000 including the required software (e.g., Microsoft Software and License) and technical support using funds from the Francis King Trust.

c. **City Librarian Update**

Recommended Action: Discuss City Librarian report (verbal) on current library goals for the remainder of the calendar year and other updates.

d. **Library Consulting - Draft Proposal**

Recommended Action: Discuss the draft proposal for library consulting services, and direct staff accordingly.

e. **Trust Funds - Activity Report & 2024 Interest Earned**

Recommended Action: Receive, review, discuss and file library trust fund activities report and 2024 interest generated by Trust Fund.

f. **History of Trust Funds & Use of Funds**

Recommended Action: Review and discuss the attached documents outlining the history of the McDole and Francis King Trusts, as well as other Trust Fund notes. Provide policy direction to staff regarding the potential of formulating a spending policy for Trust Fund monies.

g. **Library Board Education**

Recommended Action: Discuss City Librarian and make a plan to train the Library Board on updated state requirements.

6. COMMENTS & REPORTS

- a. Friends of the Willows Public Library Report
- b. Board of Trustees Comments & Reports

10. ADJOURNMENT

This agenda was posted on August 22, 2025

Marti Brown, City Manager

In compliance with the Americans with Disabilities Act, the City of Willows will make available to members of the public any special assistance necessary to participate in this meeting. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132). The public should contact the City Clerk's office at (530) 934-7041 to make such a request. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

The City of Willows is an Equal Opportunity Provider.

ACTION MINUTES OF THE WILLOWS LIBRARY SPECIAL BOARD MEETING HELD JULY 24, 2025 at
the Willows Public Library.

President Dan Gupton called the meeting to order at 11:00 a.m.

Roll Call: Board members present: Dan Gupton, Kristel Bettencourt, Ardythe Brandon, Brian Ramos.

Absent: Lisa Kennedy, Secretary

Council Liaison, Matt Busby, City Manager, Marti Brown, Lorrie Pride, City Council Member and Doug Ross

Public Comment/Written Communications:

A. **Board Officer Elections for President and Vice President**

Kristel Bettencourt made a motion to nominate Dan Gupton for president. Ardythe seconded, 4 ayes, 0 nays.

Dan nominated Ardythe for vice president. Brian seconded. 4 ayes, 0 nays.

B. **City Librarian Interview Panel:** From recommended action item, Brian was appointed to the interview panel for the new City Librarian. Kristel seconded. 4 ayes, 0 nays. Marti Brown shared that August 5 and 6 are the dates for the interviews, one in person, 3 via zoom.

C. **Library Book Fund:** The city library book fund currently has available \$10,000 for the fiscal year 2025-26. Brian explained the average cost and number of books per month that could be ordered. The book lists for July and August were passed around to all members present.

Kristel moved to authorize the regular city book budget for the purpose of ordering from the lists. Brian seconded. All ayes, no nays.

Zip Program: Noted was the fact that it is uncertain what the Zip Program funds will be this year. They are typically sent out in late September, funded through the California Library State Library. The amount could be from \$4000 to \$6000.

D. **Gold Leaf Recognition:** There was discussion about Jody Meza and Caitlin Ehorn's gold leaf additions to the Donor Recognition Tree. Kaitlyn was asked to make a leaf for Jody and did so. Kristel asked Caitlyn to make a leaf for herself (Caitlyn) before she left her position. As of this date, Caitlin is the only one who knew how to use the machine for this task.

Ardythe motioned to approve taking \$400 from the library donation account for two leaves on the north wall tree display inside the library. It was seconded by Brian. Jodi's leaf is currently on display. Kaitlyn's is still in need of creation. Doug Ross mentioned that he wanted to see the Gold Leaf Recognition Program publicized. He also stated that he had been on the Library Board before.

E. **Trust Fund Balances:** Discussion was made about the library's trust funds from the Fund Balance Report listed 'As of 6/20/2025' in the agenda packet. One of the questions was the Mc Dole Fund, Fund # 204 which was recorded during a library board meeting in 1989 according to Dan Gupton. The condition was that only the interest could be spent, not the principal. The original amount that Elizabeth Mc Dole donated was \$16,261.30 to be specifically and exclusively spent for public library purpose for all patrons. Marti requested to borrow the document from Dan Gupton's binder. Brian requested that the interest earned total be listed separately from the original principal of \$16,261.30 by Marti who said she will get the report in October regarding the interest earned for each fund.

Ardythe requested more information than provided about the activity in the library funds account. Marti said she only gets the reports once a year and would most likely have that information in October when we could see the interest rate that is earned on the current Francis King Fund listed as \$69,780.49 and the interest earned on the Mc Dole Fund.

Dan Gupton mentioned that it is State Education code 27404 that dictates trust fund accounting and spending.

F. **Friends of the Library:** When the library receives donations from the public for the Friends of the Library, it is put into the account called Children's Services. Marti said the city of Willows cannot accept checks written out to Friends of the library. She said the city does not touch the Library Fund money.

G. **Overall Update on Status of the Library:** Due to the departure of library clerks, two new library clerks have been hired and are slated to begin August 4th for training and then August 11 on their own working 19 hours weekly. Brian listed a comparison to the following local libraries: Orland 41 hours a week, open on Saturday, Corning (30), Williams (3 days a week), Gridley (34), Colusa (41) Mon-Sat., Chico (41) Mon-Sat., Red Bluff (35) Mon-Fri, Williams (22) Wed-Fri. and Willows Library at 28 if we get Tuesday back. Marti said in two weeks Tuesdays will be reopened.

Meeting adjourned at 12:08.



Date: August 28, 2025
To: Library Board Trustees
From: Christine Watson, City Librarian
Subject: Library Flooring

Recommendation:

Review and consider costs and bids for improving the flooring of the library's backroom, and direct staff accordingly including a possible project budget amount not to exceed \$20,000 using funds from the Francis King Trust.

Rationale for Recommendation:

Library Board Trustees inquired with the former Library Director to investigate the possibility and cost of improving the flooring of the back library room (where the partially collapsed ceiling occurred).

Background:

Upon this request from the former Library Director, staff investigated various options and costs for improving the flooring of the library's employee only backroom. To that end, staff received two bids for epoxy related floor improvements and one cost estimate for staff installed carpet.

Discussion & Analysis:

Based on the Board's direction and interest, staff received the following bids and flooring installation options:

- Option #A: Grind and seal – Not to Exceed \$7,000
This option would be to remove tiles, grind/buff the concrete, and seal it.
- Option #B: Commercial Grade Epoxy Flake System – Not to Exceed \$8,000
This option would be to remove the tiles and apply a new commercial grade epoxy.
- Option #C: Penntek Polyurea Evolution System – Not to Exceed \$15,000
This option would remove existing tiles, treat concrete for moisture (if necessary), and fill any cracks with mendering product consisting of polyurea (as opposed to an epoxy) for longer durability.

- Option #D: Carpet Purchase – \$7,000-9500 (carpet and installation)

This option would include purchasing commercial grade carpet squares and hiring an outside contractor to install them.

Please note, the cost for Options #A through #C could increase should the existing tile consist of asbestos. The tile will need to be tested before work can begin and, if asbestos is present, the cost of removal will increase.

Based on prior Board discussions, there is an interest in allocating up to \$20,000 toward floor improvements.

Fiscal Impact:

Should the library Board approve one of the above options, the cost would range between \$7,000 and \$15,000 (provided there is no asbestos present in the floor tiles). Should the cost increase by more than \$15,000 and should the asbestos be present, the prevailing wage would be triggered which would increase the project costs to more than \$20,000.



Date: August 28, 2025
To: Library Board Trustees
From: Christine Watson, City Librarian
Subject: Library Consulting - Draft Proposal

Recommendation:

Review and discuss the draft proposal for library consulting services, and direct staff accordingly.

Rationale for Recommendation:

Staff mentioned to the Board of Trustees at the July 24, 2025, meeting that proposals were solicited to potentially hire a library consultant to re-evaluate the library's organizational structure, hours of operations, and programs and services. As a result, the Board requested to review the proposal.

Background:

Once the City of Orland terminated its contract for Library Director services with the City of Willows and the City Manager started spending more time in the library, it seemed like a good opportunity to re-evaluate the library's organizational structure, hours of operation, and programs and services. To that end, an informal solicitation for library consulting services was initiated. The only response and proposal received was from Infocus Library Consulting (Attachment 1).

Discussion & Analysis:

After the City of Orland's contract termination and the resignation of three (and now four) library employees, it seemed worth re-evaluating the library's organizational chart, hours of operations and its program and service offerings. It also seemed like a potentially tall order for a brand-new department head to be responsible for these activities without any additional consulting support.

As identified in Attachment 2, the modest proposal (Attachment 1) would also provide a professional and knowledgeable resource to brainstorm with and bounce ideas off of when considering new directions and options for the library.

Fiscal Impact:

There is no fiscal impact by reviewing and discussing the attached consulting proposal.

Attachments:

- Attachment 1: Infocus Library Consulting - Draft Proposal
- Attachment 2: Why Hire a Library Consultant?



InFocus Library Consulting
221 Verde Vista Drive
Thousand Oaks, CA 91360
(608) 215-0272
msacco@infocuslibs.com
infocuslibraryconsulting.com

Proposal

Willows Public Library

July 3, 2025

OVERVIEW

The Willows Public Library is facing both short-term and long-term planning challenges. Until recently, the Willows Library and the Orland Free Library had a contract to share the services of the Library Director. That contract has ended and will not be renewed. This scenario presents the Library with strategic planning opportunities to assess the programming, services, staffing needs, funding, and hours of operation required to meet the needs and expectations of the residents of the City of Willows and Glenn County. An interim director search is underway. Many State Library grants stipulate that grantees must have at least one full-time staff member holding a Master of Library Science or Master of Library and Information Science degree as a regular employee. With the previous Director's departure, the Library does not have a professional Librarian on staff. The Library is also operating on a 50% reduction in paraprofessional staff, having recently lost two of four Library Clerks. State Library grants represent a significant source of funding for programs, and the services of a professional librarian are required to continue receiving these program funding streams. In addition, the Willows Library is the only public library in Glenn County that is partially funded and not managed by the county library system. The City of Willows has an opportunity to plan the Library's future as a vibrant and flexible organization. Now is the time to conduct a comprehensive library analysis and create a plan that will carry the Library through near-term challenges and realize long-term goals.

GOALS

1. Assist in the search for a credentialed professional Librarian for the vacant Director position.
 - a. Develop job description, qualifications, and post to high-visibility library employment sites.
 - b. Screen candidates, and if desired, participate in interviews
2. Conduct a comprehensive library assessment of the Willows Library's
 - a. Budget and funding
 - b. Library use
 - c. Library resources, physical and digital
 - d. Programming
 - e. Staffing needs
 - f. Hours of operation
3. Investigate other Library grants for use as additional funding sources
4. Make recommendations for near and long-term needs based on the findings of the assessment.

METHODS

InFocus proposes the following methods and tools to produce a comprehensive report of findings and actionable recommendations that address the needs outlined in the Goals section above.

1. Director or Administrator search and screening for a professional Librarian
2. An online survey to gather metrics and feedback from stakeholders (community members, library patrons, members of the Library Advisory Committee, City of Willows employees) on the state of the library and their needs
3. Interviews with staff and Library Advisory Board members (onsite, Zoom)
4. A detailed accounting of Library resources, services, and programming, and the funding and costs attached to them
5. Library use metrics - **non-identifying** numerical data, such as foot traffic, items checked out, resources accessed, and the number of participants at events, etc.

MILESTONES

InFocus will develop a project plan in collaboration with the City of Willows and the Library Advisory Committee. Milestones include:

1. Staffing needs - facilitate search for new Director/Administration, Professional Librarian, and Paraprofessional staffing recommendations
2. Survey deployment
3. Follow-up interviews with stakeholders
4. Budget analysis and metrics
5. Report of findings and recommendations

SUBCONTRACTOR QUALIFICATIONS

INFOCUS LIBRARY CONSULTING

InFocus Library Consulting is a woman-owned, CA-certified SBE that provides consulting and contract library services to libraries and organizations of all sizes and types. With over 25 years of experience as professional Librarians and Consultants, we work in creative partnership with our library colleagues and the stakeholders in their communities, advocating and delivering programming and services that bring value to the communities they serve. Our experience enables us to develop flexible approaches and innovative solutions tailored to your community's specific needs. InFocus is pleased to offer its services to assist the City of Willows and the Willows Public Library in assessing the current state of the Library's programming, services, staffing levels, budget, and public use, and in developing a long-range actionable plan that will allow the Library to grow with the community by creating a lasting future vision. InFocus will work closely with the City of Willows, Library staff, and the Willows Public Library Board of Trustees to address stakeholder needs and expectations throughout the process. We value our clients and will be available after the project is complete to assist with the implementation of recommendations. From follow-up projects to phone calls, we are always available to our libraries. Our clients include: National Academy of Sciences, Criterion Edge, Los Angeles County Metropolitan Transportation Authority, Foundation for Science & Math Education, Wisconsin Department of Transportation, Missouri Department of Transportation, University of Iowa, Iowa Department of Transportation, Partners in Brainstorms, Arizona Department of Transportation, Tennessee Department of Transportation, TeenLife Media-US News.

CONSULTANTS

Maggie Sacco Curcio, MLS

Owner, Lead Consultant

Maggie is a professional Librarian and Library Consultant with over 25 years of experience working in and with academic, public, and special libraries. She founded InFocus Library Consulting in 2015, following her relocation to California. Previously, from 2010 to 2015, she served as the CEO and Lead Consultant at HS InFocus LLC, and as the Lead Library Consultant at CTC & Associates from 2005 to 2010, where she gained valuable knowledge of government funds management and reporting requirements that supplement her deep understanding of library services, technology, and workflows.. She has experience with library analysis, project management, survey design, data analysis, digital resource management, as well as public and technical services.

JonAnne Burns, MLS

Associate Consultant

JonAnne is a professional Librarian with over 20 years of experience in public, academic, and special libraries. She brings valuable skills and knowledge of the workings of libraries and government agencies to her consulting work. She is a talented information professional with exceptional research, data analysis, and writing skills who also brings valuable perspective from her experience as a government program analyst. JonAnne is a trusted partner and colleague in her library consulting work.

LIBRARY PROJECTS

Project: *Research Librarian and Special Projects*

Client: Los Angeles County Metropolitan Transportation Authority,

Status: Closed

Personnel: Maggie Sacco Curcio

InFocus was selected for a four-year project to advise the Metro Library, which included library assessments, annual reports, library relocation and space planning, resource trials and licensing, and digital collection cataloguing. Maggie devoted her time exclusively to this project for the duration of the contract and submitted reports to the Metro Board of Directors.

Reference: Matthew Barrett, Director, Library Services & Records Management

LA Metro

213-922-7444

barrettm@metro.net

Project: TRID Indexing and Abstracting Services

Client: National Academy of Sciences, Transportation Research Board

Status: Open

Personnel: Maggie Sacco Curcio, JonAnne Burns

Maggie and JonAnne provide their expertise in metadata, findability, and subject analysis as contract indexers for newly published born-digital and retrospective print research publications in the Transport Research International Documentation (TRID) database, the largest online bibliographic database of transportation research. They also actively participate in developing and refining the Transportation Resource Thesaurus.

Project: *Transportation Library Connectivity Pooled Fund Study, TPF-5(105)*. The Transportation

Client: Wisconsin Department of Transportation, National Cooperative Highway Research Program

Status: Closed

Personnel: Maggie Sacco Curcio, Patrick Casey, Kirsten Seeber

Library Connectivity Pooled Fund Study established and grew a vibrant consortium of transportation libraries across the U.S. Members included librarians and information professionals from state DOTs, university transportation centers, professional associations, and a major metropolitan transportation authority. Full-time library consultant Maggie Sacco Curcio worked with the members to pool their talents, energy, and resources to develop better ways to serve practitioners in transportation agencies. She provided technical assistance to member libraries and carried out a comprehensive annual work plan aimed at improving information access throughout the transportation community.

Reference: Patrick Casey, CEO, CTC & Associates LLC

608-345-8601

pat.casey@ctcandassociates.com

Project: *Transportation Library Connectivity & Development Pooled Fund Study, TPF-5(237)*

Client: Missouri Department of Transportation

Status: Closed

Personnel: Maggie Sacco Curcio, Dave Hemingway-Turner, Kirsten Seeber

The Transportation Library Connectivity and Development Pooled Fund Study was the follow-on study to TPF-5(105). With an expanded support staff of 2.5 consultants to offer technical assistance to member libraries, the consortium grew and completed numerous projects to enhance information access for the transportation library and research community.

Reference: Bill Stone, PE, Research Administrator, Construction and Materials
Missouri Department of Transportation
573-526-4328
william.stone@modot.mo.gov

Project: *Arizona Department of Transportation Library Needs Analysis, 2015 (Subcontractor)*
Client: Partners in Brainstorms
Status: Closed

Personnel: Maggie Sacco Curcio, Dave Hemingway-Turner, Kirsten Seeber
The goals of this research project were to determine the information needs of the ADOT staff, identify any unmet information needs, and understand how the Library can best serve internal and external stakeholders. Findings from this research included short- and long-range plans for ADOT to facilitate data-driven decisions regarding the Library's collection and services, staffing, physical space, and the development of outreach strategies to enhance the value of the Library within the department.

Reference: Debra C. Pryor, President, Partners in Brainstorms
(602) 953-5228
dpryor@pib1.com

Project: *Iowa Department of Transportation Library Services and Technology Assessment, IHRB-13-01 7/2/2013*
Client: Iowa Highway Research Board
Status: Closed

Personnel: Maggie Sacco Curcio, Dave Hemingway-Turner, Kirsten Seeber
This project scope included a comprehensive library assessment, encompassing the impact of Library services on research projects (ROI), a survey of IDOT staff, technology, collections, and space evaluations, as well as a disaster plan. The final report outlines several scenarios at various cost levels for improving the Iowa DOT Library's technological infrastructure and services to Iowa DOT and Iowa transportation researchers.

Reference Leighton Christiansen, National Transportation Library (formerly with IDOT)
U.S. DOT
202-366-2759
leighton.christiansen@dot.gov

Project: Tennessee Department of Transportation Library Strategic Plan
Client: Tennessee Department of Transportation
Status: Closed
Personnel: Maggie Sacco Curcio

InFocus provided TDOT with a detailed plan that included recommendations for sustaining the Library, including a streamlined collection, space planning, and staffing, as well as enhanced access, self-service options, and services during a period when professional staffing is considered unlikely. Maggie developed a comprehensive plan to maximize the use of the physical and digital collections and continue to realize the value of the existing collection, and also made recommendations for leveraging resources to augment the collection with new resources and connections to other agencies and groups dedicated to Transportation Knowledge Networks.

Reference: Sandi Hoff, Greater Tennessee Technology Council (formerly with TDOT)

sandi@technologycouncil.com

615-873-1284

COST ESTIMATE

Labor	Category	Rate	Hours	Cost
Maggie Sacco Curcio	Professional Services	\$100	80	\$8000
JonAnne Burns	Professional Services	\$65	30	\$1950
Total			110	\$9950
Travel (TBD)	Site visit (hotel, flight, car)	\$700		\$700
	Per Diem	\$86/day		\$258
Total				\$10,908

Why Hire a Library Consultant?

Hiring an experienced Library consultant is often the best investment you can make when pursuing any Library project. The reality is that Libraries must do more with less; it's more important than ever to focus on community needs and consider new alternatives. Sometimes it's hard to do that when you aren't sure what else is out there or where to start. Here are just a few reasons to consider hiring a consultant for assistance.

- 1. We are Librarians!** InFocus Library Consulting's lead and associate Consultants have over 25 years of experience as Librarians and consultants, hold M.L.S. degrees. We have worked in and with many different types of Libraries. We've seen most, if not all, of what our clients are confronting in their Libraries and we will put our first-hand and broad knowledge of the state of and trends in Library excellence to work for you.
- 2. Knowledge and experience.** Libraries and communities come in all shapes and sizes, and their needs are unique to each situation. An experienced consultant has learned from these differences and developed flexible approaches and novel solutions that best fit each Library.
- 3. Experience in identifying and engaging Library users and non-users.** The best Libraries are customer-focused, and the most effective path to success is through engaging with stakeholders. In addition to engaging those who actively use the Library, it is also essential to identify what is missing that might attract new users to the Library. Often, during engagement, community members tend to be more honest with independent consultants than they are with Library staff. A consultant with an approach focused on seeking community insight will be more likely to develop a successful plan.
- 4. Focused attention on the development of the plan.** With Library resources and staff often being stretched to the limit, a consultant can offer additional resources for efficiently and effectively keeping a plan on track. At the same time, it is best if the Library staff is involved in the process and able to continue the vision into the future. A consultant can remove much of the additional project workload, allowing staff to continue attending to the everyday needs of the Library while the plan continues to develop and evolve.
- 5. We have expertise in developing actionable plans.** While some librarians have participated in the planning process, often they have not led it and aren't comfortable in that role. A consultant can offer new analysis techniques, perspectives from other projects, and challenge ideas in a way that leads to a more robust outcome, considering a wider range of options.

- 6. We are a continuing resource for your success.** One significant advantage of working with a consultant is the collaborative relationship that develops and continues to grow over time. Most consultants are happy to keep in touch and answer questions long after a project is complete. They consider their clients to be peers, working together as a team, and mutual learning is taking place.
- 7. We facilitate knowledge transfer.** An engagement with a consultant is an opportunity for training and growth for any staff involved. The best consultants are concerned with helping a client learn what is changing and why, so they can use the approach and apply the learnings in the future, even after the consultant is gone.
- 8. We offer of an objective perspective.** A consultant will approach your project from a data-driven perspective. They review Library statistics, community data, and consult with the community, librarians, staff, and board. They incorporate benchmarks from other Libraries and apply all the quantitative and qualitative information to make recommendations. Since they enter the situation with no preconceived notions, they are better able to evaluate and either validate or challenge existing assumptions objectively.
- 9. We help you translate information into action.** Gathering the appropriate information for a project is part of the challenge, but translating it into a meaningful and actionable plan that comes to fruition is quite another concern. Experienced consultants are adept at this and customize the plan to each situation. The return on investment typically represents significant savings in operational efficiencies over time.
- 10. We develop plans laying the foundation for future work.** Regardless of the type of plan, it should develop a lasting vision. It helps provide rational justification for budgets, prioritizes programs, and directs efforts toward realizing objectives. A consultant can help ensure that critical areas of service are preserved and enhanced in the final plan and that the approach is forward-looking and comprehensive. The plan consists of necessary documentation that forms a comprehensive building plan for an architect to work from, ensuring continuity during a leadership transition. Communication of the final plan can increase community awareness of the Library and provide a motivating mission for leadership and staff.

Remember, your Library plan must be flexible and able to respond to change. Library services and spaces should be able to expand and contract in response to the pace of change and technological advancements. Collaborating with a Library consultant on your next project is an investment in your Library that will create value by incorporating insights and planning in a way that best serves your community in the years to come.

For more information about InFocus, visit us at: <https://infocuslibraryconsulting.com>



Date: August 28, 2025

To: Library Board of Trustees

From: Christine Watson, City Librarian

Subject: Trust Funds – Activity Report & 2024 Interest Earned

Recommendation:

Receive, review, discuss and file library trust fund activities report and 2024 interest generated by Trust Fund.

Rationale for Recommendation:

Board Trustees requested a report showing the financial activity of the trust fund accounts, as well as the interest earned for each account.

Background:

At the July 24, 2025, Special Library Board Meeting, Board Trustees requested a report showing the financial activity that has occurred in each of the trust funds for the 2024-25 fiscal year. In addition, Trustees requested to review the interest earned on each trust fund account.

Discussion & Analysis:

Attachment 1 shows current trust fund balances as of June 30, 2025. Attachment 2 shows all activities (e.g., revenue, expenditures) for all library trust fund accounts, including Donations (203), McDole Trust (204), Frances King Trust (205), Public Computer (209), Children's Services (212), Northnet Training (350), and CLSA Delivery (352) for FY 2024-25 (July 1, 2024, through June 30, 2025).

Attachment 3 shows the interest earned for all trust funds for Fiscal Year 2023-24. Earned interest for Fiscal Year 2024-25 will be accounted for and transferred into each trust fund by October 2025 and will be reportable at that time.

Fiscal Impact:

There is no fiscal impact by reviewing, receiving and filing these reports.

