



INSTITUTE FOR LOCAL GOVERNMENT

Promoting Good Government at the Local Level



Brown Act Agenda Safe Harbor Listings for Closed Sessions

2013

License/Permits (§ 54956.7)

- ⇒ **Applicant(s):** (Specify number of applicants)

Conference with Real Property Negotiations (§ 54956.8)

- ⇒ **Property:** (Specify street address, or if no street address, the parcel number or other unique reference, of the real property)
- ⇒ **Agency Negotiation:** (Names of negotiators attending the closed session) (if specified negotiator can't attend – announce who will attend at the open session)
- ⇒ **Negotiating Parties:** (Specify name of Party (not agent))
- ⇒ **Under Negotiation:** (Specify whether instruction to negotiator will concern **price, terms of payment, or both**)

Conference with Legal Counsel – Existing Litigation (§ 54956.9)

- ⇒ **Name of Case:** (Specify by reference to claimant's name, names of parties, case or claim numbers)

-or-

- ⇒ **Case Name Unspecified:** (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

Conference with Legal Counsel – Anticipated Litigation

- ⇒ **Significant exposure to litigation** pursuant to § 54956.9(b): (Specify number of potential cases)
- ⇒ The agency may also have to provide additional info on the agenda

-or-

- ⇒ In an oral statement prior to the closed session pursuant to (B) to (E) of 54956.9(b)(3)
- ⇒ **Initiation of litigation** pursuant to § 54956.9(c): (Specify number of potential cases)

Liability Claims

- ⇒ **Claimant:** (Specify name unless unspecified pursuant to § 54961)

Agency claimed against: (Specify name)

Threat to Public Services or Facilities (§ 54957)

- ⇒ **Consultation with:** (Specify name of law enforcement agency and title of officer)

Public Employee Appointment (§ 54957)

- ⇒ **Title:** (Specify description of position to be filled)

Public Employment (§ 54957)

- ⇒ **Title:** (Specify description of position to be filled)

Public Employee Performance Evaluation (§ 54957)

- ⇒ **Title:** (Specify position title of employee being reviewed)

Public Employee Discipline/Dismissal Release (§ 54957)

(No additional information is required)

Conference with Labor Negotiators (§54957.6)

- ⇒ **Agency designated representatives:** (Specify names of designated representatives attending the closed session) (If designated representative can't attend, announce who will attend at open session.)
- ⇒ **Employee organization:** (Specify name of organization representing employee or employees in question)

-or-

- ⇒ **Unrepresented employee:** (Specify position title of unrepresented employee who is the subject of the negotiations)

The Brown Act

What to Include in the Minutes

OPEN SESSIONS

Teleconferencing (§ 54953)

- ⇒ Record notice has been posted and that a quorum participated from locations within the jurisdiction

Meeting Outside Jurisdiction

- ⇒ Record reason under section § 54954

Action on non-agenda items (§ 54954.2)

- ⇒ Emergency - majority vote to invoke emergency; description of emergency
- ⇒ Immediate need - that 2/3 vote taken and grounds articulated by council for invoking the rule
- ⇒ Adjourned meetings § 54955
- ⇒ Special meetings (Waiver of Notice) § 54956
- ⇒ Emergency meetings § 54956.5 – special requirements for posting the minutes

Pre-closed Sessions – Announcements

Record that open session announcement was made § 54957.7

- ⇒ Content: may be a reference to the item as listed on the agenda; may be made at the location of the closed session as long as the public is allowed to be present
- ⇒ Real Property – record that *special* announcement was made § 54956.8
 - Special Announcement: identify negotiators, the real property and whom the negotiations are with
- ⇒ Pending Litigation – State on agenda *or* announce subdivision of 54956.9 that authorized the closed session

Post Closed Session Announcements (§ 54957.1)

- ⇒ Real Estate Negotiations – Record announcement
- ⇒ Pending Litigation – Record announcement
- ⇒ Personnel Actions – Identify title of position
- ⇒ Labor Negotiations
 - Report on agreement when final
 - ◇ Identify item approved (e.g., the MOU)
 - ◇ Identify other party

CONFLICTS OF INTEREST

Conflicts of Interest Under the Political Reform Act

- ⇒ Permissive – Record announcement if made § 18702.1(a)(5)
 - Local rules may require disclosure/more specificity
- ⇒ Quorum – Disqualified official does not count
- ⇒ Mandatory Disclosure/Identification § 87105/18702.5
- ⇒ § 87200 Filers only
- ⇒ Content: Enough specificity as to each involved economic interest to be understood by the public
- ⇒ Timing: Made orally when agenda item is called
- ⇒ Record: In the official record (minutes)
- ⇒ Recusal/Leave Room – except consent
- ⇒ Exceptions:
 - Consent – announce, don't leave
 - Closed Sessions – make disclosure at open session
 - Absences – no identification/disclosure required
- ⇒ Example of entry in the minutes:
 - “Immediately following the announcement of Agenda Item 4.17, Councilmember Dillon announced she would be stepping down from the dais due to a conflict of interest which arises because she lives within 500' of the proposed project. Councilmember Dillon then left the dais and the council chambers.”
- ⇒ Legally Required Participation – § 18708
 - Must be in minutes – see § 18708(b)(4)(A)

Conflicts of Interest Under Government Code (§ 1090)

- ⇒ Remote Interests § 1091 – Record in minutes
 - The interest must be disclosed to the board of which the officer is a member and noted in the official records – applies to all remote interests
- ⇒ Non-Interests – § 1091.5 – Record in minutes
 - Three of the eleven non-interest categories require disclosure and recordation, as above, - best to record any announcement in the minutes