Attachments:

- Attachment 1: Library Trust Fund Balances
- Attachment 2: Library Trust Fund Activity Report for Accounts 203-352
- Attachment 3: 2024 Trust Fund Interest Earned Report



City of Willows

Fund Balance Report

As Of 06/20/2025

Fund	Beginning Balance	Total Revenues	Total Expenses	Ending Balance
203 - DONATIONS LIBRARY	17,764.38	549.00	0.00	18,313.38
204 - MCDOLE TRUST LIBRARY	51,657.05	0.00	594.84	51,062.21
205 - FRANCIS KING	69,780.49	0.00	0.00	69,780.49
209 - PUBLIC COMPUTER LIBRARY	7,731.54	482.00	782.22	7,431.32
212 - CHILDREN'S SERVICES	15,531.19	9,573.00	9,065.86	16,038.33
350 - NORTHNET TRAINING	3,273.10	1,000.00	2,448.84	1,824.26
352 - CLSA DELIVERY	24,173.26	14,472.25	9,369.46	29,276.05
Report Total:	189,911.01	26,076.25	22,261.22	193,726.04



City of Willows

Detail Report Account Detail

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
Fund: 203 - DONATIONS LIBRARY								
203-000-10000		CLAIM ON CASH				17,704.82	608.56	18,313.38
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			59.56	17,764.38
07/22/2024	CLPKT00279	CASH RECEIPTS 7-22-2		B0296 CLPKT00279			300.00	18,064.38
12/05/2024	CLPKT00396	CASH RECEIPTS 12-5-2		B0415 CLPKT00396			75.00	18,139.38
05/02/2025	CLPKT00559	CASH RECEIPTS - LIBR		B0576 CLPKT00559			174.00	18,313.38
203-000-11500		INTEREST RECEIVABLE				59.56	-59.56	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			-59.56	0.00
203-000-79950		TRUST FUND REVENUES				0.00	-549.00	-549.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/22/2024	CLPKT00279	R1244		RICK & ADELE LEE - DONATION - LIBRARY TRUST FUND REVENUE DONATIONS LIBRARY RICK & ADELE LEE - DONATION - LIBRARY			-100.00	-100.00
07/22/2024	CLPKT00279	R1245		ADELE LEE - JACKSON & JAMES FOLEY - DONATION - LIBRARY TRUST FUND REVENUE DONATIONS LIBRARY ADELE LEE - JACKSON & JAMES FOLEY - DONATION - LIBRARY			-200.00	-300.00
12/05/2024	CLPKT00396	R1606		ROBINSON & ROBINSON - IN MEMORY OF OLIVER HILL - LIBRARY DOANTION TRUST FUND REVENUE DONATIONS LIBRARY ROBINSON & ROBINSON - IN MEMORY OF OLIVER HILL - LIBRARY DOANTION			-75.00	-375.00
05/02/2025	CLPKT00559	R2067		LIBRARY DONATIONS TRUST FUND REVENUE DONATIONS LIBRARY LIBRARY DONATIONS			-174.00	-549.00
Total Fund: 203 - DONATIONS LIBRARY:				Beginning Balance:		17,764.38	Total Activity: 0.00	Ending Balance: 17,764.38
Grand Totals:				Beginning Balance:		17,764.38	Total Activity: 0.00	Ending Balance: 17,764.38

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance
203 - DONATIONS LIBRARY	17,764.38	0.00	17,764.38
Grand Total:	17,764.38	0.00	17,764.38



City of Willows

Detail Report Account Detail

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
Fund: 204 - MCDOLE TRUST LIBRARY								
204-000-10000		CLAIM ON CASH				51,487.90	-425.69	51,062.21
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			169.15	51,657.05
06/06/2025	APPKT00447	55631		ARDYTHE BRANDON SEC REI PMT	2487 - ARDYTHE BRANDON		-594.84	51,062.21
204-000-11500		INTEREST RECEIVABLE				169.15	-169.15	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			-169.15	0.00
204-000-20101		ACCOUNTS PAYABLE PENDING				0.00	-1,626.05	-1,626.05
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
06/02/2025	APPKT00441	051625AB	55631	REIMBURSEMENT FOR OFFICE CHAIRS-BOT-MCDOLE TRST-LIB SEC PBL	2487 - ARDYTHE BRANDON		-594.84	-594.84
06/06/2025	APPKT00447	55631		ARDYTHE BRANDON SEC PMT	2487 - ARDYTHE BRANDON		594.84	0.00
06/30/2025	APPKT00452	7661502	55717	CARPET FOR KIDS-LIBRARY BOARD TRUST FUND APPROVED SEC PBL	1325 - DEMCO, INC.		-851.09	-851.09
06/30/2025	APPKT00460	7665812	55758	SPUTNIK CARPET-LIBRARY BOARD TRUST FUND APPROVED SEC PBL	1325 - DEMCO, INC.		-774.96	-1,626.05
204-000-49999		TRUST FUND EXPENSES				0.00	2,220.89	2,220.89
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
06/02/2025	APPKT00441	051625AB	55631	REIMBURSEMENT FOR OFFICE CHAIRS-BOT-MCDOLE TRST-LIB	2487 - ARDYTHE BRANDON		594.84	594.84
06/30/2025	APPKT00452	7661502	55717	CARPET FOR KIDS-LIBRARY BOARD TRUST FUND APPROVED	1325 - DEMCO, INC.		851.09	1,445.93
06/30/2025	APPKT00460	7665812	55758	SPUTNIK CARPET-LIBRARY BOARD TRUST FUND APPROVED	1325 - DEMCO, INC.		774.96	2,220.89
Total Fund: 204 - MCDOLE TRUST LIBRARY:					Beginning Balance:	51,657.05	Total Activity: 0.00	Ending Balance: 51,657.05
Grand Totals:					Beginning Balance:	51,657.05	Total Activity: 0.00	Ending Balance: 51,657.05

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance
204 - MCDOLE TRUST LIBRARY	51,657.05	0.00	51,657.05
Grand Total:	51,657.05	0.00	51,657.05



City of Willows

Detail Report Account Detail

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
Fund: 209 - PUBLIC COMPUTER LIBRARY								
209-000-10000		CLAIM ON CASH				2,854.80	-275.76	2,579.04
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			24.46	2,879.26
09/25/2024	CLPKT00351	CASH RECEIPT 9-25-24		B0371 CLPKT00351			135.00	3,014.26
12/05/2024	CLPKT00396	CASH RECEIPTS 12-5-2		B0415 CLPKT00396			143.00	3,157.26
01/03/2025	APPKT00358	55135		AFFORDABLE COMPUTER SOLUT SEC REI PMT	1027 - AFFORDABLE COMPUTER SOLUT		-782.22	2,375.04
01/27/2025	CLPKT00483	CASH RECEIPTS 1-27-2		B0497 CLPKT00483			71.00	2,446.04
05/02/2025	CLPKT00559	CASH RECEIPTS - LIBR		B0576 CLPKT00559			73.00	2,519.04
06/02/2025	CLPKT00587	CASH RECEIPTS 6-2-25		B0604 CLPKT00587			60.00	2,579.04
209-000-11500		INTEREST RECEIVABLE				24.46	-24.46	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			-24.46	0.00
209-000-20101		ACCOUNTS PAYABLE PENDING				0.00	0.00	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
01/02/2025	APPKT00354	7677	55135	LIBRARY SERVER REPAIRS & MAINTENANCE - LIBRARY SEC PBL	1027 - AFFORDABLE COMPUTER SOLUT		-782.22	-782.22
01/03/2025	APPKT00358	55135		AFFORDABLE COMPUTER SOLUT SEC PMT	1027 - AFFORDABLE COMPUTER SOLUT		782.22	0.00
209-000-49999		TRUST FUND EXPENSES				0.00	782.22	782.22
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
01/02/2025	APPKT00354	7677	55135	LIBRARY SERVER REPAIRS & MAINTENANCE - LIBRARY	1027 - AFFORDABLE COMPUTER SOLUT		782.22	782.22

Detail Report						Date Range: 07/01/2024 - 06/30/2025		
Account		Name				Beginning Balance	Total Activity	Ending Balance
209-000-79950		TRUST FUND REVENUES				0.00	-482.00	-482.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
09/25/2024	CLPKT00351	R1439		PUBLIC COMPUTERS - LIBRARY TRUST FUND REVENUE PUBLIC COMPUTER LIBRARY PUBLIC COMPUTERS - LIBRARY			-135.00	-135.00
12/05/2024	CLPKT00396	R1595		COMPUTERS - LIBRARY TRUST FUND REVENUE PUBLIC COMPUTER LIBRARY COMPUTERS - LIBRARY			-143.00	-278.00
01/27/2025	CLPKT00483	R1826		LIBRARY COMPUTERS TRUST FUND REVENUE PUBLIC COMPUTER LIBRARY LIBRARY COMPUTERS			-71.00	-349.00
05/02/2025	CLPKT00559	R2068		LIBRARY COMPUTERS TRUST FUND REVENUE PUBLIC COMPUTER LIBRARY LIBRARY COMPUTERS			-73.00	-422.00
06/02/2025	CLPKT00587	R2167		PUBLIC COMPUTER USE - LIBRARY TRUST FUND REVENUE PUBLIC COMPUTER LIBRARY PUBLIC COMPUTER USE - LIBRARY			-60.00	-482.00
Total Fund: 209 - PUBLIC COMPUTER LIBRARY:					Beginning Balance:	2,879.26	Total Activity: 0.00	Ending Balance: 2,879.26
Grand Totals:					Beginning Balance:	2,879.26	Total Activity: 0.00	Ending Balance: 2,879.26

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance
209 - PUBLIC COMPUTER LIBRARY	2,879.26	0.00	2,879.26
Grand Total:	2,879.26	0.00	2,879.26



City of Willows

Detail Report

Account Detail

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
Fund: 205 - FRANCIS KING		CLAIM ON CASH				74,404.28	228.49	74,632.77
205-000-10000								
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			228.49	74,632.77
205-000-11500		INTEREST RECEIVABLE				228.49	-228.49	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			-228.49	0.00
Total Fund: 205 - FRANCIS KING:						Beginning Balance: 74,632.77	Total Activity: 0.00	Ending Balance: 74,632.77
Grand Totals:						Beginning Balance: 74,632.77	Total Activity: 0.00	Ending Balance: 74,632.77

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance
205 - FRANCIS KING	74,632.77	0.00	74,632.77
Grand Total:	74,632.77	0.00	74,632.77



City of Willows

Detail Report Account Detail

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
Fund: 212 - CHILDREN'S SERVICES								
212-000-10000		CLAIM ON CASH				15,535.86	502.47	16,038.33
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			23.48	15,559.34
07/19/2024	APPKT00255	54674		US BANK CORPORATE PAYMENT SYSTEMS SEC REI PMT	2395 - US BANK CORPORATE PAYMENT SYS		-28.15	15,531.19
08/15/2024	APPKT00279	54741		AMAZON CAPITAL SERVICES SEC REI P	1052 - AMAZON CAPITAL SERVICES		-268.65	15,262.54
10/15/2024	CLPKT00361	CASH RECEIPTS 10-15-		B0381 CLPKT00361			550.00	15,812.54
11/04/2024	CLPKT00378	CASH RECEIPTS 11-4-2		B0398 CLPKT00378			2,500.00	18,312.54
12/05/2024	APPKT00340	55075		AMAZON CAPITAL SERVICES SEC REI P	1052 - AMAZON CAPITAL SERVICES		-45.00	18,267.54
12/05/2024	APPKT00340	55093		SWANK MOVIE LICENSING SEC REI PMT	2384 - SWANK MOVIE LICENSING		-550.00	17,717.54
01/27/2025	CLPKT00483	CASH RECEIPTS 1-27-2		B0497 CLPKT00483			121.00	17,838.54
03/04/2025	CLPKT00539	CASH RECEIPTS 3-4-25		B0535 CLPKT00539			6,402.00	24,240.54
05/09/2025	APPKT00428	55544		ILLINOIS LIBRARY ASS. - iREAD SEC REI PMT	1560 - ILLINOIS LIBRARY ASS. - iREAD		-254.46	23,986.08
05/09/2025	APPKT00428	55559		SCHOLASTIC INC. SEC REI PMT	2060 - SCHOLASTIC INC.		-6,864.67	17,121.41
05/23/2025	APPKT00439	55591		CONSERVATION AMBASSADORS SEC REI PMT	1270 - CONSERVATION AMBASSADORS		-650.00	16,471.41
06/06/2025	APPKT00447	55630		AMAZON CAPITAL SERVICES SEC REI P	1052 - AMAZON CAPITAL SERVICES		-238.84	16,232.57
06/06/2025	APPKT00447	55630		AMAZON CAPITAL SERVICES SEC REI P	1052 - AMAZON CAPITAL SERVICES		-134.24	16,098.33
06/06/2025	APPKT00447	55630		AMAZON CAPITAL SERVICES SEC REI P	1052 - AMAZON CAPITAL SERVICES		-60.00	16,038.33
212-000-11500		INTEREST RECEIVABLE				23.48	-23.48	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/01/2024	GLPKT00852	JN02875		Distribute Interest Receivable - FY 2023.24			-23.48	0.00

Detail Report

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
212-000-20101		ACCOUNTS PAYABLE PENDING				-28.15	28.15	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/19/2024	APPKT00255	54674		US BANK CORPORATE PAYMENT SYSTEMS SEC PMT	2395 - US BANK CORPORATE PAYMENT SYS		28.15	0.00
08/12/2024	APPKT00276	1GRF-LTLV-CY3F	54741	LUNCH WITH LIBRARY - GRANT MATERIALS - LIBRARY SEC PBL	1052 - AMAZON CAPITAL SERVICES		-268.65	-268.65
08/15/2024	APPKT00279	54741		AMAZON CAPITAL SERVICES SEC PMT	1052 - AMAZON CAPITAL SERVICES		268.65	0.00
12/04/2024	APPKT00338	1XHQ-DVPW-7YVW	55075	SUPPLIES - CHILDREN'S SERVICES - LIBRARY SEC PBL	1052 - AMAZON CAPITAL SERVICES		-45.00	-45.00
12/04/2024	APPKT00338	3799563	55093	CHILDREN'S SERVICES - LIBRARY SEC PB	2384 - SWANK MOVIE LICENSING		-550.00	-595.00
12/05/2024	APPKT00340	55075		AMAZON CAPITAL SERVICES SEC PMT	1052 - AMAZON CAPITAL SERVICES		45.00	-550.00
12/05/2024	APPKT00340	55093		SWANK MOVIE LICENSING SEC PMT	2384 - SWANK MOVIE LICENSING		550.00	0.00
05/07/2025	APPKT00426	71538732	55559	LUNCH AT LIBRARY GRANT MATERIALS - LIBRARY SEC PBL	2060 - SCHOLASTIC INC.		-6,864.67	-6,864.67
05/08/2025	APPKT00426	305677	55544	CHILDREN'S SERVICES MATERIAL - LIBRARY SEC PBL	1560 - ILLINOIS LIBRARY ASS. - IREAD		-254.46	-7,119.13
05/09/2025	APPKT00428	55544		ILLINOIS LIBRARY ASS. - IREAD SEC PMT	1560 - ILLINOIS LIBRARY ASS. - IREAD		254.46	-6,864.67
05/09/2025	APPKT00428	55559		SCHOLASTIC INC. SEC PMT	2060 - SCHOLASTIC INC.		6,864.67	0.00
05/19/2025	APPKT00433	3400	55591	WILD THINGS - WILDLIFE PROGRAM 6-11-25 - LIBRARY SEC PBL	1270 - CONSERVATION AMBASSADORS		-650.00	-650.00
05/23/2025	APPKT00439	55591		CONSERVATION AMBASSADORS SEC P	1270 - CONSERVATION AMBASSADORS		650.00	0.00
06/03/2025	APPKT00441	11NP-YN7M-LNF6	55630	CHILDREN'S SERVICES MATERIALS - LIBRARY SEC PBL	1052 - AMAZON CAPITAL SERVICES		-60.00	-60.00
06/03/2025	APPKT00441	1CMR-9FQ7-RJFR	55630	CHILDRENS PROGRAM & OFFICE SUPPLIES - LIBRARY SEC PBL	1052 - AMAZON CAPITAL SERVICES		-134.24	-194.24
06/03/2025	APPKT00441	1N79-LP4R-R6N7	55630	SUMMER READING PROGRAM SUPPLIES - LIBRARY SEC PBL	1052 - AMAZON CAPITAL SERVICES		-238.84	-433.08
06/06/2025	APPKT00447	55630		AMAZON CAPITAL SERVICES SEC PMT	1052 - AMAZON CAPITAL SERVICES		238.84	-194.24
06/06/2025	APPKT00447	55630		AMAZON CAPITAL SERVICES SEC PMT	1052 - AMAZON CAPITAL SERVICES		60.00	-134.24
06/06/2025	APPKT00447	55630		AMAZON CAPITAL SERVICES SEC PMT	1052 - AMAZON CAPITAL SERVICES		134.24	0.00

Detail Report

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
212-000-49999		TRUST FUND EXPENSES				0.00	9,065.86	9,065.86
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
08/12/2024	APPKT00276	1GRF-LTLV-CY3F	54741	LUNCH WITH LIBRARY - GRANT MATERIALS - LIBRARY	1052 - AMAZON CAPITAL SERVICES		268.65	268.65
12/04/2024	APPKT00338	1XHQ-DVPW-7YVW	55075	SUPPLIES - CHILDREN'S SERVICES - LIBRARY	1052 - AMAZON CAPITAL SERVICES		45.00	313.65
12/04/2024	APPKT00338	3799563	55093	CHILDREN'S SERVICES - LIBRARY	2384 - SWANK MOVIE LICENSING		550.00	863.65
05/07/2025	APPKT00426	71538732	55559	LUNCH AT LIBRARY GRANT MATERIALS - LIBRARY	2060 - SCHOLASTIC INC.		6,864.67	7,728.32
05/08/2025	APPKT00426	305677	55544	CHILDREN'S SERVICES MATERIAL - LIBRARY	1560 - ILLINOIS LIBRARY ASS. - IREAD		254.46	7,982.78
05/19/2025	APPKT00433	3400	55591	WILD THINGS - WILDLIFE PROGRAM 6-11-25 - LIBRARY	1270 - CONSERVATION AMBASSADORS		650.00	8,632.78
06/03/2025	APPKT00441	11NP-YN7M-LNF6	55630	CHILDREN'S SERVICES MATERIALS - LIBRARY	1052 - AMAZON CAPITAL SERVICES		60.00	8,692.78
06/03/2025	APPKT00441	1CMR-9FQ7-RJFR	55630	CHILDRENS PROGRAM & OFFICE SUPPLIES - LIBRARY	1052 - AMAZON CAPITAL SERVICES		134.24	8,827.02
06/03/2025	APPKT00441	1N79-LP4R-R6N7	55630	SUMMER READING PROGRAM SUPPLIES - LIBRARY	1052 - AMAZON CAPITAL SERVICES		238.84	9,065.86
212-000-79950		TRUST FUND REVENUES				0.00	-9,573.00	-9,573.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
10/15/2024	CLPKT00361	R1483		LIBRARY CHILDREN'S SERVICES - LIBRARY TRUST FUND REV CHILD SERV LIBRARY LIBRARY CHILDREN'S SERVICES			-535.00	-535.00
10/15/2024	CLPKT00361	R1504		LIBRARY CHILDRENS SERVICES - LIBRARY TRUST FUND REV CHILD SERV LIBRARY LIBRARY CHILDRENS SERVICES			-15.00	-550.00
11/04/2024	CLPKT00378	R1549		WILLOWS COMMUNITY THRIFT SHOPPE -DONATION-CHILDREN'S SERV-LIBRARY TRUST FUND REV CHILD SERV LIBRARY WILLOWS COMMUNITY THRIFT SHOPPE -DONATION-CHILDREN'S SERV-LIBRARY			-2,500.00	-3,050.00
01/27/2025	CLPKT00483	R1825		LIBRARY CHILDREN'S SERVICES TRUST FUND REV CHILD SERV LIBRARY LIBRARY CHILDREN'S SERVICES			-121.00	-3,171.00
03/04/2025	CLPKT00539	R1939		STATE OF CA-LUNCH AT THE LIBRARY SUMMER 2025-WILLOWS PUBLIC LIBRARY TRUST FUND REV CHILD SERV LIBRARY STATE OF CA-LUNCH AT THE LIBRARY SUMMER 2025-WILLOWS PUBLIC LIBRARY 69-197153			-6,402.00	-9,573.00
Total Fund: 212 - CHILDREN'S SERVICES:				Beginning Balance:	15,531.19	Total Activity:	0.00	Ending Balance: 15,531.19
Grand Totals:				Beginning Balance:	15,531.19	Total Activity:	0.00	Ending Balance: 15,531.19

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance
212 - CHILDREN'S SERVICES	15,531.19	0.00	15,531.19
Grand Total:	15,531.19	0.00	15,531.19



City of Willows

Detail Report Account Detail

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
Fund: 350 - NORTHNET TRAINING								
350-000-10000		CLAIM ON CASH				3,273.10	-1,448.84	1,824.26
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/19/2024	APPKT00255	54670		NORTHNET LIBRARY SYSTEM SEC REI PMT	1855 - NORTHNET LIBRARY SYSTEM		-2,026.00	1,247.10
09/25/2024	CLPKT00355	CASH RECEIPTS 9-25-2		B0375 CLPKT00355			1,000.00	2,247.10
02/13/2025	APPKT00390	55292		US BANK CORPORATE PAYMENT SYSTEMS SEC REI PMT	2395 - US BANK CORPORATE PAYMENT SYS		-345.51	1,901.59
03/13/2025	APPKT00407	55387		US BANK CORPORATE PAYMENT SYSTEMS SEC REI PMT	2395 - US BANK CORPORATE PAYMENT SYS		-77.33	1,824.26
350-000-20101		ACCOUNTS PAYABLE PENDING				0.00	0.00	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/17/2024	APPKT00252	2244	54670	CALPERS NSCLS FUNDED COST SHARE FY24-25 LIBRARY SEC PBL	1855 - NORTHNET LIBRARY SYSTEM		-2,026.00	-2,026.00
07/19/2024	APPKT00255	54670		NORTHNET LIBRARY SYSTEM SEC PMT	1855 - NORTHNET LIBRARY SYSTEM		2,026.00	0.00
02/11/2025	APPKT00388	MEZA012225-01	55292	MENTAL HEALTH FIRST AID-GRANT-MNL - STAFF DEV-LIB SEC PBL	2395 - US BANK CORPORATE PAYMENT SYS		-345.51	-345.51
02/13/2025	APPKT00390	55292		US BANK CORPORATE PAYMENT SYSTEMS SEC PMT	2395 - US BANK CORPORATE PAYMENT SYS		345.51	0.00
03/12/2025	APPKT00400	MEZA022425-01	55387	CB KITCHEN-STAFF DEV GRANT-STAFF TRAINING LUNCH -L SEC PBL	2395 - US BANK CORPORATE PAYMENT SYS		-77.33	-77.33
03/13/2025	APPKT00407	55387		US BANK CORPORATE PAYMENT SYSTEMS SEC PMT	2395 - US BANK CORPORATE PAYMENT SYS		77.33	0.00
350-000-79900		MISCELLANEOUS REVENUES				0.00	-1,000.00	-1,000.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
09/25/2024	CLPKT00355	R1457		NORTHNET LIBRARY SYSTEM - FY24/25 STAFF DEVELOP - TRAINING MISC REVENUE NORTHNET-TRAIN NORTHNET LIBRARY SYSTEM - FY24/25 STAFF DEVELOP - TRAINING			-1,000.00	-1,000.00
350-120-40999		SPECIAL DEPARTMENT				0.00	422.84	422.84
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
02/11/2025	APPKT00388	MEZA012225-01	55292	MENTAL HEALTH FIRST AID-GRANT-MNL - STAFF DEV-LIB	2395 - US BANK CORPORATE PAYMENT SYS		345.51	345.51
03/12/2025	APPKT00400	MEZA022425-01	55387	CB KITCHEN-STAFF DEV GRANT-STAFF TRAINING LUNCH -L	2395 - US BANK CORPORATE PAYMENT SYS		77.33	422.84

Detail Report

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
350-120-44000		CONTRACTUAL SERVICES				0.00	2,026.00	2,026.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/17/2024	APPKT00252	2244	54670	CALPERS NSCLS FUNDED COST SHARE FY24-25 LIBRARY	1855 - NORTHNET LIBRARY SYSTEM		2,026.00	2,026.00
Total Fund: 350 - NORTHNET TRAINING:						Beginning Balance: 3,273.10	Total Activity: 0.00	Ending Balance: 3,273.10
Grand Totals:						Beginning Balance: 3,273.10	Total Activity: 0.00	Ending Balance: 3,273.10

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance
350 - NORTHNET TRAINING	3,273.10	0.00	3,273.10
Grand Total:	3,273.10	0.00	3,273.10



City of Willows

Detail Report

Account Detail

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
Fund: 352 - CLSA DELIVERY								
352-000-10000		CLAIM ON CASH				26,372.44	12,044.79	38,417.23
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/19/2024	APPKT00255	54652		AFFORDABLE COMPUTER SOLUT SEC REI PMT	1027 - AFFORDABLE COMPUTER SOLUT		-105.00	26,267.44
07/22/2024	APPKT00257	54684		IMPERIAL COUNTY OFFICE OF EDUCATION SEC REI PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,094.18	24,173.26
08/13/2024	CLPKT00301	cash receipts 8-13-24		B0319 CLPKT00301			9,906.25	34,079.51
09/25/2024	APPKT00299	54872		IMPERIAL COUNTY OFFICE OF EDUCATION SEC REI PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,069.94	32,009.57
01/16/2025	APPKT00365	55186		IMPERIAL COUNTY OFFICE OF EDUCATION SEC REI PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,214.04	29,795.53
01/27/2025	CLPKT00483	CASH RECEIPTS 1-27-2		B0497 CLPKT00483			4,566.00	34,361.53
04/10/2025	APPKT00417	55455		IMPERIAL COUNTY OFFICE OF EDUCATION SEC REI PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,975.70	31,385.83
06/20/2025	APPKT00451	55680		IMPERIAL COUNTY OFFICE OF EDUCATION SEC REI PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,109.78	29,276.05
06/23/2025	CLPKT00596	CASH RECEIPTS 6-23-2		B0613 CLPKT00596			9,141.18	38,417.23

Detail Report

Date Range: 07/01/2024 - 06/30/2025

Account		Name				Beginning Balance	Total Activity	Ending Balance
352-000-20101		ACCOUNTS PAYABLE PENDING				-2,199.18	2,199.18	0.00
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
07/19/2024	APPKT00255	54652		AFFORDABLE COMPUTER SOLUT SEC PMT	1027 - AFFORDABLE COMPUTER SOLUT		105.00	-2,094.18
07/22/2024	APPKT00257	54684		IMPERIAL COUNTY OFFICE OF EDUCATION SEC PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,094.18	0.00
09/23/2024	APPKT00297	INV25-00108	54872	BROADBAND INTERNET - LIBRARY SEC PBL	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,069.94	-2,069.94
09/25/2024	APPKT00299	54872		IMPERIAL COUNTY OFFICE OF EDUCATION SEC PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,069.94	0.00
01/14/2025	APPKT00363	INV25-00347	55186	BROADBAND INTERNET JULY - SEPT 2024 - LIBRARY SEC PBL	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,214.04	-2,214.04
01/16/2025	APPKT00365	55186		IMPERIAL COUNTY OFFICE OF EDUCATION SEC PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,214.04	0.00
04/07/2025	APPKT00412	INV25-00628	55455	BROADBAND INTERNET - LIBRARY SEC PBL	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,975.70	-2,975.70
04/10/2025	APPKT00417	55455		IMPERIAL COUNTY OFFICE OF EDUCATION SEC PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,975.70	0.00
06/16/2025	APPKT00448	INV25-00896	55680	BROADBAND INTERNET- JAN-MAR 25 - QTR - LIBRARY SEC PBL	2432 - IMPERIAL COUNTY OFFICE OF EDUC		-2,109.78	-2,109.78
06/20/2025	APPKT00451	55680		IMPERIAL COUNTY OFFICE OF EDUCATION SEC PMT	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,109.78	0.00
352-000-79900		MISCELLANEOUS REVENUES				0.00	-23,613.43	-23,613.43
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
08/13/2024	CLPKT00301	R1317		IMPERIAL COUNTY OFFICE OF ED - FY 21-22 MISC REVENUE CLSA DELIVERY			-9,906.25	-9,906.25
				IMPERIAL COUNTY OFFICE OF ED - FY 21-22				
01/27/2025	CLPKT00483	R1836		NORTHNET LIBRARY SYSTEM - FY2024-25 CLSA FUNDS CLAIM 1/2/25 - OD LIB-TO-GO A MISC REVENUE CLSA DELIVERY			-4,566.00	-14,472.25
				NORTHNET LIBRARY SYSTEM - FY2024-25 CLSA FUNDS CLAIM 1/2/25 - OD LIB-TO-GO A 5115				
06/23/2025	CLPKT00596	R2199		IMPERIAL COUNTY OFFICE OF ED-FY22-23 CTF/ERATE REIMB TO LIBRARIES-PASS THROUGH FROM CENIC MISC REVENUE CLSA DELIVERY			-9,141.18	-23,613.43
				IMPERIAL COUNTY OFFICE OF ED-FY22-23 CTF/ERATE REIMB TO LIBRARIES-PASS THROUGH FROM CENIC 25327262				

Detail Report						Date Range: 07/01/2024 - 06/30/2025		
Account		Name				Beginning Balance	Total Activity	Ending Balance
352-120-40999		SPECIAL DEPARTMENT				0.00	9,369.46	9,369.46
Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
09/23/2024	APPKT00297	INV25-00108	54872	BROADBAND INTERNET - LIBRARY	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,069.94	2,069.94
01/14/2025	APPKT00363	INV25-00347	55186	BROADBAND INTERNET JULY - SEPT 2024 - LIBRARY	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,214.04	4,283.98
04/07/2025	APPKT00412	INV25-00628	55455	BROADBAND INTERNET - LIBRARY	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,975.70	7,259.68
06/16/2025	APPKT00448	INV25-00896	55680	BROADBAND INTERNET- JAN-MAR 25 - QTR - LIBRARY	2432 - IMPERIAL COUNTY OFFICE OF EDUC		2,109.78	9,369.46
Total Fund: 352 - CLSA DELIVERY:						Beginning Balance: 24,173.26	Total Activity: 0.00	Ending Balance: 24,173.26
Grand Totals:						Beginning Balance: 24,173.26	Total Activity: 0.00	Ending Balance: 24,173.26

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance
352 - CLSA DELIVERY	24,173.26	0.00	24,173.26
Grand Total:	24,173.26	0.00	24,173.26

City of Willows

Trust Fund Analysis - Library

Balances as of June 30, 2024 / Preliminary June 30, 2025

<i>LIBRARY TRUST FUNDS</i>	Interest Earned FY 2023-24	Balance @ 06/30/2024	Balance @ 06/30/2025
202 - Lost & Damaged Fund	\$ -	\$ (3,665)	\$ (3,373)
203 - Library Donations Fund	\$ 330	\$ 17,764	\$ 18,313
204 - McDole Library Trust Fund	\$ 941	\$ 51,657	\$ 49,436
205 - Francis King Trust Fund	\$ 1,269	\$ 74,633	\$ 74,633
209 - Public Computer Library Fund	\$ 138	\$ 2,879	\$ 2,579
211 - EC Reproduction Fund	\$ -	\$ 1,163	\$ 1,163
212- Children's Services Fund	\$ 132	\$ 15,531	\$ 16,038
213 - Copier Trust Fund	\$ -	\$ 213	\$ 212



Date: August 28, 2025

To: Library Board of Trustees

From: Christine Watson, City Librarian

Subject: History of Trust Funds & Use of Funds

Recommendation:

Review and discuss the attached documents outlining the history of the McDole and Francis King Trusts, as well as other Trust Fund notes. Provide policy direction to staff regarding the potential formal development of a spending policy for Trust Fund monies.

Rationale for Recommendation:

Staff inquired about any written and approved library policies as it relates to spending Library Trust Funds. Since very little was discovered, staff thought the Trustees may wish to review the documents and consider developing formal board approved policies for the use of each trust fund.

Background:

For the past few years, staff (and the City's Finance Consultant) have inquired about library policies as they relate to the use and expenditure of trust funds. After researching internal city documents and inquiring with the Glenn County Court, staff were only able to find "A Brief History of the McDole Trust" (Attachment 1), a letter from an attorney regarding the Frances King Trust (Attachment 2), and an internal memo, "Summary of Library Related Trust Funds" (Attachment 3).

Discussion & Analysis:

Staff conducted considerable internal and external research (e.g., Glenn County Courthouse) to find and determine whether there are any definitive and legally binding policy documents that state the terms and perimeters for using library trust funds. The only documents found were Attachments 1-3.

It would be very beneficial and useful to develop Library Board approved policies to guide how to use and spend the trust funds for both current and future Board Trustees, to ensure consistent stewardship of the funds, and to provide public transparency.

To that end, staff recommend forming a Board of Trustee Ad Hoc Committee to shepherd the process of developing a policy for each trust fund for their use and expenditure.

Fiscal Impact:

There is no fiscal impact by reviewing these documents and considering the development and/or amendment of new library policies as they relate to the use and expenditure of library trust funds.

Attachments:

- Attachment 1: A Brief History of the McDole Trust
- Attachment 2: Francis King Trust Letter
- Attachment 3: Summary of Library Related Trust Funds

A BRIEF HISTORY OF THE McDOLE TRUST

In 1970 at the request of the Library Board the City Attorney's office ruled that under the State Education Code, all funds acquired by the Library through gifts or bequests:

1. be maintained in a separate city fund specifically for the use of the library;
2. be available for payments from the fund on warrents from the Library Board (sec. 27404, Education Code); and
3. be managed so that "the Treasurer of the City should pay such warrents without any further order or warrent from any other authority including the City Council of the City of Willows."

In 1973 Elizabeth McDole passed away. In her will, after the deduction of certain named bequests, she left 10% of the residue of her estate to the Willows Public Library. The will was filed for probate on August 24, 1973. The total amount which came to the library at that time was \$16,261.30. The money was specifically bequethed in her will "to be used exclusively for public library purposes."

In 1975 the Library Board and the Librarian formulated the following policy: "that the money being held in the McDole Fund be used for the benefit of all library patrons and that materials and equipment purchased be suitable as lasting memorials to Ethel and Elizabeth McDole."

JEAN RUMIANO

ATTORNEY AT LAW

1035 WEST WOOD STREET
P.O. BOX 1124
WILLOWS, CALIFORNIA 95988
TELEPHONE (530) 934-8812
FAX (530) 934-7618

December 27, 2004

Willows Library
201 N. Lassen
Willows, CA 95988

RE: FRANCES KING TRUST

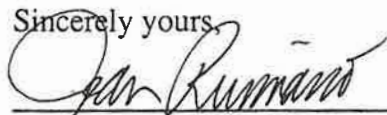
Dear Library Board:

On August 27, 2004, I sent a letter to the Willows Library and the other beneficiaries of the Frances King Trust regarding the procedure for distribution of the trust property. The time has come to distribute the trust assets to those who are named beneficiaries. As you know, Ms. King left one-seventh (1/7) of the residue of the trust assets to the Willows Library. This amounts to \$72,444.84. A check made payable in that amount to the Willows Library is enclosed. A trust accounting summarizing all of the trust's income and expenses from the date of death to today is also enclosed. Ms. King was very definite about which charitable organizations she wanted to leave property and she never wavered. She felt strong about the good work you are doing and wanted to help.

Please sign and return the enclosed Receipt so that the trustee can be assured that you have received that to which you are entitled under the trust.

If you have any questions, please do not hesitate to call me. Thank you for your patience.

Sincerely yours,



JEAN RUMIANO
Attorney at Law

Enclosures
cc: Joan Bartalini

City of Willows
Summary of Library Related Trust Funds
Status @ 6/30/05

Lost and Damaged Trust (Balance \$3,694 @ 6/30/05)- All fines at the Willows Branch for late returns and lost/damaged charges are accumulated here. As part of the annual budget, \$2,233 is allocated to be expended for new print material.

Willows Donations Trust (Balance \$19,217 @ 6/30/05)- Of the total balance in this fund, \$10,287 pertains to the remaining balance of the Otterson Estate donation (donated specifically for non-fiction material).

McDole Trust (Balance \$47,751 @ 6/30/05)- This is an endowment established by the McDole family for the Willows Branch, where interest earnings may be expended on an annual basis, but the use of principal requiring library board action. Over the past three years, approximately \$4,319 in interest has been earned, but the funds have not been utilized.

Frances King Trust (Balance \$73,230 @ 6/30/05)- A bequeathment of \$72,445 was received from the estate of Frances King. The balance pertains to interest earnings since the funds were received.

Bayliss Trust (Balance \$6,225 @ 6/30/05)- Included in this balance is the Bayliss Library's remaining share of the Otterson Estate of \$ 1,710. A total of \$290 was expended from this trust during 2004-05, all of which pertained to Otterson Estate expenditures. As a 501-c-3 has been formed, consideration should be given to transferring the balance in the fund (exclusive of the Otterson Estate funds) to the Bayliss library organization. This would require an agendized action by the Library Board and the City Council if such a transfer is deemed appropriate.

Elk Creek Trust (Balance \$7,799 @ 6/30/05)- Included in this balance is the Elk Creek Library's remaining share of the Otterson Estate of \$1,370. A total of \$630 was expended from this trust in 2004-05, all of which pertained to Otterson Estate expenditures. Similarly to the non-profit organization formed in Bayliss, those actively involved in the Elk Creek Library should consider forming a 501-c-3 in order to accept donations and maintain control of the donated funds.

Public Computer Trust (Balance \$656 @ 6/30/05)- This fund utilizes revenue from printer paper usage to fund computer replacement within the Willows branch. \$3,947 was expended from this trust in 2004/05 for computers and a printer.

interest
add to SEP agenda

add to SEP agenda
note to Bayliss Committee
except

form 501-c(3)
same @ Bayliss

4.6% interest

California Public Library Trustees Toolkit

Introduction

For many Californians, the public library is a fundamental part of their existence. Along with free access to print and digital collections, it offers a civic and cultural engagement space, a place for workforce preparedness and educational pursuits, a technology hub, a safe place, and a center of community life. People turn to libraries for many reasons—to find answers to specific questions, to explore new ideas, to find out how to do something, to find a job, to get connected to community services, to connect with others, or just to enjoy themselves. California is one of the most diverse places in the world, and the needs and aspirations of its communities are many.

California's public libraries are equally diverse, ranging from libraries that are among the largest in the nation (such as the Los Angeles Public Library and the LA County Library, serving almost eight million people between them) to some of the smallest, such as Alpine County Library and Irwindale Public Library, serving less than 1500 people each. Administration and governance vary greatly for these libraries that serve many different types of communities and geographies.

In all these communities, public library boards play a pivotal role, in that they were created to represent the people in public library governance. They are central to a library's relationship with its community. When library boards are successful, libraries are successful! This toolkit is designed to provide the core information and resources needed to help California public library trustees make a difference.

This toolkit is not intended as a comprehensive guide, but as an overview of the basic information needed by trustees to be effective. This toolkit is written for the use of both governing and advisory boards, but given the many variances in California state and local library laws and governance, trustees should be aware that not all the information provided and practices described may apply to them. **The toolkit was developed as an educational tool and is not intended to replace legal advice.** We recommend that trustees consult legal counsel with questions about applying the law in their own situations.

Please note that in this publication the word "trustee" refers to public library trustees, commissioners, council members, or any other term used for a public library board member. "Library board" refers to public library boards, commissions, councils, etc. Note also that the term "jurisdiction" refers to the government to which the public library belongs (city or county).

Principles of public library trusteeship

Practitioners around the nation have identified sets of trustee competencies and "golden rules" to foster and guide the success of public library boards. These are synthesized here into five main principles:

- 1) Trustees should understand, believe in, and commit to the educational, informational, community and economic development, and recreational roles of the public library and their mission as trustees.
- 2) Trustees should know the scope of the library board's powers and its role compared to those of the library director and friends/foundations groups.
- 3) Trustees should know the tenets, laws and rules that govern and guide the board's proceedings and conduct of business.
- 4) Trustees should understand and be prepared to carry out the duties of the library board regarding library planning, leadership, policies, and budgeting.
- 5) Trustees should recognize the importance of continuing education for the library board and participate in ongoing learning opportunities.

This toolkit will provide an overview and discussion of these principles and provide the basic practical and ideological information that California public library trustees need to be productive during their tenure in office. It offers advice, guidance, resources, and best practices and may be used as a reference for both trustees and library directors.

Public libraries are faced with a rapidly changing social, political, cultural, and technological environment. At the same time, they have never been more vital for California's communities. Trustees must be prepared to take on the exciting yet demanding role of helping to position their libraries as fundamental resources for individual and community success.

"These days, a branch librarian might run story hour in the morning, assist with a research project at lunchtime, and in the afternoon administer life-saving medical aid to a patron who's overdosed." – From "The complicated role of the modern public library," Humanities Magazine (National Endowment for the Humanities, Fall 2019).

Principle 1.

Trustees should understand, believe in, and commit to the educational, informational, community and economic development, and recreational roles of the public library and their mission as trustees.

Public libraries have long offered free access to books and other information resources. But in today's environment they provide so much more. On a given day in a California public library, you might see children and caregivers engaging in library storytimes; summer lunch being served to school children when school lunch programs are not available; teens getting homework help and connecting with friends; students using high-speed broadband to do academic research; immigrants learning about local resources and getting language skills; the unemployed getting skills training and help in finding a job; entrepreneurs exploring how to create successful businesses; veterans connecting to benefits and places to shelter; people taking part in arts and cultural programming; the unhoused being connected to shelter and community services; and more. In a state where drought, wildfires and unpredictable weather have become the norm, many libraries also fill the critical roles of warming center, cooling center and clean air haven.

All these activities require resources, and library budgets are not unlimited. The engagement and knowledge of the library board is critical to help identify and prioritize the programs and services needed by the community, and to help manage and develop the funds and partnerships needed to fulfill them, for the continuous improvement of the public library. **This is, essentially, the central mission of the library board.**

Thus, a successful library board starts with engaged and informed trustees. At the outset, trustees should understand and believe in the various roles of the public library that they serve and embrace the opportunities and challenges those roles present. Library trustees come to their positions as community leaders with their own views on the public library and the services it should offer. Trustees should challenge their assumptions and reach out to the library director and administration; to other trustees; to neighboring libraries; and to state and national experts and resources, to learn about the public library, what it does, and what it can be and do, recognizing the very real resources that it takes to provide library services.

The library director and fellow trustees are the first and richest sources of information that a library trustee should consult. Trustees should ensure that they are connecting with the director and the others on the board, and that they are familiar with the library's current mission, vision, and strategic plan. Trustees must visit and use the library; attend programs; and connect with the staff and the community.

A trustee should be prepared to commit the time and effort needed to engage fully in the board process (prepare for, attend, and contribute to all board meetings; serve on committees; communicate with stakeholders). Being a trustee means holding a position in public trust; the people that trustees represent deserve the best job they can do. Trustees who are not able to offer that should let someone else have their position at the table.

There are many resources that library trustees may consult to learn more about the role of today's public libraries and about trusteeship. A recent influential work by library thought leader and scholar R. David Lankes, [*Expect More: Demanding Better Libraries for Today's Complex World*](#), was written for people who support and oversee libraries, such as library trustees. It focuses on the library's role in the community it serves and provides an aspirational description of what the library can be and how it can get there.

Major organizations that offer resources to support California public libraries and trustees include (but are not limited to):

- The [American Library Association](#) (ALA) (the major national organization for libraries)
- [United for Libraries](#) (an ALA division created for library trustees, friends and foundations, and a respected national source of information and resources)
- The [California Library Association](#) (California's statewide library association)
- The [California State Library](#) offers many services and funding opportunities for public libraries.

These organizations and others are referred to throughout this toolkit. Consult the [Trustee Resource Guide](#) for more comprehensive information.

Ask yourself (Principle 1):

1. What is the central mission of the library board?
2. Name at least three reasons why legislators and residents should support your public library.
3. What can trustees consult regularly to keep informed about library issues?
4. What resources would you recommend to a new trustee, or someone interested in becoming a new trustee, to learn more about the public library?
5. How can you stay aware of city, county, and state news and issues, to see how they relate to the library?
6. Can you tell at least one story about how your public library has changed the lives of its users for the better?

Principle 2.

Trustees should know the scope of their library board's powers and its role compared to those of the library director and library friends/foundation groups.

To be effective, trustees must understand the scope of their board's powers. Without this understanding, trustees may end up misusing their time working on issues over which they have no real control.

Online sources for California state & local library laws

- [California Legislative Information \(Leginfo\)—California Constitution and Codes](#)
- [California Library Laws \(California State Library\)](#)
- [Municode California](#)
- [Local Codes and Charters \(U.C. Berkeley Institute of Governmental Studies Library\)](#)
- [California Resources—Local Governments \(Georgetown University Law Library\)](#)

A public library's legal authority, along with its local historical and political circumstances, shapes who controls the library and makes decisions about its activities, what revenues will support library services and facilities and how library funds will be spent.

In California, public libraries are the responsibility of local government. Localities are not required to form public libraries, but there are a number of state laws and constitutional provisions under which they may do so. These laws outline discrete types of governance, funding, and service areas, and are generally permissive rather than proscriptive in nature (though state laws regarding trustee powers are more defined in the case of special district and county law libraries). **This means that public library laws, including those about library boards, vary significantly throughout the state, depending on the type of public library and local ordinances.**

It is recognized that there are two main types of library boards: ***governing*** and ***advisory***. All California public libraries report to a governing body. Depending on the laws under which the

library was established, sometimes the governing authority is the county board of supervisors or city council, and sometimes there is a specific library governing board. In most cases, where the county or city governs the library, there is an elected or appointed library advisory board. Many libraries with a library governing board also have a community advisory board that provides input and assistance for library governance and operations. County libraries which serve several cities may have multiple community advisory boards.

A **governing** board is either elected by the general population or appointed by the jurisdictional government. An **advisory** board may be appointed or elected. The main difference between them is that a governing board always has the legal responsibility for hiring and evaluating the library director and for the library's finances, while an advisory board does not.

Additional duties for governing boards include determining the mission, vision, and strategic plan for the library; setting the policies governing the library; and providing general administrative oversight (board responsibilities will be covered in depth later). However, in many cases some or most of these functions may be handled by an advisory board, as the power and authority of a California library advisory board may fall anywhere along a continuum from advisory to all-but-governing in nature.

Trustees must understand where their board's authority lies on that continuum. The board's powers are largely determined by local law and by the understanding established over time between the board and the local jurisdiction. For a full picture of the legal basis of their powers, trustees should consult their local ordinances, bylaws, and their board's legal counsel.

In California, there are five types of public libraries, as follows:

- **County libraries.** County libraries are organized under the County Free Library Law (Education Code §19100-19180). The County Service Area Law (Government Code §25210-25217.4) allows for the creation of a separate legal entity for library services, but in practice this law is used to create a separate funding mechanism for unincorporated areas within an existing county library system.
- **City libraries.** City libraries are organized under the Municipal Library Law (Education Code §18900-18965), or for charter cities, under the constitutional "home rule doctrine" (California Constitution Article XI, §3), pursuant to a charter adopted by the city's voters.
- **Independent special district libraries.** Independent special district libraries may be organized under one of the following laws: The Library District Law (Education Code §19400-19532); The Library and Museum District Law (for unincorporated towns and villages; Education Code §19600-19734); Unified School Districts/Union High School Districts Public Libraries Law (Education Code §18300-18571); and the Community Services District (CSD) Law (Government Code §61000-61250).
- **Joint powers of authority (JPA) libraries.** JPA libraries operate by agreement between the governing boards of two or more governmental entities, pursuant to the Joint Exercise of Powers Act (Government Code §6500-6599.3). A member of a JPA may also be organized separately as a county, city, or independent special district library.

- **County law libraries** were legally designated as public libraries by the state of California in 2015 (Education Code §19307). These libraries are formed under the County Law Library Law (Business and Professions Code §6300-6363).

The table below shows the types of public libraries in California, the state laws under which they are formed, and typical characteristics of the library board as outlined in state law. Note that there are local variances; for example, the law permits cities and counties to contract with each other for library services, thus a “city library” may serve the whole county.

Library type	Formed under which state law or constitutional provision	Type of library board in state law	Number of board members constitution of board	Powers outlined in state law
County library	County Free Library Act (Education Code §19100-19180)	Advisory (county board of supervisors governs)	Varies by local law, usually includes representation from all local communities or county districts	Varies by local law
City library	Municipal Library Law (Education Code §18900-18965)	Governing, but varies by local law*	5 (may include additional ex-officio/non-voting members)	Education Code §18910-18927
City library	City charter formed under the “home rule” doctrine (Constitution Article XI, §3)	Varies by charter provisions	Varies by charter provisions	No provision in state law
Special district library	Library District Law (Education Code §19400-19532)	Governing	Either 3 or 5, depending on the original petition establishing the district (see Education Code §19402)	Education Code §19460-19483
Special district library	Library and Museum District Law (Education Code §19600-19734)	Governing	5 (Education Code §19611)	Education Code §19640-19664
Independent special district library	Unified School Districts/Union High School Districts Public Libraries Law (Education Code §18300-18571)	Governing (if commission established, if not district board governs)	District board may establish a library commission consisting of 5 members (Education Code §18440)	Education Code §18400-18411
Independent special district library	Community Services District Law (Government Code §61000-61250)	Governing	Either 3 or 5, depending on the original petition establishing the district (Education Code §19402 or Education Code §19611).	Government Code §61100(k) (powers same as in library district laws)
Joint powers of authority (JPA) library	Government Code §6500-6599.3	Governing (dependent on JPA contract)	Dependent on JPA contract	Dependent on JPA contract
County law libraries	Business and Professions (BPC) Code §6300-6363	Governing	3-7 depending on number of county superior court judges (membership specifically spelled out in BPC §6301-6301.5)	Business & Professions Code §6340-6350

* The Municipal Library Law designates the library board as governing, but a city council may appoint its own members as the library board and create an advisory board to help govern the library system.

California public library trustees serve as unpaid volunteers, though they are typically compensated for travel and continuing education expenses. The Municipal Library Law allows for compensation of trustees (limited to \$50 per month), but this practice is not followed.

The role of the board vs. the role of the library director. All library boards should understand their role in respect to that of the library director. Though governing boards generally have more direct oversight over library operations than advisory boards, all have a duty to work cooperatively with library management and respect and support the director's role.

Library boards are charged with fiduciary and administrative oversight and establishing policy and long-term plans for the library (or advising on these to the governing body). The board hires (or may advise on the hire of) the library director, **but the director has the delegated responsibility for managing the library and its daily operations.** It is the director's responsibility, not the board's, to employ and supervise the library staff, manage the library collection, implement programming, supervise day-to-day operations, apply policies, and oversee procedures. The board's role, and that of the director, are obviously intertwined, but the board should abide by the following "golden guidelines" in dealing with the library director and library staff (adapted from the Washington State library trustees wiki):

- Boards should not try to run or manage their libraries; they should provide oversight (or advice, in the case of advisory boards). Micromanaging is a temptation board members must avoid.
- Individual board members have no authority; authority lies with the board as a whole.
- Boards should always support the library director and library staff in public.
- Boards should not disregard advice or suggestions from the library director out of hand.
- Boards should never serve as a communication link between the staff and the director; the community and the staff; the jurisdictional government and the library. These are all the responsibility of the library director.
- The board should not try to dominate the director; the director should not try to dominate the board. Neither should try to undermine the other. It is not a competition. Both parties should remember their ultimate purpose - to serve the needs of their community.

"The partnership between board and director works best when their separate roles and responsibilities are clearly understood and mutually respected." In "When Small is All," American Libraries Magazine, December 2010.

The role of the library board vs. the role of the library friends, foundation, or similar support groups. Public library friends groups are independent organizations created to support the work of the library and board of trustees, not to engage in that work or take on those responsibilities. These groups focus on fundraising, advocacy, and volunteer work. Library friends groups should have a separate and distinct corporate existence, with separate federal tax exemption and funding. Depending on local needs, library friends may, for example:

- Create public support and awareness for the library and its programs

- Raise funds to support items not in the library budget
- Work for library legislation or increased appropriations
- Sponsor and support library programs and events
- Volunteer to work in the library, or on library-related projects

While a friends group may handle incidental fundraising, foundations are usually established when there is a need to solicit major contributions for capital projects or large-scale programs that support the library's mission and vision, cooperating rather than competing with library priorities. Foundations tend to be more complex in their legal organization due to tax laws and regulations.

Trustees should work cooperatively with friends groups and foundations, ensuring that their supportive role is understood and appreciated. The board may consider including representatives from library friends/foundation groups and having those groups report or present at board meetings. [United for Libraries](#) and others provide some excellent advice for working with friends, see the [Resource Guide](#).

Ask yourself (Principle 2):

1. What type of public library do I serve? Under which state law was it formed, and what are the local laws? Why do these
2. On which type of library board do I serve (governing or advisory)? What are the primary differences between these types?
3. What is the most important thing for trustees to remember in working with the library director?
4. What is the primary role of a library friends or foundation group? How does it compare to the role of my library board?

Principle 3.

Trustees should know the tenets, laws and rules that govern and guide the board's proceedings and conduct of business.

As stated earlier, the library board's authority comes from the board acting as a whole; individual members have no authority. The board must function well as a team to exercise its powers successfully. Every effective team abides by principles and rules put in place to guide its conduct of business. It is important that trustees know what these rules are, and what provisions might be put in place, to facilitate the work of the board and ensure that it is following federal, state, and local laws and ethical practices for trustee conduct.

Bylaws.

Most library boards have adopted bylaws that provide the framework for their proceedings. These bylaws must be consistent with local and state laws. Bylaws are a mechanism for library boards to establish rules and routines that govern their actions. At a minimum they should include:

- The library board officers to be elected, methods of election, length of their terms and the powers and responsibilities of each officer
- When meetings are held, and how meetings are conducted
- Definition of a quorum and attendance requirements
- The standing committees to be appointed, method of appointment, and what they do
- Provision for amending bylaws
- Provision for term limits
- Provision for calling special meetings
- Provision for removing a board member with reasonable cause and appointing new members
- Provision for reviewing bylaws at least every three years

As bylaws are fundamental to effective library board operations, boards must be careful when amending existing bylaws or developing new ones. Bylaw language should be clear and unambiguous. Reviewing bylaws adopted by other similar boards can be helpful. See the [Resource Guide](#) for sample bylaws and further guidance.

A well-balanced board:

- Rapport with the whole community
- Occupational diversity
- Political acumen and influence
- Business/financial experience
- Legal knowledge
- Diversity
- Varied personal backgrounds

Trustees should understand the roles, assignments and the expectations for officers, committees, and individual trustees that are outlined in their board's bylaws. This goes doubly when it comes to the recruitment of new trustees. Each trustee brings certain strengths, skills, talents, and experience to the table. Vacancies on the board should be rotated and the board should work to recruit members who represent a broad spectrum of community interests, occupations, and geographic areas, to help ensure the library will serve the total community.

Given the reality that boards are appointed or elected by a number of people and politics may be involved, the board should endeavor to see that it is widely recognized that the board should be competency-based. Candidates for library trustee positions should be given a written statement of the duties and responsibilities of membership on the library board, and these statements should also be made available to those who elect/appoint trustees.

Effective meetings.

Effective meetings start with an agenda and related packet of background materials, distributed to the board well before the meeting (at least one week ahead is the recommendation from [United for Libraries](#)). Agenda development works best as a collaboration between the board president and the library director, as the director knows best about the current hot issues.

Agenda items are often designated as either “discussion” items” (those requiring discussion from the board) and “consent” items (those items that are routine, procedural, informational, non-controversial).

“A good agenda is the best tool you have for ensuring that a meeting goes smoothly, that all issues of importance are adequately addressed, and that everyone has an opportunity to contribute thoughts and ideas.” From *Effective Meetings for Library Boards of Trustees* (United for Libraries, 2012)

The board’s bylaws often will specify the order of business on the agenda. To comply with the Brown Act (this will be discussed later), agendas must include an item for public comment. Boards often include information on the agenda about how public comment is conducted, so that members of the public can be prepared. This information may be included in Spanish and/or other languages, to accommodate community needs.

To move the meeting along, it’s helpful to allot specific times for each item, and to specify which items need discussion or action. Besides standard agenda items such as welcome and introductions and approval of minutes, library board agendas often include a director’s report, friends/foundation reports, budget review or planning, library policy discussion, and an item for board education. Many boards find an agenda building item added toward the end of the meeting to be helpful in trustee engagement.

Putting together and distributing the agenda packet usually rests with the library director and staff, though this is not always the case, especially in larger institutions. The packet normally includes the agenda as the first item, the minutes of the previous meeting, and any written reports, statistics, or other background material for the action items on the agenda, including new or changed policies or spending proposals. The [Resource Guide](#) includes agenda and board packet examples and further guidelines for effective meetings.

The board should have a yearly business calendar that notes board meeting dates and holidays and also at what point in the year regular business items such as director performance appraisals or library budget review, discussions and decisions should take place.

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”—Ralph M. Brown Act

Sunshine laws.

California has specific open meeting and records laws which apply to local boards and commissions, including library trustees. These include the Brown Act (open meetings law, Government Code §54950-54963) and the California Public Records Act (Government Code §6250-6276.48). For the Brown Act, the general rule is that legislative bodies of local agencies (including elected or appointed boards and commissions) must hold their meetings open to the public and may exclude them only if they identify a specific statutory exemption and meet

other procedural requirements. The law also specifies how and when public notice of meetings must be given, and what procedures must be followed regarding meetings by teleconference, etc.

All trustees should be familiar with the provisions of the Brown Act. Of special note: 1) during meetings, the board may not act on or discuss any item that does not appear on the posted agenda; and 2) if an agenda item is discussed amongst board members prior to the official meeting, it could be considered a Brown Act violation if a quorum of the board is involved, either together or serially.

The Brown Act allows for closed session (non-public) discussion during board meetings of confidential subjects, such as personnel evaluation or pending litigation, if these subjects are properly noticed on the agenda. See the [Resource Guide](#) for further information. Boards are advised to seek legal counsel for guidance if questions about Brown Act compliance arise.

Under the California Public Records Act, the public has a right to obtain copies of the minutes of open meetings, and to inspect any writing or document distributed to members during a meeting. The board is not required to make audio or video recordings of its meetings, but if it does, those meetings are also records that must be made available to the public. The public is not, however, entitled to the minutes or recordings of closed sessions, unless it can be proved that the session was held in violation of open meetings laws or that the discussion during the session strayed from the topics listed in the agenda.

Library board members are required by state law to avoid any economic conflicts of interest and to submit statements of economic interest to the California Fair Political Practices Commission on a yearly basis. There are other ethics laws that trustees should follow. The Fair Political Practices Commission offers [free online ethics training](#) for local officials which can help ensure that your board complies with legal requirements. The California State Association of Counties offers [free and low-cost training and resources on state ethics and sunshine laws](#).

Governing board trustees, as they have direct responsibility for hiring and disciplining the library director, should receive sexual harassment training as [mandated by law](#) for California supervisors (two hours every two years) and the board should have a sexual harassment prevention policy. The California Department of Fair Employment and Housing offers [free sexual harassment training](#) that satisfies the state's legal requirements.

Trustees may be required to take this training in the course of their regular employment or as members of other boards. In this case, they should supply the board with certificates of training completion.

Federal laws.

Library boards must also avoid taking actions that violate rights guaranteed by the federal constitution or federal law. Many federal laws affect public libraries (see [Resource Guide](#)). In particular the board should seek legal advice before taking actions that may involve federal discrimination laws, employment laws, and intellectual freedom rights guaranteed by the First

and Fourth Amendments. The board should be generally aware of these laws and exercise caution.

Board liability.

Depending on the type of board (governing or advisory) and its legal and implied powers, a given board may have lesser or greater exposure to liability. California Government Code [§814-827](#) covers the liability of public agencies and officials. In California the doctrine of sovereign immunity applies except as otherwise provided by statute, meaning that public library boards and trustees are generally not subject to liability related to the performance of their official duties. But trustee and/or board liability is still possible for intentional or careless injuries or damages, illegal use of public funds or authority, ethics and conflict-of-interest law violations, California Public Records and Brown Act infractions, and failure to comply with federal discrimination, employment, and intellectual freedom laws.

Trustees can greatly reduce the possibility of liability as follows:

- Learn about the various laws that may apply to library board actions and library operations. Complete any required training.
- Vote against any proposed board action that you believe is illegal or improper.
- Vote to table an issue if you believe insufficient information has been provided on which to form an opinion.
- Act and speak for the library only when authorized to do so by the full board.
- Avoid even the appearance of conflict of interest.
- Consult legal counsel with concerns about any action (or failure to take an action).
- If you suspect conflict of interest on the board, submit a written protest to the board president.

The board should make certain that it is protected by liability insurance (boards are usually covered by the library's insurance).

Library values.

Library boards should endorse and adhere to the national library values regarding intellectual freedom, diversity and inclusion, and confidentiality and privacy expressed by the American Library Association (ALA). These are summarized in the [Library Bill of Rights](#). ALA has also issued [official interpretations of these rights](#) that guide the application of these principles to specific library practices in areas such as access to digital resources, services for minors and LGBTQIA communities, economic barriers to information access, and lifelong learning.

Additional values statements issued by ALA regarding intellectual freedom include the [Freedom to Read](#) and the [Freedom to View](#). Public libraries are often on the front lines protecting First and Fourth Amendment rights. Private groups and even public authorities may work to remove or limit access to reading materials, to censor content, to label “controversial” views, to distribute lists of “objectionable” books or authors, to purge libraries, and to divulge user information. These actions threaten our national and state tradition of free expression. An essential mission for public libraries has always been education, the communication and

dissemination of ideas. As representatives of the public interest, trustees should recognize there is no place for censorship in a free society.

Library Bill of Rights. The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

- I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
- V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
- VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.
- VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

Finally, library boards should embrace guidelines and best practices for trustee professional and ethical conduct (from [United for Libraries](#)):

- Trustees shall respect the opinions of their colleagues and not be critical or disrespectful when they disagree or oppose a viewpoint different than their own.
- Trustees shall comply with all the laws, rules and regulations that apply to them and to their library.
- Trustees, in fulfilling their responsibilities, shall not be swayed by partisan interests, public pressure or fear of criticism.
- Trustees shall not engage in discrimination of any kind and shall uphold library patrons' rights to privacy in the use of library resources.
- Trustees must distinguish clearly in their actions and statements between their personal philosophies and attitudes and those of the library, acknowledging and supporting the formal position of the Board even if they disagree.
- Trustees must respect the confidential nature of library business and not disclose such information to anyone.

Working professionally:

- Listen more than you speak and respect the advice and opinions of other trustees
- Support the board's decisions in public, even if you don't personally agree
- Support decisions made before you came to the board
- Respect the confidentiality of closed board sessions
- Attend all meetings
- Complete assigned work
- Trustees must also be aware of and in compliance with sunshine laws
- Trustees must avoid situations in which personal interests might be served or financial benefits gained from their position or access to privileged library information, for either themselves or others.
- Trustees shall immediately disqualify themselves when a conflict of interest exists (or the appearance of).
- Trustees shall not use their position to gain unwarranted privileges or advantages for themselves or others from the library or from those who do business with the library.
- Trustees shall not interfere with the management responsibilities of the director or the supervision of library staff.
- Trustees shall support the efforts of librarians in resisting censorship of library materials by groups or individuals.

Boards should formally adopt these principles into an ethics policy and include them in an oath of office for new trustees.

Ask yourself (Principle 3):

- What is the general rule for open meetings in California?
- Have you taken any training on California ethics laws? On sexual harassment?
- What tools can you use to learn about how your board should work?
- Why is it important to prepare for board meetings?
- What should be considered when recruiting new trustees?
- What is the Library Bill of Rights? Why is it important?
- Name at least three best practices for trustee professional conduct. How does your board deal with unprofessional conduct?

Principle 4.

Trustees should understand and collaborate to carry out the responsibilities of the library board regarding planning, leadership, policy, and budgeting.

Public library boards share a duty to represent the people and to collaborate to deliver the best possible library services for their communities. Board responsibilities vary by jurisdiction, but their common duties relate to library planning, leadership, policy, and budgeting. The following are the main responsibilities of the library board:

- a. To learn the needs, aspirations, and strengths of the community that the library serves and use this information to evaluate and plan library services
- b. To hire and evaluate the library director (or assist in the process)
- c. To develop and adopt policies (or make recommendations to the governing board)
- d. To approve/monitor the library budget and finances (or assist in the process)

“Yes, great libraries require financial support, but even more than that they require open communication about your needs, your challenges, and your dreams.” R. David Lankes, Expect More: Demanding Better Libraries for Today’s Complex World, 2nd Edition, 2016.

4a. To learn the needs, aspirations, and strengths of the community that the library serves and use this information to evaluate and plan library services.

If library services are developed and implemented without reference to what the local community needs, wants or aspires to, they will likely not succeed overall. This seems obvious but service organizations traditionally are inward-focused, looking at how they can expand and market what they have in place rather than learning about their communities and developing services based on that knowledge. The temptation that board members and library staff face is to create and lobby for services that are personally interesting or nostalgic for them. Services implemented without regard to community needs, desires, strengths, and assets run the risk of being irrelevant or even disrespectful to the community, and/or replicating what is already being done by others.

As public libraries look at pushing their boundaries to fulfill a broader mission, it is critical that they recognize that they can do this most effectively through partnerships. Partnerships require that libraries establish ties with other community organizations. **Community connection and knowledge are critical to effective library services, and this knowledge should serve as the underpinning for everything done by the library and the board.**

Recent national and state efforts to offer libraries and their boards the tools they need to understand their communities and build library services based on that understanding include:

- *Turning Outward and Harwood Public Innovation for California’s Libraries.* In 2014 the American Library Association partnered with the renowned Harwood Institute for Public Innovation to offer training and tools to strengthen libraries’ role as community leaders and change agents, using the Institute’s Turning Outward approach to community engagement. This led to statewide trainings in many states, including California, and the development of [California-specific Harwood resources](#).
- *Aspen Institute Dialogue on Public Libraries.* The Aspen Institute developed its [Dialogue on Public Libraries](#) to create a framework for libraries to connect with community stakeholders and showcase models on how community leaders can leverage libraries as platforms for building more knowledgeable, healthy and sustainable communities.

Several California libraries have held regional dialogues in partnership with the Aspen Institute, see the [Resources Guide](#) for more information.

- *Research Institute for Public Libraries (RIPL)*. [RIPL](#) is an ongoing national initiative to provide training and tools to create a culture shift in which library leaders become purposeful in gathering, analyzing, and using data for decision making, strategic planning, and demonstrating impact. RIPL trainings are periodically held in California and national webinars and workshops are available.
- *Data sources*. Sources for free demographic data for California communities include the U.S. Census, the California Department of Finance, the California Employment Development Department, and the California State Association of Counties. Commercial products used by many California public libraries include Gale Analytics and Tableau. Other data tools for library evaluation include [Edge](#) (Urban Libraries Council—California public libraries have free access through the State Library), [Project Outcome](#) (Public Library Association) and free public library data from the federal [Institute of Museum and Library Services](#) and the [California State Library](#). The [State Library](#) offers support for libraries in utilizing the state data resources available to them.

More information about these sources and the others listed above is included in the [Resource Guide](#).

The library director, library staff and the board should continually work together to ensure that library services are evaluated and planned based on community needs and aspirations. Trustees must endeavor to connect with stakeholders on a regular basis, to learn about the community, to foster the relationships needed to create partnerships, and to position themselves to provide critical information about library services, address misperceptions and clarify community benefits.

Developing and maintaining relationships with a diversity of stakeholders will help trustees learn more about what library users (and potential users) need and want from their community and their library. This information will be beneficial when the board adds or updates library policies, makes decisions about library services, and plans the library's future. It will also help the community and its leaders understand what the library provides and what its possibilities are, and lay the groundwork for community partnerships.

Trustees will have many formal and informal opportunities to connect with the community: at the grocery store, at civic or social group meetings, at the farmers market, within the workplace. Trustees should be prepared to elicit information from the public and hear what people have to say about what kind of community they want to live in, about their needs and aspirations, and about the library and its services.

The knowledge gained from community connection should be incorporated into creating or updating the library's formal strategic plan. A strategic plan, including a vision and mission, creates a map for the library's journey rather than a rigid policy, identifying where to invest resources for maximum community benefit and impact. By an intensive effort to determine the specific needs, wants and strengths of the community during a formal strategic planning process, the library and the board can create a plan for tailored services and programs to best

fulfill those needs. Strategic planning will help identify the library's strengths and untapped opportunities, and ways to capitalize on existing community assets through partnership.

There are many ways to approach creating/updating a strategic plan. United for Libraries has created a [practical guide](#) for strategic planning. Many public libraries and library boards opt to use a consultant for strategic planning processes. The board can consult with neighboring libraries for recommendations through their [cooperative library system](#), or through listservs or consultant directories. More guides and other tools for library evaluation and planning are available through the [Resource Guide](#).

Ask yourself (Principle 4a):

- What should serve as the foundation for everything done by the library and the board? Why?
- What can you do to gather knowledge about your community?
- Does your library have a strategic plan? If so, what are its goals? What is your library's mission and vision?

4b. *To hire and evaluate the library director (or assist in the process).*

Hiring the library director.

Library boards must make sure the library operates well and in the best interest of those the library serves. The board must work to hire a qualified director to manage the day-to-day operations of the library. Selecting a competent library director is the single most important act undertaken by the board, as the director makes decisions that significantly impact the quality of library services and the library's financial future. The board is charged with selecting the best person possible to make those decisions or, in the case of advisory boards, assisting the governing body to do so.

In California, board responsibility for selecting a library director varies. Special library district governing boards have the power to act unilaterally in selecting the library director. Charter city governing boards have authority to appoint the library director. In most smaller city libraries operating under the general law, the library director serves at the pleasure of the city council or city manager. County librarians are appointed by the county administrator or board of supervisors. Depending on local practice, advisory boards may participate in the selection of the library director, and their involvement is important, as they are in a position to contribute a deeper knowledge of the library and the community.

The process of hiring a director is a joint venture with local governmental officials and human resources departments. Trustees should be aware of applicable laws and regulations and competitive salaries and benefits. The board should work closely with local government to assure effective communication and compliance with local hiring rules and regulations. The board should clarify, with local governmental officials and staff, the appropriate roles, responsibilities, and lines of authority for the recruitment, hiring process, timetable, and salary.

There are many authoritative, comprehensive resources available related to hiring a library director. The following is a general overview of the process:

- Appoint a search committee to develop the recruitment package. This could include developing or revising the job description, considering how best to promote the recruitment, and determining the strengths, qualities, and attributes of the idea direct. Conduct an exit interview with the outgoing director. What expertise is needed to fulfill the library's mission, vision, and strategic plan?
(Note: many organizations use recruiters to facilitate the search process, and this is something that the board may consider. The board may consult with other libraries through their [cooperative library system](#) for recommendations on recruiters, if needed).
- In the case where the library director is a city or county employee, it will be up to that government to advertise formally for the position, but the board can make the vacancy known and encourage applicants. The position should at a minimum be posted on the [listserv](#) managed by the California Library Association and other free or low-cost resources for advertising library director positions both within California and nationally. Announcements should include the job title, duties, qualifications, salary, application timeline, highlights about the community and a contact person.
- Agree in advance on the methods for screening, ranking, requesting references, and evaluating applicants. The board or board committee then checks applicant references, evaluates qualifications, and arranges interviews with promising candidates, again considering the qualities needed to fulfill the library's mission, vision, and strategic plan. A uniform list of questions should be developed for both the interviews and for contacting references. These questions should be reviewed by someone knowledgeable about employment and discrimination law.
- Once candidates have been selected for interviewing, prepare for interviews. Consider sending background information on the library and community to the final candidates, to include the library strategic plan, policy manual, and budgets for the last several years.
- Follow the list of questions created earlier with opportunities for additional questions as conversation dictates. Be careful, however, to follow the rules and procedures for interviews established by the local government, to avoid any issues with discrimination. The interview is a mutual evaluation process. The search committee/board should share with all candidates the negative, as well as the positive, aspects of the position.
- After completing the interviews, the board or committee meets to review the interviews and references, discuss responses, and rank the candidates in order of preference. Once a decision is made, the successful candidate is officially notified. A written notice that includes agreed-upon title, salary, employment conditions and deadlines is very important. The candidate should also reply in writing. Once the chosen candidate has accepted, other candidates should be notified at once. If there is no strong candidate, recruitment should reopen.
- Introduce the new director to board members, the staff, appropriate community leaders, and government officials. Arrange news releases and consider a library open house reception. Create an onboarding package for the new director, including

background information, policies, budgets, minutes, manuals, reports, and measurable milestones for three months, six months and one year.

- Depending on local practices there may be a probationary period for the new director, generally lasting from six months to one year. Probation is usually considered an extension of the hiring process, during which an employee can be more easily released. Provisions for probationary periods are often written into collective bargaining agreements which may cover the director's position, and the board should be aware of these provisions. Again, the board should adhere to the jurisdiction's practices regarding probation.

Pitfalls to avoid:

- Hiring to the weaknesses or strengths of the former director (evaluate candidates on their own merits)
- Rushing to fill the position
- Taking the easy way out (promoting an internal candidate without a complete search process)
- Being penny-wise and pound foolish (take time in the hiring process and offer a good compensation package)
- Assuming all candidates are 100% candid (conduct thorough reference and background checks)
- Putting too much emphasis on technical abilities. A library director should be more than a good librarian. Great library directors are visionary leaders that communicate well with the board, staff, and community leaders.

In the probationary process, each measurable milestone as mentioned above should include documentation of goals met as well as adjustments and corrections if they are changed. To ensure that the new director is performing as expected, agendaized, closed-session reviews should be held quarterly during board meetings using appropriate Brown Act language (example: PERFORMANCE EVALUATION [Government Code Section 54957] Title: Library Director).

Without a formal evaluation process, there is no concrete way for directors to know if they are meeting or exceeding expectations. Similarly, without the formal evaluation process, library boards may be letting troublesome issues become worse, and they also lose an important opportunity to put their appreciation of performance in writing.

Adapted from Short Takes for Trustees, Evaluating the Library Director, United for Libraries, 2014.

Evaluating the library director.

A formal evaluation process provides the director with necessary feedback on job performance. It can be a tool for motivation, encouragement, coaching and direction. The process can

provide the board with valuable information about the operations and performance of the library and help establish a record of unsatisfactory performance if there is cause for discipline or termination. It can also give the board and the director an opportunity to evaluate the director's job description and adjust it if necessary.

The evaluation process should not be ignored. It protects both the director and the board in disciplinary cases. While most library director positions in California are FLSA (Fair Labor Standards Act) exempt and the incumbents serve at-will, it is not advisable for the board to simply terminate a director. This is because there are many grounds for wrongful termination lawsuits, including discrimination, retaliation, or violations of specific statutes or public policies. The board must be able to document that misconduct or performance issues occurred and that the director was put on notice of them as they occurred, to help avoid later claims that the termination was motivated by discrimination or other wrongful grounds.

There are a variety of evaluation methods with a wide range of criteria (see Resources Guide). The method of evaluation chosen should reflect local circumstances. Boards should work with local officials and human resources staff to ensure that their evaluation method conforms to local practices.

A formal method usually begins with the director and the board working together to develop a list of performance criteria based on goal completion, linked to the library's strategic plan. Once criteria are set, the library director should periodically report to the board on progress toward meeting performance objectives and priorities, which may be adjusted periodically according to the library's changing situation.

Ask yourself (Principle 4b):

- Name some pitfalls to avoid in hiring a library director.
- What are the current goals set by your board for the library director?
- How does a formal evaluation process for the library director benefit and protect the board? The director? The library?

A formal evaluation review should be held yearly. The board may request that the library director provide an annual summary including goals, accomplishments, and challenges, as a template for the board's review. The board should reward good performance or work to correct inadequate performance.

Evaluation should be continuous. Performance problems with the director should be discussed at the time that they arise, along with possible solutions, rather than wait for the formal review.

4c. To develop and adopt policies (or make recommendations to the governing board).

Policies are important tools used by library trustees and staff to provide effective service to the community. Policies reflect the library's philosophy of service and explain the reasons for

setting rules and limitations. A fair amount of the library board's time will be spent considering, revising, and adopting (or recommending the adoption of) library policies.

A set of well-defined, well-written, reasonable, and current policies is important to a public library, because they form the framework of the library's operation. They guide trustees and staff in carrying out their duties; help ensure quality service to meet community needs; communicate privileges and duties regarding library use to the public; help ensure fair treatment of library users and staff; and help ensure conformity to local, state, and federal laws.

Policy making is an organizational rather than a management tool, and works best with the involvement of trustees, library director and staff. The director can provide a foundation for the issue so the board can have a knowledgeable discussion. Staff can be given the responsibility to provide options, draft recommendations, and present them to the board for discussion and approval.

In creating or reviewing policies, the following questions should be considered:

- How does this policy contribute to the mission and goals of the library?
- What needs and reasons are there to change this policy or make a new one?
- What are the possible positive and negative effects?
- What are the estimated costs of implementing the policy (staff resources, building and equipment requirements)?
- How will the public perceive this policy?
- What are the legal implications of enacting and implementing the policy?
- Is the policy realistically enforceable? (If it can't be enforced, it shouldn't be put in writing.)

Ask yourself (Principle 4c):

- Why are library policies important?
- What factors should be considered in setting policies for the library?
- Who should be involved in policy development?
- When should policies be vetted by legal counsel?

Policies must be legally defensible. A legally defensible policy complies with current local, state, and federal laws; is reasonable; is clearly written and understandable; is publicly available for review and reference; is applied without discrimination; and is consistent with the library's mission, vision, and strategic plan. The most common public challenges to policies are aimed at collections and internet use but making sure that every policy is legally defensible will protect the library and jurisdiction against liability. New policies and policy changes should be vetted by legal counsel before any final board discussion and approval.

Referring to the policies of other libraries for examples can be particularly useful when developing new policies or considering policy changes.

4d. To approve/monitor the library budget and finances (or assist in the process).

In California library boards have varying responsibilities regarding the library's finances and budget. Governing boards are legally responsible for the library's budget and library financial oversight, while advisory boards do not have legal mandates for budget development or fiscal control. Depending on local practice, advisory boards do, however, often advise the library director and the governing body on budget proposals and finances.

All trustees should know where the money comes from and how much revenue can be built into the budget each year. A good understanding of revenue sources is important, as board members must encourage continued funding from those sources and identify new sources when needed.

Local finances.

Most California public libraries work on annual budgets based on city or county allocations, or property or parcel tax allocations. The county law libraries are an exception, as they are funded through a portion of civil filing fees, meaning these libraries are largely supported by civil litigants and not by state and local taxes. Library friends/foundations groups raise money for library enhancements and programs. The California State Library's publication, [California Public Library Organization](#), provides a useful overview of operational and capital funding by public library type.

State level support.

The State Library administers a number of state and federally funded [financial support programs for California public libraries](#), including funding for cooperative library systems through the California Library Services Act, funding for literacy programs through the California Library Literacy Services Program, grant programs funded by federal Library Services and Technology Act and American Rescue Plan Act monies, and state funding for special initiatives such as broadband and library construction. The State Library also manages the [California Grants Portal](#), a searchable database for competitive grant opportunities offered by California state agencies.

Federal and private support.

While the State Library manages the bulk of federal aid for libraries in California, libraries can apply directly to the federal [Institute of Museum and Library Services](#) for selected grant opportunities. Additional sources for learning about federal and foundation grant funding include the comprehensive federal website [Grants.Gov](#), [National Endowment for the Humanities](#) grants, and the [Foundation Directory Online](#).

Budgeting. A budget is a plan for the expenditure of funds for the next year to carry out the library's operation. The amount of funds available will dictate the extent to which the library can carry out its mission.

The board is responsible for ensuring that public funds are used in the community's best interests and that the library has adequate financing for its programs and services. The budget plan should be clear, accurate, consistent, and comprehensive. Be aware that most governing bodies have policies that require that funds be held in reserve for capital replacement, to minimize adverse impacts from unanticipated expenditures, and to strengthen the financial stability of the library. This requirement must be observed as the budget is developed each year.

Depending on the type and size of the public library, its revenue streams, and local laws and practices, the board's involvement in the budget process varies from simple to complex. Here are some scenarios:

- *Scenario 1: City library (advisory board).* The city budgets on a two-year cycle but each year the board of trustees reviews the library's budget prior to its adoption by the city council. The budget is divided into program areas such as technical services, adult services, or administration. Each program area has defined objectives and associated tasks. The budget is broken down to indicate the costs for each task.

After the budget has been distributed to the city council and to city departments, a budget workshop is presented, open to staff and the public, in which the city manager reviews the critical factors that were considered as the budget was prepared. The library director, after attending the workshop, highlights the issues related to the library's current or future funding. This information is put into a "budget notebook" for the library board's review.

At the next board meeting the director reviews the budget notebook information and answers questions for the board. It is the director's responsibility to ensure the budget is adequate to meet the library's objectives. The board's role is to focus on the services offered by the library and make recommendations for changes to the city council if they feel the planned services do not meet community needs.

- *Scenario 2: Independent special district library (governing board).* A special district library begins by determining what funds are available for budgeting, by estimating its revenue for the following fiscal year and the amount of funding (if any) which will be carried over from the current year (a special district library's carryover funds remain available for its use, as they do not revert to a county or city general fund). The library director then estimates the cost of maintaining the current level of services and that of additional services and prepares a summary of the budget information for the library board. The board reviews the budget and approves or requests changes. The budget is then finalized. While there may still be a requirement for the budget to be submitted to the county board of supervisors or county manager, that body's review is typically minimal, where the library is a special district with its own governance and defined revenue.
- *Scenario 3: Joint powers agreement (JPA) library (governing board).* The budget is approved and submitted by a governing board, established under a JPA, among the

jurisdictions, possibly various cities and the county served, to operate the public library. In some JPAs the governing board has full authority in all matters of library governance, but its annual budget is subject to approval by the county board of supervisors. In others, the full authority rests with the JPA Board, which could include all members of the county board of supervisors as well as other elected officials.

The steps in the budgeting process (assuming a July-June fiscal year) might include:

- Appointing a budget-audit committee to work closely with the library director and appropriate staff. The role of the budget-audit committee is to review and critique the work done by staff, including the current year's revenues, expenditures, summary, and projections. Staff may present budget assumptions for the next fiscal year, covering possible changes in facilities, services, and staffing.
- The committee raises questions and makes suggestions to guide the library director in setting specific budget allocations.
- The budget-audit committee will review the library's preliminary budget and the full board will adopt at its regular May meeting.
- The entire board stays informed, through the library director, of the ongoing issues and reports on any significant changes that arise in revenue and expenditure projections.

The timeline for a JPA annual budget cycle might look like this:

- May -- Approve the preliminary budget to begin the fiscal year on July 1
 - September -- Approve the true-up of revenues and budget corrections, note grants received, approve new positions, and codify any needed changes
 - February – Approve any mid-year changes to ensure that the budget is on track
- Scenario 4: City library (governing board). The library board delegates the development and administration of the budget to the city librarian but determines the budget priorities for the next fiscal year. The city librarian and staff prepare the draft budget with direction from the library board, with fiscal guidelines provided by the city council and city manager. Capital and major maintenance projects have discrete timelines and preparation guidelines. The entire draft budget goes to the library board for change or approval before it is sent on to the city. Once the board approves the budget, it is sent to the city manager or finance department for approval. Any city changes to the budget must go to the library board for approval, and if the library board does not agree, they must file a variance and challenge the change at the city's budget hearings.

Budgeting guidelines for trustees (Council of State Library Agencies)

- Know who does what (board authority and responsibility in the budget planning process)
- Understand the planning context (the budget is a tool for accomplishing specific objectives that reflect the vision, mission and strategic plan of the library)
- Give the process time (allow for time to develop the budget and for consideration by the local funding authorities)

- Be realistic (understand the community climate and competing demands for funding)
- Seek additional funding if needed (grants, donations, sponsors, partnerships)
- Keep it simple and truthful (the library and its needs should be easily understood)
- Read, listen, and learn (determine what the funding agency is looking for and what impresses them)
- Present the budget (show budget base, increases and effects of decreases, state community value)

Budget monitoring.

The board monitors library finances by helping develop, review, oversee and approve library expenditures to the extent allowed under its legal and implied powers, and develops and adopts (or advises on) policies for handling gifts and donations. The library director typically reports on expenditures and budget status at each board meeting.

Ask yourself (Principle 4d):

- Where does your library's funding come from?
- How involved should your board be in developing the budget?
- Where can you find information about grants?
- Why is the board's active support for the budget so important?

Board engagement.

The board should recognize that the library and library director need its engagement and support in budgetary matters. In California, library directors are usually government employees that report to the city or county and as such must remain neutral in budget deliberations. As trustees directly represent the people concerning library governance, they have the more tenable position to communicate with local officials on behalf of the library's budget. Trustees can interpret the library's plans for local leaders, explain how budget changes help the library align with community priorities, and interact to provide information about budget proposals in ways that the library director and staff cannot. Trustees have a duty to work to improve the library's services and they are uniquely positioned to represent the library in the budget process.

Principle 5.

Trustees should recognize the importance of orientation and continuing education for the library board and participate in ongoing learning opportunities.

"Trustees are at the heart of a library's relationship with its community. They should be your most informed stewards of growth and success." – Northeast Ohio Regional Library System

For the library board to fully accomplish its mission and responsibilities, it must have broad knowledge of, and commitment to, to the library's mission, goals, plans and programs and the

public needs and aspirations they should address. Trustees must work to create a culture of learning for the board, to develop deeper awareness of their public library and the library world. The public library is a complex organization functioning in a complicated world. Public libraries are continually adapting and changing, and the board must do also, by learning about public libraries and about their own library and community and being open to change and to new ideas.

A first step in creating a culture of learning is to ensure that new trustees have the information they need to be successful from the start, through an effective orientation process. This orientation should ideally take place before the new trustee's first meeting and should include a packet of information with the following:

- Library mission, vision, strategic plan, budget, latest annual report if available
- Board bylaws
- Trustee job description
- Board meeting schedule and important dates
- Review of educational resources (including this guide)

The board should dedicate itself to a continuous learning process. Setting aside time for learning at board meetings can be a very effective way to accomplish this. Sessions might include a brief training video or webinar or a presentation on a new library service or new trend.

Trustees should seek out educational opportunities through their library director, and also from connection with state and national organizations such as the [California Library Association](#), the [California State Library](#), and [United for Libraries](#). Having the opportunity to network with others regionally and nationally will help trustees understand the context in which the library operates and their own roles and responsibilities.

There are many free resources available on public trusteeship and board development, as well as public library operation and management. Trustees should also ask their library director to let them know about articles or books that may be important to their understanding of the library and its social/political context. Organizations concerned with non-profit administration and management, such as [BoardSource](#) and the [National Council on Nonprofits](#), offer helpful information and resources.

The board and individual trustees should consider joining [United for Libraries](#). While some of the resources that United for Libraries offers are free, many valuable learning tools are for members only. These include [Short Takes for Trustees](#), designed for boards to use for training during meetings, and a [national online trustee discussion forum](#), which many find an invaluable resource for learning about best practices, connecting with other trustees on specific questions and issues, and for discovering new resources and learning opportunities for library trustees.

Events such as webinars, workshops, and conferences provide excellent opportunities for continuing education, both from the subject matter and from the opportunity to meet and

share experiences and ideas with other trustees. Trustees should consider attending the California Library Association's annual meeting and work to include conference programming on trusteeship. At the national level, United for Libraries offers a program track for trustees at the annual ALA Conference.

Some boards may be reluctant to approve registration fees and travel expenses for continuing education, because of financial constraints or possible public misperceptions. But these expenses are essential. The board should have a written policy on board training and budget enough funding each year to ensure that trustees can take full advantage of educational opportunities and remain aware of new trends and best practices for libraries. This is an important investment in the library's future and demonstrates good financial stewardship.

To identify where to focus its continuing education efforts, the library board should make the time to evaluate its own performance. This is an opportunity to celebrate what is going well and to look at how things could go better. Not only should the board evaluate its performance as a whole, but trustees should also evaluate themselves individually, against the duties and responsibilities covered in this guide well as against the board's bylaws, policies, and procedures. Is the board helping to move the library forward? Are board operations efficient? Is there additional education or support that will help trustees to feel confident and comfortable in their roles? The [Resource Guide](#) includes sample evaluation tools for library boards and trustees.

Conclusion

Public libraries are essential to California's citizens. The local public library is a gateway for intellectual curiosity, learning, and self-actualization in nearly every California community. It enhances the quality of individual and community life and provides pathways to success. As one of the most credible public institutions in our country, the inclusion and engagement of the public library is critical to producing successful community solutions for local issues.

As stated in the beginning, public library boards of trustees are essential to the success of California's public libraries. They help to see that the library delivers the best library services, has a top-notch director, follows excellent policies and practices, and keeps an eye to the future. California's citizens and communities owe a debt of gratitude to those who volunteer their dedication, time, and talents to serve as library trustees. Trustees should know that they are making a real difference in their communities, and their efforts are reflected in every book that gets checked out, every program that is attended, every service the library offers, and in the support they show in the guidance of their library directors.



OPEN & PUBLIC IV:

A Guide to the Ralph M. Brown Act

— 2ND EDITION, REVISED JULY 2010 —

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CHAPTER 1:

IT IS THE PEOPLE'S BUSINESS



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NARROW EXEMPTIONS

PUBLIC PARTICIPATION
IN MEETINGS

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BEYOND THE LAW—GOOD
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OPEN & PUBLIC IV

A GUIDE TO THE RALPH M. BROWN ACT



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CH. 2: LEGISLATIVE BODIES

CH. 3: MEETINGS

CH. 4: AGENDAS, NOTICES, AND
PUBLIC PARTICIPATION

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OPEN & PUBLIC IV:
A GUIDE TO THE RALPH M. BROWN ACT, 2ND EDITION

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FOREWORD

The goal of this publication is to explain the requirements of the Ralph M. Brown Act, California's open meeting law, in lay language so that it can be readily understood by local government officials and employees, the public and the news media. We offer practical advice—especially in areas where the Brown Act is unclear or has been the subject of controversy—to assist local agencies in complying with the requirements of the law.

A number of organizations representing diverse views and constituencies have contributed to this publication in an effort to make it reflect as broad a consensus as possible among those who daily interpret and implement the Brown Act. The League thanks the following organizations for their contributions:

Association of California Healthcare Districts
Association of California Water Agencies
California Association of Sanitation Agencies (CASA)
California Attorney General—Department of Justice
City Clerks Association of California
California Municipal Utilities Association
California Redevelopment Association
California School Boards Association
California Special Districts Association
California State Association of Counties
Community College League of California
California First Amendment Project
California Newspaper Publishers Association
Common Cause
League of Women Voters of California

This publication is current as of June 2010. Updates to the publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment.

This publication is not intended to provide legal advice. A public agency's legal counsel is responsible for advising its governing body and staff and should always be consulted when legal issues arise.

To improve the readability of this publication:

- Most text will look like this;
- Practice tips are in the margins;
- **Hypothetical examples are printed in blue; and**
- Frequently asked questions, along with our answers, are in shaded text.

Additional copies of this publication may be purchased by visiting CityBooks online at www.cacities.org/store.

CHAPTER 1:

IT IS THE PEOPLE'S BUSINESS



■ THE RIGHT OF ACCESS

Two key parts of the Brown Act have not changed since its adoption in 1953. One is the Brown Act's initial section, declaring the Legislature's intent:

"In enacting this chapter, 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 deliberations be conducted openly."

"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."¹

The people reconfirmed that intent 50 years later in the November 2004 election by adopting Proposition 59, amending the California Constitution to include a public right of access to government information:

"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."²

The Brown Act's other unchanged provision is a single sentence:

"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."³

That one sentence is by far the most important of the entire Brown Act. If the opening is the soul, that sentence is the heart of the Brown Act.

Practice Tip:

The key to the Brown Act is a single sentence. In summary, all meetings shall be **open and public** except when the Brown Act authorizes otherwise.

■ BROAD COVERAGE

The Brown Act covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. Some types of private organizations are covered, as are newly-elected members of a legislative body, even before they take office.

Similarly, meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device through which a majority of a legislative body discusses, deliberates or takes action on an item of business outside of a noticed meeting. They include meetings held from remote locations by teleconference.

New communication technologies present new Brown Act challenges. For example, common e-mail practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by members of a legislative body in an Internet chatroom or blog dialogue. Communicating during meetings using electronic technology (such as laptop computers, personal digital assistants, or cellular telephones) may create the perception that private communications are influencing the outcome of decisions; some state legislatures have banned the practice. On the other hand, widespread cablecasting and web streaming of meetings has greatly expanded public access to the decision-making process.

■ NARROW EXEMPTIONS

The express purpose of the Brown Act is to assure that local government agencies conduct the public's business openly and publicly. Courts and the California Attorney General usually broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions to its general rules.⁴

Generally, public officials should think of themselves as living in glass houses, and that they may only draw the curtains when it is in the public interest to preserve confidentiality. Closed sessions may be held only as specifically authorized by the provisions of the Brown Act itself.

The Brown Act, however, is limited to meetings among a majority of the members of multi-member government bodies when the subject relates to local agency business. It does not apply to independent conduct of individual decision-makers. It does not apply to social, ceremonial, educational, and other gatherings as long as a majority of the members of a body don't discuss issues related to their local agency's business. Meetings of temporary advisory committees—as distinguished from standing committees—made up solely of less than a quorum of a legislative body are not subject to the Brown Act.

The law does not apply to local agency staff or employees, but they may facilitate a violation by acting as a conduit for discussion, deliberation, or action by the legislative body.⁵

The law, on the one hand, recognizes the need of individual local officials to meet and discuss matters with their constituents. On the other hand, it requires—with certain specific exceptions to protect the community and preserve individual rights—that the decision-making process be public. Sometimes the boundary between the two is not easy to draw.

Practice Tip:

Think of the government's house as being made of glass. The curtains may be drawn only to further the public's interest.



■ PUBLIC PARTICIPATION IN MEETINGS

In addition to requiring the public's business to be conducted in open, noticed meetings, the Brown Act also extends to the public the right to participate in meetings. Individuals, lobbyists, and members of the news media possess the right to attend, record, broadcast, and participate in public meetings. The public's participation is further enhanced by the Brown Act's requirement that a meaningful agenda be posted in advance of meetings, by limiting discussion and action to matters listed on the agenda, and by requiring that meeting materials be made available.

Legislative bodies may, however, adopt reasonable regulations on public testimony and the conduct of public meetings, including measures to address disruptive conduct and irrelevant speech.

■ CONTROVERSY

Not surprisingly, the Brown Act has been a source of confusion and controversy since its inception. News media and government watchdogs often argue the law is toothless, pointing out that there has never been a single criminal conviction for a violation. They often suspect that closed sessions are being misused.

Public officials complain that the Brown Act makes it difficult to respond to constituents and requires public discussions of items better discussed privately—such as why a particular person should not be appointed to a board or commission. Many elected officials find the Brown Act inconsistent with their private business experiences. Closed meetings can be more efficient; they eliminate grandstanding and promote candor. The techniques that serve well in business—the working lunch, the sharing of information through a series of phone calls or emails, the backroom conversations and compromises—are often not possible under the Brown Act.

As a matter of public policy, California (along with many other states) has concluded that there is more to be gained than lost by conducting public business in the open. Government behind closed doors may well be efficient and business-like, but it may be perceived as unresponsive and untrustworthy.

■ BEYOND THE LAW—GOOD BUSINESS PRACTICES

Violations of the Brown Act can lead to invalidation of an agency's action, payment of a challenger's attorney's fees, public embarrassment, even criminal prosecution. But the Brown Act is a floor, not a ceiling for conduct of public officials. This guide is focused not only on the Brown Act as a minimum standard, but also on meeting practices or activities that, legal or not, are likely to create controversy. Problems may crop up, for example, when agenda descriptions are too brief or vague, when an informal get-together takes on the appearance of a meeting, when an agency conducts too much of its business in closed session or discusses matters in closed session that are beyond the authorized scope, or when controversial issues arise that are not on the agenda.

The Brown Act allows a legislative body to adopt practices and requirements for greater access to meetings for itself and its subordinate committees and bodies that are more stringent than the law itself requires.⁶ Rather than simply restate the basic requirements of the Brown Act, local open meeting policies should strive to anticipate and prevent problems in areas where the Brown Act doesn't provide full guidance. As with the adoption of any other significant policy, public comment should be solicited.



Practice Tip:

Transparency is a foundational value for ethical government practices. The Brown Act is a floor, not a ceiling, for conduct.

A local policy could build on these basic Brown Act goals:

- A legislative body's need to get its business done smoothly;
- The public's right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time;
- A local agency's right to confidentially address certain negotiations, personnel matters, claims and litigation; and
- The right of the press to fully understand and communicate public agency decision-making.

An explicit and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law—but if the law were enough this guide would be unnecessary. A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law, and look at its unique circumstances and determine if there is a better way to prevent potential problems and promote public trust. At the very least, local agencies need to think about how their agendas are structured in order to make Brown Act compliance easier. They need to plan carefully to make sure public participation fits smoothly into the process.

■ ACHIEVING BALANCE

The Brown Act should be neither an excuse for hiding the ball nor a mechanism for hindering efficient and orderly meetings. The Brown Act represents a balance among the interests of constituencies whose interests do not always coincide. It calls for openness in local government, yet should allow government to function responsively and productively.

There must be both adequate notice of what discussion and action is to occur during a meeting as well as a normal degree of spontaneity in the dialogue between elected officials and their constituents.

The ability of an elected official to confer with constituents or colleagues must be balanced against the important public policy prohibiting decision-making outside of public meetings.

In the end, implementation of the Brown Act must ensure full participation of the public and preserve the integrity of the decision-making process, yet not stifle government officials and impede the effective and natural operation of government.

■ HISTORICAL NOTE

In late 1951, *San Francisco Chronicle* reporter Mike Harris spent six weeks looking into the way local agencies conducted meetings. State law had long required that business be done in public, but Harris discovered secret meetings or caucuses were common. He wrote a 10-part series on “Your Secret Government” that ran in May and June 1952.

Out of the series came a decision to push for a new state open meeting law. Harris and Richard (Bud) Carpenter, legal counsel for the League of California Cities, drafted such a bill and Assembly Member Ralph M. Brown agreed to carry it. The Legislature passed the bill and Gov. Earl Warren signed it into law in 1953.

The Ralph M. Brown Act, known as the “Brown Act”, has evolved under a series of amendments and court decisions, and has been the model for other open meeting laws—such as the Bagley-Keene Act, enacted in 1967 to cover state agencies.

Practice Tip:

The Brown Act should be viewed as a tool to facilitate the business of local government agencies. Local policies that go beyond the minimum requirements of law may help instill public confidence and avoid problems.



Assembly Member Brown is best known for the open meeting law that carries his name. He was elected to the Legislature in 1942 and served 19 years, including the last three years as Speaker. He then became an appellate court justice.

Endnotes

- 1 California Government Code section 54950
- 2 California Constitution, Art. 1, section 3 (b)(1)
- 3 California Government Code section 54953 (a)
- 4 This principle of broad construction when it furthers public access and narrow construction if a provision limits public access is also stated in the amendment to the state's Constitution adopted by Proposition 59 in 2004. California Constitution, Art. 1, section 3(b)(2)
- 5 California Government Code section 54952.2 (c); *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533
- 6 California Government Code section 54953.7

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.

CHAPTER 2:

LEGISLATIVE BODIES



WHAT IS A "LEGISLATIVE BODY"
OF A LOCAL AGENCY?

WHAT IS NOT A "LEGISLATIVE BODY"
FOR PURPOSES OF THE BROWN ACT?

CHAPTER 2:

LEGISLATIVE BODIES



The Brown Act applies to the legislative bodies of local agencies. It defines “legislative body” broadly to include just about every type of decision-making body of a local agency.¹

■ WHAT IS A “LEGISLATIVE BODY” OF A LOCAL AGENCY?

A “legislative body” includes:

- **The “governing body”** of a local agency or any other local body created by state or federal statute.”² This includes city councils, boards of supervisors, school boards and boards of trustees of special districts. A “local agency” is any city, county, school district, municipal corporation, redevelopment agency, district, political subdivision, or other public agency.³ A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.⁴ The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.⁵ Entities created pursuant to joint powers agreements are local agencies within the meaning of the Brown Act.⁶
- **Newly-elected members** of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office.⁷ Thus, meetings between incumbents and newly-elected members of a legislative body, such as a meeting between two outgoing members and a member-elect of a five-member body, could violate the Brown Act.

Practice Tip:

The prudent presumption is that an advisory committee or task force is subject to the Brown Act. Even if one clearly is not, it may want to comply with the Brown Act. Public meetings may reduce the possibility of misunderstandings and controversy.

Q. On the morning following the election to a five-member legislative body of a local agency, two successful candidates, neither an incumbent, meet with an incumbent member of the legislative body for a celebratory breakfast. Does this violate the Brown Act?

A. *It might, and absolutely would if the conversation turns to agency business. Even though the candidates-elect have not officially been sworn in, the Brown Act applies. If purely a social event, there is no violation but it would be preferable if others were invited to attend to avoid the appearance of impropriety.*

- **Appointed bodies**—whether permanent or temporary, decision-making or advisory—including planning commissions, civil service commissions and other subsidiary committees, boards, and bodies. Volunteer groups, executive search committees, task forces, and “blue ribbon committees” created by formal action of the governing body are legislative bodies. When the members of two or more legislative bodies are appointed to serve on an entirely separate advisory group, the resulting body may be subject to the Brown Act. In one reported case, a city council created a committee of two members of the city council and two members of the city planning commission to review qualifications of prospective planning commissioners and make recommendations to the council. The court held that their joint mission made them a legislative body subject to the Brown Act. Had the two committees remained separate and met only to exchange information, they would have been exempt from the Brown Act.⁸
- **Standing committees** of a legislative body, irrespective of their composition, which have either: (1) a continuing subject matter jurisdiction, or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.⁹ Even if comprised of less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates long-term committees on budget and finance or on public safety, those are standing committees subject to the Brown Act. Further, function over form controls. For example, a statement by the legislative body that “the advisory committee shall not exercise continuing subject matter jurisdiction” or the fact that the committee does not have a fixed meeting schedule is not determinative.¹⁰ “Formal action” by a legislative body includes authorization given to the agency’s executive officer to appoint an advisory committee pursuant to agency-adopted policy.¹¹
- The governing body of any **private organization** either: (1) created by the legislative body in order to exercise authority that may lawfully be delegated by such body to a private corporation, limited liability company or other entity or (2) that receives agency funding and whose governing board includes a member of the legislative body of the local agency appointed by the legislative body as a full voting member of the private entity’s governing board.¹² These include some nonprofit corporations created by local agencies.¹³ If a local agency contracts with a private firm for a service (for example, payroll, janitorial, or food services), the private firm is not covered by the Brown Act.¹⁴ When a member of a legislative body sits on a board of a private organization as a private person and is not appointed by the legislative body, the board will not be subject to the Brown Act. Similarly, when the legislative body appoints someone other than one of its own members to such boards, the Brown Act does not apply. Nor does it apply when a private organization merely receives agency funding.¹⁵

Practice Tip:

It can be difficult to determine whether a subcommittee of a body falls into the category of a standing committee or an exempt temporary committee. Suppose a committee is created to explore the renewal of a franchise or a topic of similarly limited scope and duration. Is it an exempt temporary committee or a non-exempt standing committee? The answer may depend on factors such as how meeting schedules are determined, the scope of the committee’s charge, or whether the committee exists long enough to have “continuing jurisdiction.”

Q: The local chamber of commerce is funded in part by the city. The mayor sits on the chamber’s board of directors. Is the chamber board a legislative body subject to the Brown Act?

A: *Maybe. If the chamber’s governing documents require the mayor to be on the board and the city council appoints the mayor to that position, the board is a legislative body. If, however, the chamber board independently appoints the mayor to its board, or the mayor attends chamber board meetings in a purely advisory capacity, it is not.*

Q: If a community college district board creates an auxiliary organization to operate a campus bookstore or cafeteria, is the board of the organization a legislative body?

A: *Yes. But, if the district instead contracts with a private firm to operate the bookstore or cafeteria, the Brown Act would not apply to the private firm.*

- **Certain kinds of hospital operators.** A lessee of a hospital (or portion of a hospital) first leased under Health and Safety Code subsection 32121(p) after Jan. 1, 1994, which exercises “material authority” delegated to it by a local agency, whether or not such lessee is organized and operated by the agency or by a delegated authority.¹⁶

■ **WHAT IS NOT A “LEGISLATIVE BODY” FOR PURPOSES OF THE BROWN ACT?**

- A temporary advisory committee **composed solely of less than a quorum** of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act.¹⁷ Temporary committees are sometimes called *ad hoc* committees, a term not used in the Brown Act. Examples include an advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.¹⁸
- Groups advisory to a single decision-maker or appointed by staff are not covered. The Brown Act applies only to committees created by formal action of the legislative body and not to committees created by others. A committee advising a superintendent of schools would not be covered by the Brown Act. However, the same committee, if created by formal action of the school board, would be covered.¹⁹

Q. A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?

A. *No, because the committee has not been established by formal action of the legislative body.*

Q. During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager. Does the Brown Act apply to this committee?

A. *Possibly, because the direction from the city council might be regarded as a formal action of the body notwithstanding that the city manager controls the committee.*

- Individual decision makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads are not subject to the Brown Act since such assemblies are not those of a legislative body.²⁰
- County central committees of political parties are also not Brown Act bodies.²¹

Endnotes

- 1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123
- 2 California Government Code section 54952(a)
- 3 California Government Code section 54951. *But see*: Education Code section 35147, which exempts certain school councils and school site advisory committees from the Brown Act and imposes upon them a separate set of rules.
- 4 *Torres v. Board of Commissioners* (1979) 89 Cal.App.3d 545
- 5 71 Ops.Cal.Atty.Gen. 96 (1988); 73 Ops.Cal.Atty.Gen. 1 (1990)
- 6 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354
- 7 California Government Code section 54952.1
- 8 *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799
- 9 California Government Code section 54952(b)
- 10 79 Ops. Cal.Atty.Gen. 69 (1996)
- 11 *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781
- 12 California Government Code section 54952(c)(1)(B). The same rule applies to a full voting member appointed prior to February 9, 1996 who, after that date, is made a non-voting board member by the legislative body. California Government Code section 54952(c)(2)
- 13 California Government Code section 54952(c)(1)(A); *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal* (1999) 69 Cal.App.4th 287; *Epstein v. Hollywood Entertainment Dist. II Business Improvement District* (2001) 87 Cal.App.4th 862; *see also*: 81 Ops.Cal.Atty.Gen. 281 (1998); 85 Ops.Cal.Atty.Gen. 55
- 14 *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal* (1999) 69 Cal.App.4th 287, 300 fn. 5
- 15 "The Brown Act," California Attorney General (2003), p. 7
- 16 California Government Code section 54952(d)
- 17 California Government Code section 54952(b); *see also*: *Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors* (1993) 6 Cal.4th 821
- 18 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123
- 19 56 Ops.Cal.Atty.Gen. 14 (1973)
- 20 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870
- 21 59 Ops.Cal.Atty.Gen. 162 (1976)

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CHAPTER 3:

MEETINGS



BROWN ACT MEETINGS

SIX EXCEPTIONS TO THE MEETING
DEFINITION

COLLECTIVE BRIEFINGS

RETREATS OR WORKSHOPS OF
LEGISLATIVE BODIES

SERIAL MEETINGS

INFORMAL GATHERINGS

TECHNOLOGICAL CONFERENCING

LOCATION OF MEETINGS

CHAPTER 3:

MEETINGS



The Brown Act only applies to meetings of local legislative bodies. The Brown Act defines a meeting as: "... any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains."¹ Under the Brown Act, the term "meeting" is not limited to gatherings at which action is taken but includes deliberative gatherings as well.

■ BROWN ACT MEETINGS

Brown Act gatherings include a legislative body's regular meetings, special meetings, emergency meetings and adjourned meetings.

- "Regular meetings" are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.²
- "Special meetings" are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act's notice requirements for special meetings.³
- "Emergency meetings" are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.⁴
- "Adjourned meetings" are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.⁵

■ SIX EXCEPTIONS TO THE MEETING DEFINITION

The Brown Act creates six exceptions to the meeting definition: ⁶

Individual Contacts

The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on his or her own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff or a colleague.

Individual contacts, however, cannot be used to do in stages what would be prohibited in one step. For example, a series of individual contacts that leads to discussion, deliberation or action among a majority of the members of a legislative body is prohibited. Such serial meetings are discussed below.

Conferences

The second exception allows a legislative body majority to attend a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies of the type represented by the legislative body.

Among other things, this exception permits legislative body members to attend annual association conferences of city, county, school, community college, and other local agency officials, so long as those meetings are open to the public. However, a majority of members cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction.



Community Meetings

The third exception allows a legislative body majority to attend an open and publicized meeting held by another organization to address a topic of local community concern. Again, a majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction. Under this exception, a legislative body majority may attend a local service club meeting or a local candidates' night if the meetings are open to the public.

"I see we have four distinguished members of the city council at our meeting tonight," said the chair of the Environmental Action Coalition.

"I wonder if they have anything to say about the controversy over enacting a slow growth ordinance?"

The Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization. The Brown Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization. There is a fine line between what is permitted and what is not; hence, members should exercise caution when participating in these types of events.

- Q.** The local chamber of commerce sponsors an open and public candidate debate during an election campaign. Three of the five agency members are up for re-election and all three participate. All of the candidates are asked their views of a controversial project scheduled for a meeting to occur just after the election. May the three incumbents answer the question?
- A.** Yes, because the Brown Act does not constrain the incumbents from expressing their views regarding important matters facing the local agency as part of the political process the same as any other candidates.



Other Legislative Bodies

The fourth exception allows a majority of a legislative body to attend an open and publicized meeting of: (1) another body of the local agency and (2) a legislative body of another local agency.⁷ Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their local agency's subject matter jurisdiction. This exception allows, for example, a city council or a majority of a board of supervisors to attend a controversial meeting of the planning commission.

Nothing in the Brown Act prevents the majority of a legislative body from sitting together at such a meeting. They may choose not to, however, to preclude any possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation. Further, aside from the Brown Act, there may be other reasons, such as due process considerations, why the members should avoid giving public testimony or trying to influence the outcome of proceedings before a subordinate body.

- Q.** The entire legislative body intends to testify against a bill before the Senate Local Government Committee in Sacramento. Must this activity be noticed as a meeting of the body?
- A.** *No, because the members are attending and participating in an open meeting of another governmental body which the public may attend.*
- Q.** The members then proceed upstairs to the office of their local Assembly member to discuss issues of local interest. Must this session be noticed as a meeting and be open to the public?
- A.** *Yes, because the entire body may not meet behind closed doors except for proper closed sessions. The same answer applies to a private lunch or dinner with the Assembly member.*

Standing Committees

The fifth exception authorizes the attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting).⁸

- Q.** The legislative body establishes a standing committee of two of its five members, which meets monthly. A third member of the legislative body wants to attend these meetings and participate. May she?
- A.** *She may attend, but only as an observer; she may not participate.*

Social or Ceremonial Events

The sixth and final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the local agency.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attends the function, but whether business of a specific nature within the subject matter jurisdiction of the local agency is discussed. So long as no local agency business is discussed, there is no violation of the Brown Act.

■ COLLECTIVE BRIEFINGS

None of these six exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements.

■ RETREATS OR WORKSHOPS OF LEGISLATIVE BODIES

There is consensus among local agency attorneys that gatherings by a majority of legislative body members at the legislative body's retreats, study sessions, or workshops are covered under the Brown Act. This is the case whether the retreat, study session, or workshop focuses on long-range agency planning, discussion of critical local issues, or on team building and group dynamics.⁹

- Q.** The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?
- A.** *No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.*

■ SERIAL MEETINGS

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings involve only a portion of a legislative body, but eventually involve a majority.

The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful participation in legislative body decision-making. The Brown Act provides that "[a] majority of the members of a legislative body shall not, outside a meeting...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."¹⁰

The serial meeting may occur by either a "daisy-chain" or a "hub-and-spoke" sequence. In the daisy-chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated or taken action on an item within the legislative body's subject matter jurisdiction. The hub-and-spoke process involves, for example, a staff member (the hub) communicating with members of a legislative body (the spokes) one-by-one for a decision on a proposed action,¹¹ or a chief executive officer briefing a majority of redevelopment agency members prior to a formal meeting and, in the process, information about the members' respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."¹²

The Brown Act has been violated however, if several one-on-one meetings or conferences leads to a discussion, deliberation or action by a majority. In one case, a violation occurred when a quorum of a city council directed staff by letter on an eminent domain action.¹³



A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act.¹⁴ Such a memo, however, may be a public record.¹⁵

The phone call was from a lobbyist. "Say, I need your vote for that project in the south area. How about it?"

"Well, I don't know," replied Board Member Aletto. "That's kind of a sticky proposition. You sure you need my vote?"

"Well, I've got Bradley and Cohen lined up and another vote leaning. With you I'd be over the top."

Moments later, the phone rings again. "Hey, I've been hearing some rumbles on that south area project," said the newspaper reporter. "I'm counting noses. How are you voting on it?"

Neither the lobbyist nor the reporter has violated the Brown Act, but they are facilitating a violation. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members' positions by asking "You sure you need my vote?" The prudent course is to avoid such leading conversations and to caution lobbyists, staff and news media against revealing such positions of others.

The mayor sat down across from the city manager. "From now on," he declared, "I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don't want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting."

Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."¹⁶ Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation or action taken among the majority of the legislative body.

"Thanks for the information," said Council Member Kim. "These zoning changes can be tricky, and now I think I'm better equipped to make the right decision."

"Glad to be of assistance," replied the planning director. "Any idea what the other council members think of the problem?"

The planning director should not ask, and the member should not answer. A one-on-one meeting that involves communicating the comments or position of other members violates the Brown Act.

Practice Tip:

When briefing legislative body members, staff must exercise care not to disclose other members' views and positions.

- Q.** The agency's Web site includes a chat room where agency employees and officials participate anonymously and often discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?
- A.** Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate or take action on matters of agency business.
- Q.** A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?
- A.** No, the Brown Act expressly allows this kind of communication, though the members should avoid discussing the merits of what is to be taken up at the meeting.

Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the “reply to all” button that may inadvertently result in a Brown Act violation.

■ INFORMAL GATHERINGS

Often members are tempted to mix business with pleasure—for example, by holding a post meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act.¹⁷ A luncheon gathering in a crowded dining room violates the Brown Act if the public does not have an adequate opportunity to hear or participate in the deliberations of members.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues. But it is the kind of situation that should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive’s presence in no way lessens the potential for a violation of the Brown Act.

- Q.** The agency has won a major victory in the Supreme Court on an issue of importance. The presiding officer decides to hold an impromptu press conference in order to make a statement to the print and broadcast media. All the other members show up in order to make statements of their own and be seen by the media. Is this gathering illegal?
- A.** *Technically there is no exception for this sort of gathering, but as long as members do not state their intentions as to future action to be taken and the press conference is open to the public, it seems harmless.*

■ TECHNOLOGICAL CONFERENCING

In an effort to keep up with information age technologies, the Brown Act now specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session.¹⁸ While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary within the body.

“Teleconference” is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.”¹⁹ In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following specific requirements:²⁰

- Teleconferencing may be used for all purposes during any meeting;
- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction;
- Additional teleconference locations may be made available for the public;



Practice Tip:

Legal counsel for the local agency should be consulted before teleconferencing a meeting.

- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable;
- Agendas must be posted at each teleconference location, even if a hotel room or a residence;
- Each teleconference location must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate;
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location; and
- All votes must be by roll call.

Q. A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C. to New York. May she?

A. *She may not participate or vote because she is not in a noticed and posted teleconference location.*

The use of teleconferencing to conduct a legislative body meeting presents a variety of new issues beyond the scope of this guide to discuss in detail. Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.

■ LOCATION OF MEETINGS

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.²¹

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:

- Comply with state or federal law or a court order, or for a judicial conference or administrative proceeding in which the local agency is a party;
- Inspect real or personal property, which cannot be conveniently brought into the local agency's territory, provided the meeting is limited to items relating to that real or personal property;

Q. The agency is considering approving a major retail mall. The developer has built other similar malls, and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?

A. *Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be able to attend.*

- Participate in multiagency meetings or discussions, however, such meetings must be held within the boundaries of one of the participating agencies, and all involved agencies must give proper notice;
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries or at its principal office if that office is located outside the territory over which the agency has jurisdiction;

- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction;
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility; or
- Visit the office of its legal counsel for a closed session on pending litigation, when to do so would reduce legal fees or costs.²²

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential employee from another district.²³ A school board may also interview members of the public residing in another district if the board is considering employing that district's superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.²⁴

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.²⁵

Endnotes:

- 1 California Government Code section 54952.2(a)
- 2 California Government Code section 54954(a)
- 3 California Government Code section 54956
- 4 California Government Code section 54956.5
- 5 California Government Code section 54955
- 6 California Government Code section 54952.2(c)
- 7 California Government Code section 54952.2(c)(4)
- 8 California Government Code section 54952.2(c)(6)
- 9 “The Brown Act,” California Attorney General (2003), p. 10
- 10 California Government Code section 54952.2(b)(1)
- 11 *Stockton Newspaper Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95
- 12 California Government Code section 54952.2(b)(2)
- 13 *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518
- 14 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363
- 15 California Government Code section 54957.5(a)
- 16 California Government Code section 54952.2(b)(2)
- 17 California Government Code section 54952.2; 43 Ops.Cal.Atty.Gen. 36 (1964)
- 18 California Government Code section 54953(b)(1)
- 19 California Government Code section 54953(b)(4)
- 20 California Government Code section 54953
- 21 California Government Code section 54954(b)
- 22 California Government Code section 54954(b)(1)-(7)
- 23 California Government Code section 54954(c)
- 24 California Government Code section 54954(d)
- 25 California Government Code section 54954(e)

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CHAPTER 4:

AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



AGENDAS FOR REGULAR MEETINGS

MAILED AGENDA UPON WRITTEN REQUEST

NOTICE REQUIREMENTS FOR SPECIAL MEETINGS

NOTICES AND AGENDAS FOR ADJOURNED AND
CONTINUED MEETINGS AND HEARINGS

NOTICE REQUIREMENTS FOR EMERGENCY
MEETINGS

EDUCATIONAL AGENCY MEETINGS

NOTICE REQUIREMENTS FOR TAX OR
ASSESSMENT MEETINGS AND HEARINGS

NON-AGENDA ITEMS

RESPONDING TO THE PUBLIC

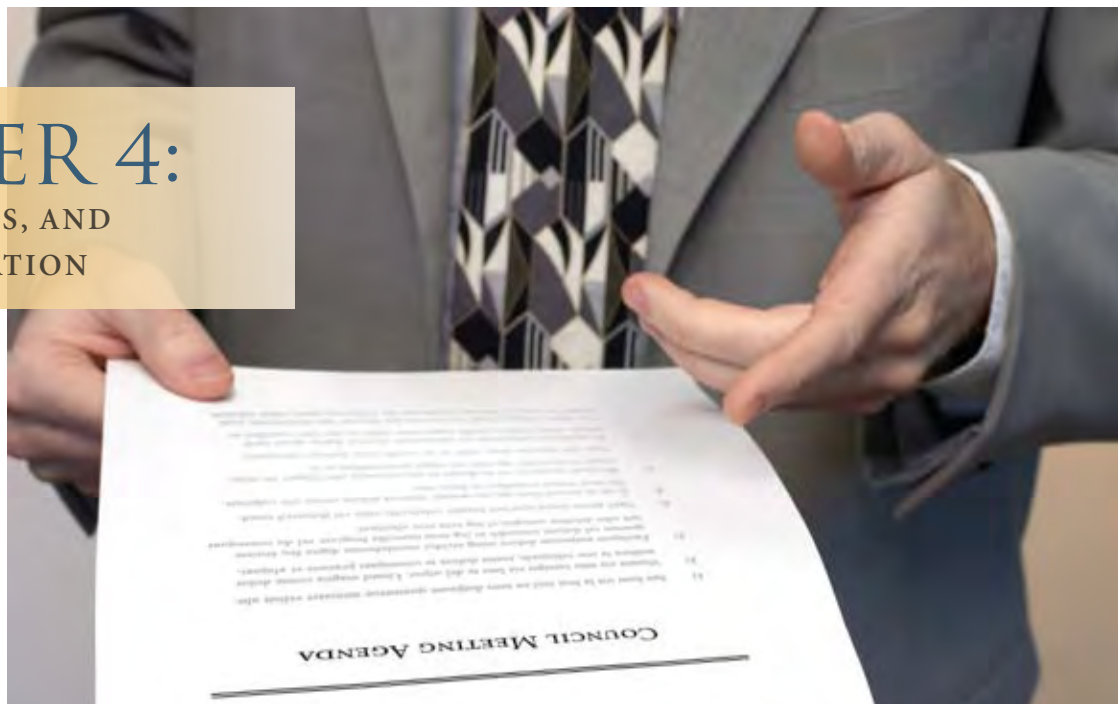
THE RIGHT TO ATTEND MEETINGS

RECORDS AND RECORDINGS

THE PUBLIC'S PLACE ON THE AGENDA

CHAPTER 4:

AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.

■ AGENDAS FOR REGULAR MEETINGS

Every regular meeting of a legislative body of a local agency—including advisory committees, commissions, or boards, as well as standing committees of legislative bodies—must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least 72 hours before the regular meeting in a location “freely accessible to members of the public.”¹ The courts have not definitively interpreted the “freely accessible” requirement. The California Attorney General has interpreted this provision to require posting in locations accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend.² Posting may also be made on a touch screen electronic kiosk accessible without charge to the public 24 hours a day during the 72-hour period.³ However, only posting an agenda on an agency’s Web site is inadequate since there is no universal access to the internet. The agenda must state the meeting time and place and must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.”⁴

Practice Tip:

Putting together a meeting agenda requires careful thought.

Q. The agenda for a regular meeting contains the following items of business:

- “Consideration of a report regarding traffic on Eighth Street”
- “Consideration of contract with ABC Consulting”

Are these descriptions adequate?

A. *If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read “consideration of a contract with ABC Consulting in the amount of \$50,000 for traffic engineering services regarding traffic on Eighth Street.”*

Q. The agenda includes an item entitled “City Manager’s Report,” during which time the city manager provides a brief report on notable topics of interest, none of which are listed on the agenda.

Is this permissible?

A. *Yes, so long as it does not result in extended discussion or action by the body.*

A brief general description may not be sufficient for closed session agenda items. The Brown Act provides safe harbor language for the various types of permissible closed sessions. Substantial compliance with the safe harbor language is recommended to protect legislative bodies and elected officials from legal challenges.

■ MAILED AGENDA UPON WRITTEN REQUEST

The legislative body, or its designee, must mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted. If requested, these materials must be made available in appropriate alternative formats to persons with disabilities.

A request for notice is valid for one calendar year and renewal requests must be filed Jan. 1 of each year. The legislative body may establish a fee to recover the cost of providing the service. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.⁵



■ NOTICE REQUIREMENTS FOR SPECIAL MEETINGS

There is no express agenda requirement for special meetings, but the notice of the special meeting effectively serves as the agenda and limits the business that may be transacted or discussed. Written notice must be sent to each member of the legislative body (unless waived in writing by that member) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. This notice must be delivered by personal delivery or any other means that ensures receipt, at least 24 hours before the time of the meeting.

The notice must state the time and place of the meeting, as well as all business to be transacted or discussed. It is recommended that the business to be transacted or discussed be described in the same manner that an item for a regular meeting would be described on the agenda—with a brief general description. As noted above, closed session items should be described in accordance with the Brown Act’s safe harbor provisions to protect legislative bodies and elected officials from challenges of noncompliance with notice requirements. The special meeting notice must also be posted at least 24 hours prior to the special meeting in a site freely accessible to the public. The body cannot consider business not in the notice.⁶

■ NOTICES AND AGENDAS FOR ADJOURNED AND CONTINUED MEETINGS AND HEARINGS

A regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.⁷ If no time is stated, the meeting is continued to the hour for regular meetings. Whoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced.⁸ A copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.

A hearing can be continued to a subsequent meeting. The process is the same as for continuing adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the order or notice of continuance must be posted immediately following the meeting.⁹

■ NOTICE REQUIREMENTS FOR EMERGENCY MEETINGS

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.¹⁰ News media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.

News media may make a practice of having written requests on file for notification of special or emergency meetings. Absent such a request, a local agency has no legal obligation to notify news media of special or emergency meetings—although notification may be advisable in any event to avoid controversy.

■ EDUCATIONAL AGENCY MEETINGS

The Education Code contains some special agenda and special meeting provisions,¹¹ however, they are generally consistent with the Brown Act. An item is probably void if not posted.¹² A school district board must also adopt regulations to make sure the public can place matters affecting district's business on meeting agendas and to address the board on those items.¹³

■ NOTICE REQUIREMENTS FOR TAX OR ASSESSMENT MEETINGS AND HEARINGS

The Brown Act prescribes specific procedures for adoption by a city, county, special district, or joint powers authority of any new or increased general tax or assessment.¹⁴ At least one public meeting must be held to allow public testimony on the tax or assessment. In addition, there must also be at least 45 days notice of a public hearing at which public testimony may be given before the legislative body proposes to act on the tax or assessment. The agency may recover the reasonable costs of the public meetings, hearings, and notice.¹⁵

The Brown Act exempts certain fees, standby or availability charges, recurring assessments, and new or increased assessments that are subject to the notice and hearing requirements of the Constitution.¹⁶ As a practical matter, the Constitution's notice requirements have preempted this section of the Brown Act.

■ NON-AGENDA ITEMS

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda:¹⁷

- When a majority decides there is an "emergency situation" (as defined for emergency meetings);
- When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action "came to the attention of the local agency subsequent to the agenda being posted." This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline; or
- When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

Practice Tip:

Subject to very limited exceptions, the Brown Act prohibits any action or discussion of an item not on the posted agenda.



The exceptions are narrow, as indicated by this list. The first two require a specific determination by the legislative body. That determination can be challenged in court and, if unsubstantiated, can lead to invalidation of an action.

“I’d like a two-thirds vote of the board, so we can go ahead and authorize commencement of phase two of the East Area Project,” said Chair Lopez.

“It’s not on the agenda. But we learned two days ago that we finished phase one ahead of schedule—believe it or not—and I’d like to keep it that way. Do I hear a motion?”

The desire to stay ahead of schedule generally would not satisfy “a need for immediate action.” Too casual an action could invite a court challenge by a disgruntled resident. The prudent course is to place an item on the agenda for the next meeting and not risk invalidation.



“We learned this morning of an opportunity for a state grant,” said the chief engineer at the regular board meeting, “but our application has to be submitted in two days. We’d like the board to give us the go ahead tonight, even though it’s not on the agenda.”

A legitimate immediate need can be acted upon even though not on the posted agenda by following a two-step process:

- First, make two determinations: (a) that there is an immediate need to take action and (b) that the need arose after the posting of the agenda. The matter is then placed on the agenda.
- Second, discuss and act on the added agenda item.

■ RESPONDING TO THE PUBLIC

The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda. What happens when a member of the public raises a subject not on the agenda?

While the Brown Act does not allow discussion or action on items not on the agenda, it does allow members of the legislative body, or its staff, to “briefly respond” to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting (subject to the body’s rules or procedures), ask a question for clarification, make a brief announcement, or briefly report on his or her own activities.¹⁸ However, caution should be used to avoid any discussion or action on such items.

Council Member A: I would like staff to respond to Resident Joe’s complaints during public comment about the repaving project on Elm Street—are there problems with this project?

City Manager: The public works director has prepared a 45-minute power point presentation for you on the status of this project and will give it right now.

Council Member B: Take all the time you need; we need to get to the bottom of this. Our residents are unhappy.

It is clear from this dialogue that the Elm Street project was not on the council's agenda, but was raised during the public comment period for items not on the agenda. Council Member A properly asked staff to respond; the city manager should have given at most a brief response. If a lengthy report from the public works director was warranted, the city manager should have stated that it would be placed on the agenda for the next meeting. Otherwise, both the long report and the likely discussion afterward will improperly embroil the council in a matter that is not listed on the agenda.

■ THE RIGHT TO ATTEND AND OBSERVE MEETINGS

A number of other Brown Act provisions protect the public's right to attend, observe, and participate in meetings.

Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise "fulfill any condition precedent" to attending a meeting. Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.¹⁹

No meeting can be held in a facility that prohibits attendance based on race, religion color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the public must make a payment or purchase in order to be present.²⁰ This does not mean however that the public is entitled to free entry to a conference attended by a majority of the legislative body.²¹

While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.²²

Action by secret ballot, whether preliminary or final, is flatly prohibited.²³

Q: The agenda calls for election of the legislative body's officers. Members of the legislative body want to cast unsigned written ballots that would be tallied by the clerk, who would announce the results. Is this voting process permissible?

A: *No. The possibility that a public vote might cause hurt feelings among members of the legislative body or might be awkward—or even counterproductive—does not justify a secret ballot.*

There can be no semi-closed meetings, in which some members of the public are permitted to attend as spectators while others are not; meetings are either open or closed.²⁴

The legislative body may remove persons from a meeting who willfully interrupt proceedings. If order still cannot be restored, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to re-admit an individual or individuals not responsible for the disturbance.²⁵



■ RECORDS AND RECORDINGS

The public has the right to review agendas and other writings distributed by any person to a majority of the legislative body in connection with a matter subject to discussion or consideration at a meeting. Except for privileged documents, those materials are public records and must be made available upon request without delay.²⁶ A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.²⁷

Q: In connection with an upcoming hearing on a discretionary use permit, counsel for the legislative body transmits a memorandum to all members of the body outlining the litigation risks in granting or denying the permit. Must this memorandum be included in the packet of agenda materials available to the public?

A: *No. The memorandum is a privileged attorney-client communication.*

Q: In connection with an agenda item calling for the legislative body to approve a contract, staff submits to all members of the body a financial analysis explaining why the terms of the contract favor the local agency. Must this memorandum be included in the packet of agenda materials available to the public?

A: *Yes. The memorandum has been distributed to the majority of the legislative body, relates to the subject matter of a meeting, and is not a privileged communication.*

A legislative body may discuss or act on some matters without considering written materials. But if writings are distributed to a majority of a legislative body in connection with an agenda item, they must also be available to the public. A writing distributed to a majority of the legislative body less than 72 hours before the meeting must be made available for inspection at the time of distribution at a public office or location designated for that purpose; and the agendas for all meetings of the legislative body must include the address of this office or location.²⁸ A writing distributed during a meeting must be made public:

- At the meeting if prepared by the local agency or a member of its legislative body; or
- After the meeting if prepared by some other person.²⁹

Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the Public Records Act; however, it may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording is to be provided without charge on a video or tape player made available by the local agency.³⁰ The agency may impose its ordinary charge for copies.³¹

In addition, the public is specifically allowed to use audio or video tape recorders or still or motion picture cameras at a meeting to record the proceedings, absent a reasonable finding by the legislative body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.³²

Similarly, a legislative body cannot prohibit or restrict the public broadcast of its open and public meetings without making a reasonable finding that the noise, illumination, or obstruction of view would persistently disrupt the proceedings.³³

■ THE PUBLIC'S PLACE ON THE AGENDA

Every agenda for a regular meeting must allow members of the public to speak on any item of interest, so long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it.³⁴

Q. Must the legislative body allow members of the public to show videos or make a power point presentation during the public comment part of the agenda, as long as the subject matter is relevant to the agency and is within the established time limit?

A. *Probably, although the agency is under no obligation to provide equipment.*

Practice Tip:

Public speakers cannot be compelled to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card or identify themselves for the record, but must respect a speaker's desire for anonymity.

Moreover, the legislative body cannot prohibit public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body itself. But, the Brown Act provides no immunity for defamatory statements.³⁵

Q. May the presiding officer prohibit a member of the audience from publicly criticizing an agency employee by name during public comments?

A. *No, as long as the criticism pertains to job performance.*

Q. During the public comment period of a regular meeting of the legislative body, a resident urges the public to support and vote for a candidate vying for election to the body. May the presiding officer gavel the speaker out of order for engaging in political campaign speech?

A. *There is no case law on this subject. Some would argue that campaign issues are outside the subject matter jurisdiction of the body within the meaning of Section 54954.3(a). Others take the view that the speech must be allowed under paragraph (c) of that section because it is relevant to the governing of the agency and an implicit criticism of the incumbents.*

The legislative body may adopt reasonable regulations, including time limits, on public comments. Such regulations should be enforced fairly and without regard to speakers' viewpoints. The legislative body has discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit could be shortened to accommodate a lengthy agenda or lengthened to allow additional time for discussion on a complicated matter.³⁶

The public does not need to be given an opportunity to speak on an item that has already been considered by a committee made up exclusively of members of the legislative body at a public meeting, if all interested members of the public had the opportunity to speak on the item before or during its consideration, and if the item has not been substantially changed.³⁷

Notices and agendas for special meetings must also give members of the public the opportunity to speak before or during consideration of an item on the agenda but need not allow members of the public an opportunity to speak on other matters within the jurisdiction of the legislative body.³⁸

Endnotes

- 1 California Government Code section 54954.2(a)(1)
- 2 78 Ops.Cal.Atty.Gen. 327 (1995)
- 3 88 Ops.Cal.Atty.Gen. 218 (2005)
- 4 California Government Code section 54954.2(a)(1)
- 5 California Government Code section 54954.1
- 6 California Government Code section 54956
- 7 California Government Code section 54955
- 8 California Government Code section 54954.2(b)(3)
- 9 California Government Code section 54955.1
- 10 California Government Code section 54956.5
- 11 Education Code sections 35144, 35145 and 72129
- 12 *Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196
- 13 California Education Code section 35145.5
- 14 California Government Code section 54954.6
- 15 California Government Code section 54954.6(g)
- 16 See: Cal.Const.Art.XIIIC, XIIID and California Government Code section 54954.6(h)
- 17 California Government Code section 54954.2(b)
- 18 California Government Code section 54954.2(a)(2)
- 19 California Government Code section 54953.3
- 20 California Government Code section 54961(a); California Government Code section 11135(a)
- 21 California Government Code section 54952.2(c)(2)
- 22 California Government Code section 54953(b)
- 23 California Government Code section 54953(c)
- 24 46 Ops.Cal.Atty.Gen. 34 (1965)
- 25 California Government Code section 54957.9
- 26 California Government Code section 54957.5
- 27 California Government Code section 54957.5(d)
- 28 California Government Code section 54957.5(b)
- 29 California Government Code section 54957.5(c)
- 30 California Government Code section 54953.5(b)
- 31 California Government Code section 54957.5(d)
- 32 California Government Code section 54953.5(a)
- 33 California Government Code section 54953.6
- 34 California Government Code section 54954.3(a)
- 35 California Government Code section 54954.3(c)
- 36 California Government Code section 54954.3(b); *Chaffee v. San Francisco Public Library Com.* (2005) 134 Cal. App.4th 109; 75 Ops.Cal.Atty.Gen. 89 (1992)
- 37 California Government Code section 54954.3(a)
- 38 California Government Code section 54954.3(a)

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.

CHAPTER 5:

CLOSED SESSIONS



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CHAPTER 5:

CLOSED SESSIONS



The Brown Act begins with a strong statement in favor of open meetings; private discussions among a majority of a legislative body are prohibited, unless expressly authorized under the Brown Act. It is not enough that a subject is sensitive, embarrassing, or controversial. Without specific authority in the Brown Act for a closed session, a matter must be discussed in public. As an example, a board of police commissioners cannot generally meet in closed session, even though some matters are sensitive and the commission considers their disclosure contrary to the public interest.¹

Practice Tip:

Meetings are either open or closed. There is no “in between.”

Meetings of a legislative body are either fully open or fully closed; there is nothing in between. Closed sessions may involve only the members of the legislative body and only agency counsel, management and support staff, and consultants necessary for consideration of the matter that is the subject of closed session. Individuals who do not have an official role in advising the legislative body on closed session subject matters must be excluded from closed session discussions.²

Q. May the lawyer for someone suing the agency attend a closed session in order to explain to the legislative body why it should accept a settlement offer?

A. *No, attendance in closed sessions is reserved exclusively for the agency’s advisors.*

In general, the most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the agency or compromise the privacy interests of employees. Closed sessions should be conducted keeping those narrow purposes in mind.

In this chapter, the grounds for convening a closed session are called “exceptions” because they are exceptions to the general rule that meetings must be conducted openly. In some circumstances, none of the closed session exceptions apply to an issue or information the legislative body wishes to discuss privately. In these cases, it is not proper to convene a closed session, even to protect confidential information. For example, the Brown Act does not authorize closed sessions for general contract negotiations.

■ AGENDAS AND REPORTS

Closed session items must be briefly described on the posted agenda and the description must state the specific statutory exemption. An item that appears on the open meeting portion of the agenda may not be taken into closed session until it has been properly agendized as a closed session or unless it is properly added as a closed session item by a two-thirds vote of the body after making the appropriate urgency findings.

The Brown Act supplies a series of fill-in-the-blank sample, agenda descriptions for various types of authorized closed sessions, which provide a “safe harbor” from legal attacks. These sample agenda descriptions cover license and permit determinations, real property negotiations, existing or anticipated litigation, liability claims, threats to security, public employee appointments, evaluations and discipline, labor negotiations, multi-jurisdictional drug cases, hospital boards of directors, and medical quality assurance committees.³

If the legislative body intends to convene in closed session, it must include the section of the Brown Act authorizing the closed session in advance on the agenda and it must make a public announcement prior to the closed session discussion. In most cases, the announcement may simply be a reference to the agenda item.⁴

Following a closed session the legislative body must provide an oral or written report on certain actions taken and the vote of every elected member present. The timing and content of the report varies according to the reason for the closed session.⁵ The announcements may be made at the site of the closed session, so long as the public is allowed to be present to hear them.

If there is a standing or written request for documentation, any copies of contracts, settlement agreements, or other documents finally approved or adopted in closed session must be provided to the requestor(s) after the closed session, if final approval of such documents does not rest with any other party to the contract or settlement. If substantive amendments to a contract or settlement agreement approved by all parties requires retyping, such documents may be held until retyping is completed during normal business hours, but the substance of the changes must be summarized for any person inquiring about them.⁶

The Brown Act does not require minutes, including minutes of closed session. A confidential “minute book” may be kept to record actions taken at closed sessions.⁷ If one is kept, it must be made available to members of the legislative body, provided that the member asking to review minutes of a particular meeting was not disqualified from attending the meeting due to a conflict of interest.⁸ A court may order the disclosure of minute books for the court’s review if a lawsuit makes sufficient claims of an open meeting violation.

Practice Tip:

Some problems over closed sessions arise because secrecy itself breeds distrust. The Brown Act does not require closed sessions and legislative bodies may do well to resist the tendency to call a closed session simply because it may be permitted. A better practice is to go into closed session only when necessary.

Practice Tip:

Pay close attention to closed session agenda descriptions. Using the wrong label can lead to invalidation of an action taken in closed session.

■ LITIGATION

There is an attorney/client relationship, and legal counsel may use it for privileged written and verbal communications—outside of meetings—to members of the legislative body. But protection of the attorney/client privilege cannot by itself be the reason for a closed session.⁹

The Brown Act expressly authorizes closed sessions to discuss what is considered litigation. The rules that apply to holding a litigation closed session involve complex, technical definitions and procedures. The essential thing to know is that a closed session can be held by the body to confer with, or receive advice from, its legal counsel when open discussion would prejudice the position of the local agency in litigation in which the agency is a party.¹⁰ The litigation exception under the Brown Act is narrowly construed and does not permit activities beyond a legislative body's conferring with its own legal counsel. For example, it is not permissible to hold a closed session in which settlement negotiations take place between a legislative body and an adverse party or to hold a closed session for the purpose of participation in a mediation.¹¹

The California Attorney General believes that if the agency's attorney is not a participant, a litigation closed session cannot be held.¹² In any event, local agency officials should always consult the agency's attorney before placing this type of closed session on the agenda, in order to be certain that it is being done properly.

Litigation that may be discussed in closed session includes the following three types of matters:

Existing litigation

- Q.** May the legislative body agree to settle a lawsuit in a properly-noticed closed session, without placing the settlement agreement on an open session agenda for public approval?
- A.** *Yes, but the settlement agreement is a public document and must be disclosed on request. Furthermore, a settlement agreement cannot commit the agency to matters that are required to have public hearings.*

In general, the most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the agency or compromise the privacy interests of employees. Closed sessions should be conducted keeping those narrow purposes in mind.

Grounds for convening a closed session in this chapter are called "exceptions" because they are exceptions to the general rule that meetings must be conducted openly. In some circumstances, none of the closed session exceptions apply to an issue or information the legislative body wishes to discuss privately. It is improper in these cases, to convene a closed session, even to protect confidential information. For example, the Brown Act does not authorize closed sessions for general contract negotiations.

Existing litigation includes any adjudicatory proceedings before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. The clearest situation in which a closed session is authorized is when the local agency meets with its legal counsel to discuss a pending matter that has been filed in a court or with an administrative agency and names the local agency as a party. The legislative body may meet under these circumstances to receive updates on the case from attorneys, participate in developing strategy as the case develops, or to consider alternatives for resolution of the case. Generally, an agreement to settle litigation may be approved in closed session. However, an agreement to settle litigation that requires actions that are subject to public hearings cannot be approved in closed session.¹³

Threatened litigation against the local agency

Closed sessions are authorized for legal counsel to inform the legislative body of specific facts and circumstances that suggest that the local agency has significant exposure to litigation. The Brown Act lists six separate categories of such facts and circumstances.¹⁴ The legislative body may also meet under this exception to determine whether a closed session is authorized based on information provided by legal counsel or staff.

Initiation of litigation by the local agency

A closed session may be held under the pending litigation exception when the legislative body seeks legal advice on whether to protect the agency's rights and interests by initiating litigation.

In certain cases, the circumstances and facts justifying the closed session must be publicly noticed on the agenda or announced at an open meeting. Before holding a closed session under the pending litigation exception, the legislative body must publicly state which of the three basic situations apply. It may do so simply by making a reference to the posted agenda.

Certain actions must be reported in open session at the same meeting following the closed session. Other actions, as where final approval rests with another party or the court, may be announced when they become final and upon inquiry of any person. Each agency attorney should be aware of and should make other disclosures that may be required in specific instances.



■ REAL ESTATE NEGOTIATIONS

A legislative body may meet in closed session with its negotiator to discuss the purchase, sale, exchange, or lease of real property by or for the local agency. A "lease" includes a lease renewal or renegotiation. The purpose is to grant authority to the legislative body's negotiator on price and terms of payment.¹⁵ Caution should be exercised to limit discussion to price and terms of payment without straying to other related issues such as site design, architecture, or other aspects of the project for which the transaction is contemplated.¹⁶

Q. May other terms of a real estate transaction, aside from price and terms of payment, be addressed in closed session?

A. *No. However, there are differing opinions over the scope of the phrase "price and terms of payment" in connection with real estate closed sessions. Many agency attorneys believe that any term that directly affects the economic value of the transaction falls within the ambit of "price and terms of payment." Others take a narrower, more literal view of the phrase.*

The agency's negotiator may be a member of the legislative body itself. Prior to the closed session, or on the agenda, the legislative body must identify its negotiator, the real property that the negotiations may concern and the names of the persons with whom its negotiator may negotiate.¹⁷

After real estate negotiations are concluded, the approval and substance of the agreement must be reported. If its own approval makes the agreement final, the body must report in open session at the public meeting during which the closed session is held. If final approval rests with another party, the local agency must report the approval as soon as informed of it. Once final, the substance of the agreement must be disclosed to anyone who inquires.



“Our population is exploding, and we have to think about new school sites,” said Board Member Jefferson.

“Not only that,” interjected Board Member Tanaka, “we need to get rid of a couple of our older facilities.”

“Well, obviously the place to do that is in a closed session,” said Board Member O’Reilly. “Otherwise we’re going to set off land speculation. And if we even mention closing a school, parents are going to be in an uproar.”

A closed session to discuss potential sites is not authorized by the Brown Act. The exception is limited to meeting with its negotiator over specific sites—which must be identified at an open and public meeting.

■ PUBLIC EMPLOYMENT

The Brown Act authorizes a closed session “to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee.”¹⁸ The purpose of this exception—commonly referred to as the “personnel exception”—is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the legislative body; thus, it is restricted to discussing individuals, not general personnel policies.¹⁹ The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception.²⁰ That authority may be delegated to a subsidiary appointed body.²¹

An employee must be given at least 24 hours notice of any closed session convened to hear specific complaints or charges against him or her. This occurs when the legislative body is reviewing evidence, which could include live testimony, and adjudicating conflicting testimony offered as evidence. The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session.²² If the employee is not given notice, any disciplinary action is null and void.²³

Practice Tip:

Discussions of who to appoint to an advisory body and whether or not to censure a fellow member of the legislative body must be held in the open.

- Q.** Must 24 hours notice be given to an employee whose negative performance evaluation is to be considered by the legislative body in closed session?
- A.** *No, the notice is reserved for situations where the body is to hear complaints and charges from witnesses.*

However, an employee is not entitled to notice and a hearing where the purpose of the closed session is to consider a performance evaluation. The Attorney General and the courts have determined that personnel performance evaluations do not constitute complaints and charges, which are more akin to accusations made against a person.²⁴

Correct labeling of the closed session on the agenda is critical. A closed session agenda that identified discussion of an employment contract was not sufficient to allow dismissal of an employee.²⁵ An incorrect agenda description can result in invalidation of an action and much embarrassment.

For purposes of the personnel exception, “employee” specifically includes an officer or an independent contractor who functions as an officer or an employee. Examples of the former include a city manager, district general manager or superintendent. An example of the latter is a legal counsel or engineer hired on contract to act as local agency attorney or chief engineer.

Elected officials, appointees to the governing body or subsidiary bodies, and independent contractors other than those discussed above are not employees for purposes of the personnel exception.²⁶ Action on individuals who are not “employees” must also be public—including discussing and voting on appointees to committees, or debating the merits of independent contractors, or considering a complaint against a member of the legislative body itself.

The personnel exception specifically prohibits discussion or action on proposed compensation in closed session, except for a disciplinary reduction in pay. Among other things, that means there can be no personnel closed sessions on a salary change (other than a disciplinary reduction) between any unrepresented individual and the legislative body. However, a legislative body may address the compensation of an unrepresented individual, such as a city manager, in a closed session as part of a labor negotiation (discussed later in this chapter), yet another example of the importance of using correct agenda descriptions.

Reclassification of a job must be public, but an employee’s ability to fill that job may be considered in closed session. Any closed session action to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee must be reported at the public meeting during which the closed session is held. That report must identify the title of the position, but not the names of all persons considered for an employment position.²⁷ However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.²⁸

“I have some important news to announce,” said Mayor Garcia. “We’ve decided to terminate the contract of the city manager, effective immediately. The council has met in closed session and we’ve negotiated six months severance pay.”

“Unfortunately, that has some serious budget consequences, so we’ve had to delay phase two of the East Area Project.”

This may be an improper use of the personnel closed session if the council agenda described the item as the city manager’s evaluation. In addition, other than labor negotiations, any action on individual compensation must be taken in open session. Caution should be exercised to not discuss in closed session issues, such as budget impacts in this hypothetical, beyond the scope of the posted closed session notice.

- Q.** The school board is meeting in closed session to evaluate the superintendent and to consider giving her a pay raise. May the superintendent attend the closed session?
- A.** *The superintendent may attend the portion of the closed session devoted to her evaluation, but may not be present during discussion of her pay raise. Discussion of the superintendent’s compensation in closed session is limited to giving direction to the school board’s negotiator. Also, the clerk should be careful to notice the closed session on the agenda as both an evaluation and a labor negotiation.*

Practice Tip:

The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay.

■ LABOR NEGOTIATIONS

The Brown Act allows closed sessions for some aspects of labor negotiations. Different provisions (discussed below) apply to school and community college districts.

A legislative body may meet in closed session to instruct its bargaining representatives, which may be one or more of its members,²⁹ on employee salaries and fringe benefits for both union and non-union employees. For represented employees, it may also consider working conditions that by law require negotiation. These sessions may take place before or during negotiations with employee representatives. Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

During its discussions with representatives on salaries and fringe benefits, the legislative body may also discuss available funds and funding priorities, but only to instruct its representative. The body may also meet in closed session with a conciliator who has intervened in negotiations.³⁰

The approval of an agreement concluding labor negotiations with represented employees must be reported after the agreement is final and has been accepted or ratified by the other party. The report must identify the item approved and the other party or parties to the negotiation.³¹ The labor sessions specifically cannot include final action on proposed compensation of one or more unrepresented employees. For purposes of this prohibition, an “employee” includes an officer or an independent contractor who functions as an officer or an employee. Independent contractors who do not serve in the capacity of an officer or employee are not covered by this closed session exception.

■ LABOR NEGOTIATIONS—SCHOOL AND COMMUNITY COLLEGE DISTRICTS

Employee relations for school districts and community college districts are governed by the Rodda Act, where different meeting and special notice provisions apply. The entire board, for example, may negotiate in closed sessions.

Four types of meetings are exempted from compliance with the Rodda Act:

- (1) A negotiating session with a recognized or certified employee organization;
- (2) A meeting of a mediator with either side;
- (3) A hearing or meeting held by a fact finder or arbitrator; and
- (4) A session between the board and its bargaining agent, or the board alone, to discuss its position regarding employee working conditions and instruct its agent.³²

Public participation under the Rodda Act also takes another form.³³ All initial proposals of both sides must be presented at public meetings and are public records. The public must be given reasonable time to inform itself and to express its views before the district may adopt its initial proposal. In addition, new topics of negotiations must be made public within 24 hours. Any votes on such a topic must be followed within 24 hours by public disclosure of the vote of each member.³⁴ The final vote must be in public.

Practice Tip:

Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.



■ OTHER EDUCATION CODE EXCEPTIONS

The Education Code governs student disciplinary meetings by boards of school districts and community college districts. District boards may hold a closed session to consider the suspension or discipline of a student, if a public hearing would reveal personal, disciplinary, or academic information about the student contrary to state and federal pupil privacy law. The student's parent or guardian may request an open meeting.³⁵

Community college districts may also hold closed sessions to discuss some student disciplinary matters, awarding of honorary degrees, or gifts from donors who prefer to remain anonymous.³⁶ Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.³⁷

■ GRAND JURY TESTIMONY

A legislative body, including its members as individuals, may testify in private before a grand jury, either individually or as a group.³⁸ Attendance by the entire legislative body before a grand jury would not constitute a closed session meeting under the Brown Act, since the body would not be meeting to make decisions or reach a consensus on issues within the body's subject matter jurisdiction.

■ LICENSE APPLICANTS WITH CRIMINAL RECORDS

A closed session is permitted when an applicant, who has a criminal record, applies for a license or license renewal and the legislative body wishes to discuss whether the applicant is sufficiently rehabilitated to receive the license. If the body decides to deny the license, the applicant may withdraw the application. If the applicant does not withdraw, the body must deny the license in public, immediately or at its next meeting. No information from the closed session can be revealed without consent of the applicant, unless the applicant takes action to challenge the denial.³⁹

■ PUBLIC SECURITY

Legislative bodies may meet in closed session to discuss matters posing a threat to the security of public buildings, essential public services, including water, sewer, gas, or electric service, or to the public's right of access to public services or facilities over which the legislative body has jurisdiction. Closed session meetings for these purposes must be held with designated security or law enforcement officials including the Attorney General, district attorney, agency attorney, sheriff or chief of police, or their deputies or agency security consultant or security operations manager.⁴⁰ Action taken in closed session with respect to such public security issues is not reportable action.

■ MULTIJURISDICTIONAL DRUG LAW ENFORCEMENT AGENCY

A joint powers agency formed to provide drug law enforcement services to multiple jurisdictions may hold closed sessions to discuss case records of an on-going criminal investigation, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.⁴¹

The exception applies to the legislative body of the joint powers agency and to any body advisory to it. The purpose is to prevent impairment of investigations, to protect witnesses and informants, and to permit discussion of effective courses of action.⁴²

Practice Tip:

Attendance by the entire legislative body before a grand jury would not constitute a closed session meeting under the Brown Act.

■ HOSPITAL PEER REVIEW AND TRADE SECRETS

Two specific kinds of closed sessions are allowed for district hospitals and municipal hospitals, under other provisions of law.⁴³

1. A meeting to hear reports of hospital medical audit or quality assurance committees, or for related deliberations. However, an applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing.
2. A meeting to discuss “reports involving trade secrets”—provided no action is taken.

A “trade secret” is defined as information which is not generally known to the public or competitors and which: (1) “derives independent economic value, actual or potential” by virtue of its restricted knowledge; (2) is necessary to initiate a new hospital service or program or facility; and (3) would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

The provision prohibits use of closed sessions to discuss transitions in ownership or management, or the district’s dissolution.⁴⁴

■ THE CONFIDENTIALITY OF CLOSED SESSION DISCUSSIONS

It is not uncommon for agency officials to complain that confidential information is being leaked from closed sessions. The Brown Act prohibits the disclosure of confidential information acquired in a closed session by any person present and offers various remedies to address willful breaches of confidentiality.⁴⁵

It is incumbent upon all those attending lawful closed sessions to protect the confidentiality of those discussions. One court has held that members of a legislative body cannot be compelled to divulge the content of closed session discussions through the discovery process.⁴⁶ Only the legislative body acting as a body may agree to divulge confidential closed session information; regarding attorney/client privileged communications, the entire body is the holder of the privilege and only the entire body can decide to waive the privilege.⁴⁷

Before adoption of the Brown Act provision specifically prohibiting disclosure of closed session communications, agency attorneys and the Attorney General long believed that officials have a fiduciary duty to protect the confidentiality of closed session discussions. The Attorney General issued an opinion that it is “improper” for officials to disclose information received during a closed session regarding pending litigation,⁴⁸ though the Attorney General has also concluded that a local agency may not go so far as to adopt an ordinance criminalizing public disclosure of closed session discussions.⁴⁹ In any event, the Brown Act now prescribes remedies for breaches of confidentiality. These include injunctive relief, disciplinary action against an employee, and referral of a member of the legislative body to the grand jury.⁵⁰

The duty of maintaining confidentiality, of course, must give way to the obligation to disclose improper matters or discussions that may come up in closed sessions. In recognition of this public policy, the Brown Act exempts from its prohibition against disclosure of closed session communications disclosure of closed session information to the district attorney or the grand jury due to a perceived violation of law, expressions of opinion concerning the propriety or legality of actions taken in closed session, including disclosure of the nature and extent of the illegal action, and disclosing information that is not confidential.⁵¹

Practice Tip:

There is a strong interest in protecting the confidentiality of proper and lawful closed sessions.

The interplay between these possible sanctions and an official's first amendment rights is complex and beyond the scope of this guide. Suffice it to say that this is a matter of great sensitivity and controversy.

"I want the press to know that I voted in closed session against filing the eminent domain action," said Council Member Chang.

"Don't settle too soon," reveals Council Member Watson to the property owner, over coffee.

"The city's offer coming your way is not our bottom line."

The first comment to the press is appropriate—the Brown Act requires that certain final votes taken in closed session be reported publicly.⁵² The second comment to the property owner is not—disclosure of confidential information acquired in closed session is expressly prohibited and harmful to the agency.

Endnotes

- 1 61 Ops.Cal.Atty.Gen. 220 (1978)
- 2 82 Ops.Cal.Atty.Gen. 29 (1999)
- 3 California Government Code section 54954.5
- 4 California Government Code sections 54956.9 and 54957.7
- 5 California Government Code section 54957.1(a)
- 6 California Government Code section 54957.1(b)
- 7 California Government Code section 54957.2
- 8 *Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3d 1050; 2 Cal.Code Regs. section 18702.1(c)
- 9 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363
- 10 California Government Code section 54956.9; *Shapiro v. Board of Directors of Center City Development Corp.* (2005) 134 Cal.App.4th 170 (agency must be a party to the litigation).
- 11 *Page v. Miracosta Community College District* (2009) 180 Cal.App.4th 471
- 12 "The Brown Act," California Attorney General (2003), p. 40
- 13 *Trancas Property Owners Association v. City of Malibu* (2006) 138 Cal.App.4th 172
- 14 Government Code section 54956.9(b)
- 15 California Government Code section 54956.8
- 16 *Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 172; see also ___ Ops.Cal.Atty.Gen. ___ (May 21, 2010) (2010 WL 2150433) (concluding it is impermissible for a redevelopment agency to meet in closed session to discuss the terms of a rehabilitation loan to a business that was leasing property from the agency when the terms and conditions of the lease itself were not also a matter of discussion.)
- 17 California Government Code section 54956.8
- 18 California Government Code section 54957(b)
- 19 63 Ops.Cal.Atty.Gen. 215 (1980); but see: *Duvall v. Board of Trustees* (2000) 93 Cal.App.4th 902 (board may discuss personnel evaluation criteria, process and other preliminary matters in closed session).
- 20 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 85 Ops.Cal.Atty.Gen. 77 (2002)
- 21 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 80 Ops.Cal.Atty.Gen. 308 (1997). Interviews of candidates to fill a vacant staff position conducted by a temporary committee appointed by the governing body may be done in closed session.
- 22 *Morrison v. Housing Authority of the City of Los Angeles* (2003) 107 Cal.App.4th 860
- 23 California Government Code section 54957
- 24 78 Ops.Cal.Atty.Gen. 218 (1995); *Bell v. Vista Unified School District* (2000) 82 Cal.App.4th 672; *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876; *Fischer v. Los Angeles Unified School District* (1999) 70 Cal.App.4th 87
- 25 *Moreno v. City of King* (2005) 127 Cal.App.4th 17
- 26 California Government Code section 54957
- 27 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165
- 28 California Government Code section 54957.1(a)(5)

- 29 California Government Code section 54957.6
- 30 57 Ops.Cal.Atty.Gen. 209 (1974)
- 31 California Government Code section 54957.1(a)(6)
- 32 California Government Code section 3549.1
- 33 California Government Code section 3540
- 34 California Government Code section 3547
- 35 California Education Code section 48918, but see *Rim of the World Unified School District v. Superior Court* (2003) 104 Cal.App.4th 1393 (Section 48918 preempted by the Federal Family Educational Right and Privacy Act in regard to expulsion proceedings.)
- 36 California Education Code section 72122
- 37 California Education Code section 60617
- 38 California Government Code section 54953.1
- 39 California Government Code section 54956.7
- 40 California Government Code section 54957
- 41 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354
- 42 California Government Code section 54957.8
- 43 California Government Code section 54962
- 44 California Health and Safety Code section 32106
- 45 Government Code section 54963
- 46 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 327; see also: California Government Code section 54963
- 47 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363
- 48 80 Ops.Cal.Atty.Gen. 231 (1997)
- 49 76 Ops.Cal.Atty.Gen. 289 (1993)
- 50 California Government Code section 54963
- 51 California Government Code section 54963
- 52 California Government Code section 54957.1

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CHAPTER 6:

REMEDIES



INVALIDATION

CIVIL ACTION TO PREVENT
FUTURE VIOLATIONS

COSTS AND ATTORNEY'S FEES

CRIMINAL COMPLAINTS

VOLUNTARY RESOLUTION

CHAPTER 6:

REMEDIES



Certain violations of the Brown Act are designated as misdemeanors, although by far the most commonly used enforcement provisions are those that authorize civil actions to invalidate specified actions taken in violation of the Brown Act and to stop or prevent future violations. Still, despite all the safeguards and remedies to enforce them, it is ultimately impossible for the public to monitor every aspect of public officials' interactions. Compliance ultimately results from regular training and a good measure of self-regulation on the part of public officials. This chapter discusses the remedies available to the public when that self-regulation is ineffective.

■ INVALIDATION

Any interested person, including the district attorney, may seek to invalidate certain actions of a legislative body on the ground that they violate the Brown Act.¹ Violations of the Brown Act, however, cannot be invalidated if they involve the following types of actions:

- Those taken in substantial compliance with the law;
- Those involving the sale or issuance of notes, bonds or other indebtedness, or any related contracts or agreements;
- Those creating a contractual obligation, including a contract awarded by competitive bid for other than compensation for professional services, upon which a party has in good faith relied to its detriment;
- Those connected with the collection of any tax; or
- Those in which the complaining party had actual notice at least 72 hours prior to the meeting at which the action is taken.

Before filing a court action seeking invalidation, a person who believes that a violation has occurred must send a written "cure or correct" demand to the legislative body. This demand must clearly describe the challenged action, the nature of the claimed violation, and the "cure" sought. This demand must be sent within 90 days of the alleged violation or 30 days if the action was taken in open session but in violation of Section 54954.2, which requires (subject to specific exceptions) that only properly agendized items are acted on by the governing body during a meeting.² The legislative body then has up to 30 days to cure and correct its action. If it does not act, any lawsuit must be filed within the next 15 days.

The purpose of this requirement is to offer the body an opportunity to consider whether a violation has occurred and to weigh its options before litigation is filed. The Brown Act does not specify how to cure or correct a violation; the best method is to rescind the action being complained of and to start over.

Although just about anyone has standing to bring an action for invalidation,³ the challenger must show prejudice as a result of the alleged violation.⁴ An action to invalidate fails to state a cause of action against the agency if the body deliberated but did not take an action.⁵

■ CIVIL ACTION TO PREVENT FUTURE VIOLATIONS

The district attorney or any interested person can file a civil action asking the court to:

- Stop or prevent violations or threatened violations of the Brown Act by members of the legislative body of a local agency;
- Determine the applicability of the Brown Act to actions or threatened future action of the legislative body;
- Determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law; or
- Compel the legislative body to tape record its closed sessions.

It is not necessary for a challenger to prove a past pattern or practice of violations by the local agency in order to obtain injunctive relief. A court may presume when issuing an injunction that a single violation will continue in the future where the public agency refuses to admit to the alleged violation or to renounce or curtail the practice.⁶ Note, however, that a court may not compel elected officials to disclose their recollections of what transpired in a closed session.⁷

Upon finding a violation of the Brown Act pertaining to closed sessions, a court may compel the legislative body to tape record its future closed sessions. In a subsequent lawsuit to enforce the Brown Act alleging a violation occurring in closed session, a court may upon motion of the plaintiff review the tapes if there is good cause to think the Brown Act has been violated, and make public the relevant portion of the closed session recording.

■ COSTS AND ATTORNEY'S FEES

Someone who successfully invalidates an action taken in violation of the Brown Act or who successfully enforces one of the Brown Act's civil remedies may seek court costs and reasonable attorney's fees. Courts have held that attorney's fees must be awarded to a successful plaintiff unless special circumstances exist that would make a fee award against the public agency unjust.⁸ When evaluating how to respond to assertions that the Brown Act has been violated, elected officials and their lawyers should assume that attorneys fees will be awarded against the agency if a violation of the Act is proven.

An attorney fee award may only be directed against the local agency and not the individual members of the legislative body. If the local agency prevails, it may be awarded court costs and attorney's fees if the court finds the lawsuit was clearly frivolous and lacking in merit.⁹

■ CRIMINAL COMPLAINTS

A violation of the Brown Act by a member of the legislative body who acts with the improper intent described below is punishable as a misdemeanor.¹⁰

A criminal violation has two components. The first is that there must be an overt act—a member of a legislative body must attend a meeting at which action is taken in violation of the Brown Act.¹¹

"Action taken" is not only an actual vote, but also a collective decision, commitment or promise by a

Practice Tip:

A lawsuit to invalidate must be preceded by a demand to cure and correct the challenged action in order to give the legislative body an opportunity to consider its options.



Practice Tip:

Attorney's fees will likely be awarded if a violation of the Brown Act is proven.

Practice Tip:

Training and exercising good judgment can help avoid Brown Act conflicts. If an arguably meritorious procedural challenge is raised, it may be more prudent to voluntarily re-notice and reconsider the action subject to the challenge.

majority of the legislative body to make a positive or negative decision.¹² If the meeting involves mere deliberation without the taking of action, there can be no misdemeanor penalty.

A violation occurs for a tentative as well as final decision.¹³ In fact, criminal liability is triggered by a member's participation in a meeting in violation of the Brown Act—not whether that member has voted with the majority or minority, or has voted at all.

The second component of a criminal violation is that action is taken with the intent of a member “to deprive the public of information to which the member knows or has reason to know the public is entitled” by the Brown Act.¹⁴

As with other misdemeanors, the filing of a complaint is up to the district attorney. Although criminal prosecutions of the Brown Act are uncommon, district attorneys in some counties aggressively monitor public agencies' adherence to the requirements of the law.

■ VOLUNTARY RESOLUTION

Arguments over Brown Act issues often become emotional on all sides. Newspapers trumpet relatively minor violations, unhappy residents fume over an action, and legislative bodies clam up about information better discussed in public. Hard lines are drawn and rational discussion breaks down. The district attorney or even the grand jury occasionally becomes involved. Publicity surrounding alleged violations of the Brown Act can result in a loss of confidence by constituents in the legislative body. There are times when it may be preferable to consider re-noticing and rehearing, rather than litigating, an item of significant public interest, particularly when there is any doubt about whether the open meeting requirements were satisfied.

At bottom, agencies that regularly train their officials and pay close attention to the requirements of the Brown Act will have little reason to worry about enforcement.

Endnotes

- 1 California Government Code section 54960.1. Invalidation is limited to actions that violate the following sections of the Brown Act: section 54953 (the basic open meeting provision); sections 54954.2 and 54954.5 (notice and agenda requirements for regular meetings and closed sessions); 54954.6 (tax hearings); and 54956 (special meetings). Violations of sections not listed above cannot give rise to invalidation actions, but are subject to the other remedies listed in section 5490.1.
- 2 California Government Code section 54960.1 (b) and (c)(1)
- 3 *McKee v. Orange Unified School District* (2003) 110 Cal.App.4th 1310
- 4 *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 556, 571
- 5 *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1117-18
- 6 *California Alliance for Utility Safety and Education (CAUSE) v. City of San Diego* (1997) 56 Cal.App.4th 1024; *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518, 524. *Accord Shapiro v. San Diego City Council* (2002) 96 Cal. App. 4th 904, 916 & fn.6
- 7 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 334-36
- 8 *Los Angeles Times Communications, LLC v. Los Angeles County Board of Supervisors* (2003) 112 Cal.App.4th 1313, 1324-27 and cases cited therein.
- 9 California Government Code section 54960.5
- 10 California Government Code section 54959. A misdemeanor is punishable by a fine of up to \$1,000 or up to six months in county jail, or both. California Penal Code section 19. Employees of the agency who participate in violations of the Brown Act cannot be punished criminally under section 54959. However, at least one district attorney instituted criminal action against employees based on the theory that they criminally conspired with the members of the legislative body to commit a crime under section 54949.
- 11 California Government Code section 54959
- 12 California Government Code section 54952.6
- 13 61 Ops.Cal.Atty.Gen.283 (1978)
- 14 California Government Code section 54959

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Parliamentary Procedure for Meetings

Robert's Rules of Order is the standard for facilitating discussions and group decision-making. Copies of the rules are available at most bookstores. Although they may seem long and involved, having an agreed-upon set of rules makes meetings run easier. **Robert's Rules** will help your group have better meetings, not make them more difficult. Your group is free to modify them or find another suitable process that encourages fairness and participation, unless your bylaws state otherwise.

Here are the basic elements of **Robert's Rules**, used by most organizations:

1. **Motion:** To introduce a new piece of business or propose a decision or action, a motion must be made by a group member ("I move that.....") A second motion must then also be made (raise your hand and say, "I second it.") After limited discussion the group then votes on the motion. A majority vote is required for the motion to pass (or quorum as specified in your bylaws.)
2. **Postpone Indefinitely:** This tactic is used to kill a motion. When passed, the motion cannot be reintroduced at that meeting. It may be brought up again at a later date. This is made as a motion ("I move to postpone indefinitely..."). A second is required. A majority vote is required to postpone the motion under consideration.
3. **Amend:** This is the process used to change a motion under consideration. Perhaps you like the idea proposed but not exactly as offered. Raise your hand and make the following motion: "I move to amend the motion on the floor." This also requires a second. After the motion to amend is seconded, a majority vote is needed to decide whether the amendment is accepted. Then a vote is taken on the amended motion. In some organizations, a "friendly amendment" is made. If the person who made the original motion agrees with the suggested changes, the amended motion may be voted on without a separate vote to approve the amendment.
4. **Commit:** This is used to place a motion in committee. It requires a second. A majority vote must rule to carry it. At the next meeting the committee is required to prepare a report on the motion committed. If an appropriate committee exists, the motion goes to that committee. If not, a new committee is established.
5. **Question:** To end a debate immediately, the question is called (say "I call the question") and needs a second. A vote is held immediately (no further discussion is allowed). A two-thirds vote is required for passage. If it is passed, the motion on the floor is voted on immediately.
6. **Table:** To table a discussion is to lay aside the business at hand in such a manner that it will be considered later in the meeting or at another time ("I make a motion to table this discussion until the next meeting. In the meantime, we will get more information so we can better discuss the issue.") A second is needed and a majority vote required to table the item being discussed.
7. **Adjourn:** A motion is made to end the meeting. A second motion is required. A majority vote is then required for the meeting to be adjourned (ended).

Note: If more than one motion is proposed, the most recent takes precedence over the ones preceding it. For example if #6, a motion to table the discussion, is proposed, it must be voted on before #3, a motion to amend, can be decided.

In a smaller meeting, like a committee or board meeting, often only four motions are used:

- To introduce (motion.)
- To change a motion (amend.)
- To adopt (accept a report without discussion.)
- To adjourn (end the meeting.)

Remember, these processes are designed to ensure that everyone has a chance to participate and to share ideas in an orderly manner. Parliamentary procedure should not be used to prevent discussion of important issues.

Board and committee chairpersons and other leaders may want to get some training in meeting facilitation and in using parliamentary procedure. Additional information on meeting processes, dealing with difficult people, and using ***Robert's Rules*** is available from district office staff and community resources such as the League of Women Voters, United Way and other technical assistance providers. Parliamentary Procedure at a Glance, by O. Garfield Jones, is an excellent and useful guide for neighborhood association chairs.

Tips in Parliamentary Procedure

The following summary will help you determine when to use the actions described in ***Robert's Rules***.

- **A main motion must be moved, seconded, and stated by the chair before it can be discussed.**
- **If you want to move, second, or speak to a motion,** *stand and address the chair.*
- **If you approve the motion as is,** *vote for it.*
- **If you disapprove the motion,** *vote against it.*
- **If you approve the idea of the motion but want to change it,** *amend it or submit a substitute for it.*
- **If you want advice or information to help you make your decision,** *move to refer the motion to an appropriate quorum or committee with instructions to report back.*
- **If you feel they can handle it better than the assembly,** *move to refer the motion to a quorum or committee with power to act.*
- **If you feel that there the pending question(s) should be delayed so more urgent business can be considered,** *move to lay the motion on the table.*
- **If you want time to think the motion over,** *move that consideration be deferred to a certain time.*
- **If you think that further discussion is unnecessary,** *move the previous question.*
- **If you think that the assembly should give further consideration to a motion referred to a quorum or committee,** *move the motion be recalled.*
- **If you think that the assembly should give further consideration to a matter already voted upon,** *move that it be reconsidered.*
- **If you do not agree with a decision rendered by the chair,** *appeal the decision to the assembly.*
- **If you think that a matter introduced is not germane to the matter at hand,** *a point of order may be raised.*
- **If you think that too much time is being consumed by speakers,** *you can move a time limit on such speeches.*
- **If a motion has several parts, and you wish to vote differently on these parts,** *move to divide the motion.*

PARLIAMENTARY PROCEDURE AT A GLANCE

TO DO THIS	YOU SAY THIS	MAY YOU INTERRUPT SPEAKER	MUST YOU BE SECONDED	IS MOTION DEBATABLE	WHAT VOTE REQUIRED
Adjourn meeting*	I move that we adjourn	No	Yes	No	Majority
Recess meeting	I move that we recess until...	No	Yes	No	Majority
Complain about noise, room temperature, etc.*	Point of privilege	Yes	No	No	No vote
Suspend further consideration of something*	I move we table it	No	Yes	No	Majority
End debate	I move the previous question	No	Yes	No	2/3 vote
Postpone consideration of something	I move we postpone this matter until...	No	Yes	Yes	Majority
Have something studied further	I move we refer this matter to committee	No	Yes	Yes	Majority
Amend a motion	I move this motion be amended by...	No	Yes	Yes	Majority
Introduce business (a primary motion)	I move that...	No	Yes	Yes	Majority
Object to procedure or personal affront*	Point of order	Yes	No	No	No vote, Chair decides
Request information	Point of information	Yes	No	No	No vote
Ask for actual count to verify voice vote	I call for a division of the house	No	No	No	No vote
Object consideration of undiplomatic vote*	I object to consideration of this question	Yes	No	No	2/3 vote
Take up a matter previously tabled*	I move to take from the table...	No	Yes	No	Majority
Reconsider something already disposed of*	I move we reconsider our action relative to...	Yes	Yes	Yes	Majority
Consider something already out of its schedule*	I move we suspend the rules and consider	No	Yes	No	2/3 vote
Vote on a ruling by the Chair	I appeal the Chair's decision	Yes	Yes	Yes	Majority

*Not amendable

PARLIAMENTARY PROCEDURE AT A GLANCE

		Debatable	Amendable	Can Be Reconsidered	Requires 2/3 Vote
Privileged Motions	Fix Time at Which to Adjourn	No	Yes	No	No
	Adjourn	No	No	Yes	No
	Question of Privilege	No	Yes	Yes	No
	Call for Order of Day	No	No	Yes	No
Incidental Motions	Appeal	Yes	No	Yes	No
	Objection to Consideration of a Question	No	No	Yes	Yes
	Point of Information	No	No	No	No
	Point of Order	No	No	No	No
	Read Papers	No	No	Yes	No
	Suspend the Rules	No	No	No	Yes
	Withdraw a Motion	No	No	Yes	No
Subsidiary Motions	Lay on the Table	No	No	Yes	No
	The Previous Question (close debate)	No	No	Yes	Yes
	Limit or Extend Debate	No	Yes	Yes	Yes
	Postpone to a Definite Time	Yes	Yes	Yes	No
	Refer to Committee	Yes	Yes	Yes	No
	Amend the Amendment	Yes	No	No	No
	Amendment	Yes	Yes	Yes	No
	Postpone Indefinitely	Yes	No	Yes	No
Main Motion	Main or Procedural Motion	Yes	Yes	Yes	No

This table presents the motions in order of precedence. Each motion takes precedence over (i.e. can be considered ahead of) the motions listed below it. No motion can supersede (i.e. be considered before) any of the motions listed above it.

PLEASE NOTE: many organizations use only the Main Motion and Subsidiary Motions, handling other matters on an informal basis.

IN THE MEETING

TO INTRODUCE A MOTION:

Stand when no one else has the floor.

Address the Chair by the proper title.

Wait until the chair recognizes you.

- Now that you have the floor and can proceed with your motion say "I move that...", state your motion clearly and sit down.
- Another member may second your motion. A second merely implies that the seconder agrees that the motion should come before the assembly and not that he/she is in favor of the motion.
- If there is no second, the Chair says, "The motion is not before you at this time." The motion is not lost, as there has been no vote taken.
- If there is a second, the Chair states the question by saying "It has been moved and seconded that ... (state the motion). . . , is there any discussion?"

DEBATE OR DISCUSSING THE MOTION:

- The member who made the motion is entitled to speak first.
- Every member has the right to speak in debate.
- The Chair should alternate between those "for" the motion and those "against" the motion.
- The discussion should be related to the pending motion.
- Avoid using a person's name in debate.
- All questions should be directed to the Chair.
- Unless there is a special rule providing otherwise, a member is limited to speak once to a motion.
- Asking a question or a brief suggestion is not counted in debate.
- A person may speak a second time in debate with the assembly's permission.

VOTING ON A MOTION:

- Before a vote is taken, the Chair puts the question by saying "Those in favor of the motion that ... (repeat the motion)... say "Aye." Those opposed say "No." Wait, then say "The motion is carried," or "The motion is lost."
- Some motions require a 2/3 vote. A 2/3 vote is obtained by standing
- If a member is in doubt about the vote, he may call out "division." A division is a demand for a standing vote.
- A majority vote is more than half of the votes cast by persons legally entitled to vote.
- A 2/3 vote means at least 2/3 of the votes cast by persons legally entitled to vote.
- A tie vote is a lost vote, since it is not a majority.

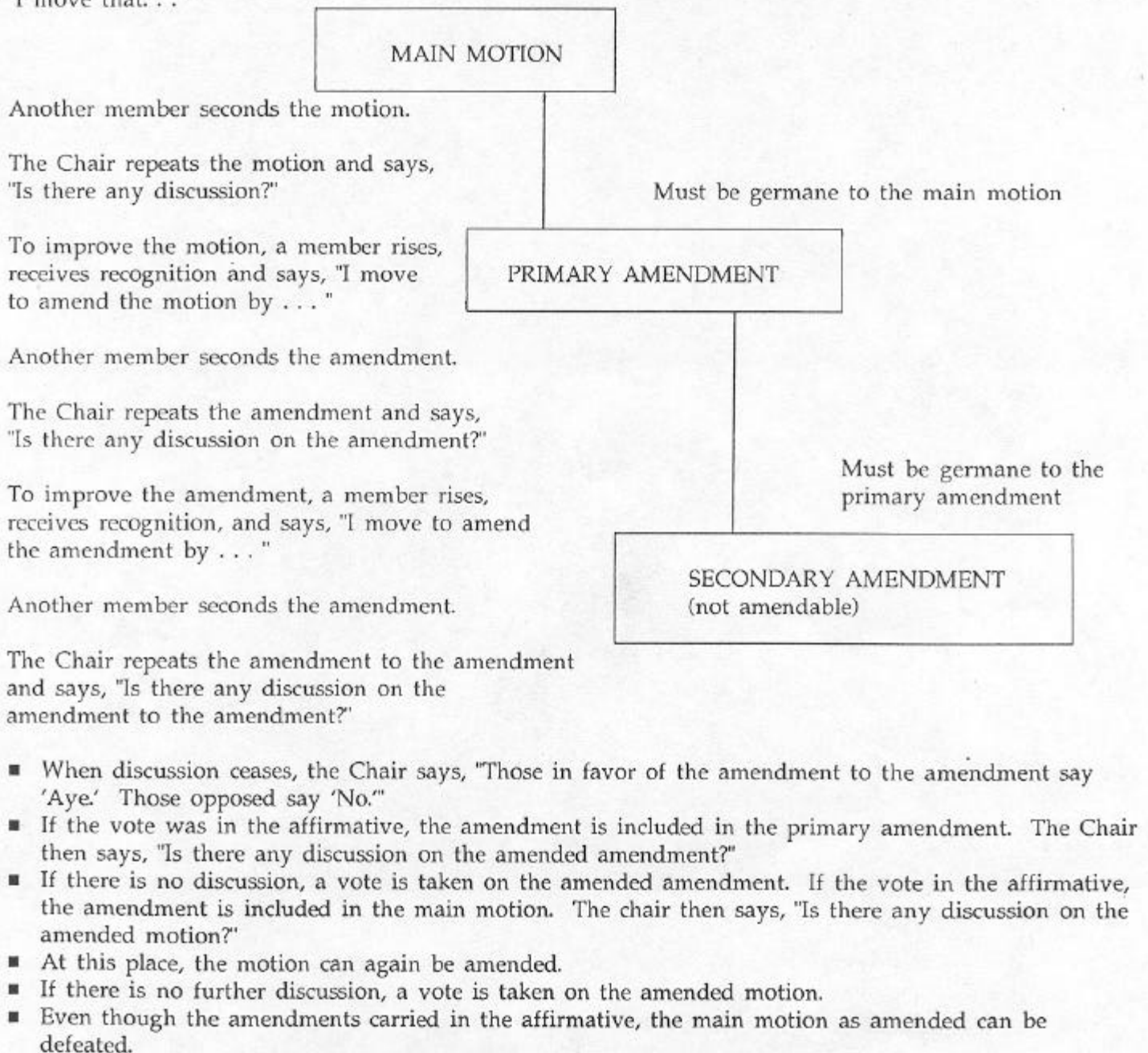
AMENDMENTS ILLUSTRATED

Any main motion or resolution may be amended by:

1. Adding at the end
2. Striking out a word or words
3. Inserting a word or words
4. Striking out and inserting a word or words
5. Substitution

A member rises, addresses the chair, receives recognition, and states the motion:

"I move that . . ."





Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.


The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move ...”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”


The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”



The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate


The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.



Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.


Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.



Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



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