

# HAVE YOU NOTICED?

## NOTICING AND AGENDA REQUIREMENTS UNDER THE BROWN ACT

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For the  
League of California Cities  
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DID YOU NOTICE??





# THE MISSILE LAUNCHER?





# NOTICE & AGENDA



# WHY DO WE NEED TO NOTICE.....

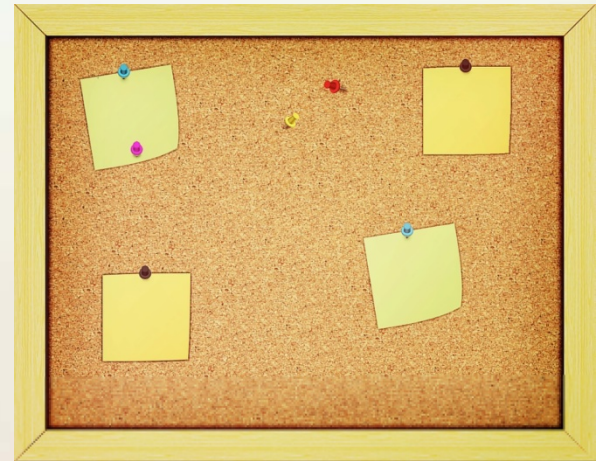
- ***In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.***

# WHY DO WE NEED TO NOTICE

- ***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.***

# GENERAL RULE

- **With a few exceptions, the City Council *cannot* discuss at length or take action on items not on the agenda**





# WHO'S COVERED BY NOTICING REQUIREMENTS

- **City Councils and any board, commission, committee, task force or other advisory body created by the Council, whether permanent or temporary, decision making or advisory ( § 54952(b)).**
- **Standing committee of a covered board, regardless of number of members ( § 54952(b))**



# ALSO COVERED BY NOTICING REQUIREMENTS...

- **Governing bodies of non-profit corporations formed by a public agency or which includes a member of a covered board and received public money from that board**
- **( § 54952 (c)).**

# WHAT DOES THIS MEAN FOR CITY ATTORNEYS?

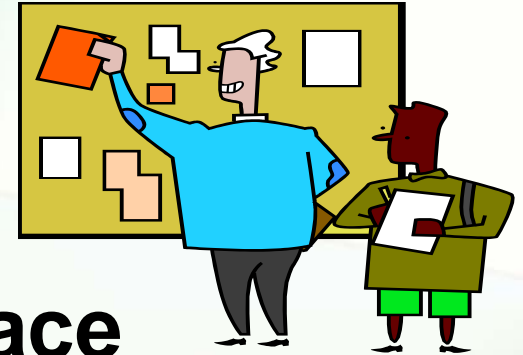
- **Posting, content and adherence to the Brown Act should be consistent for all commissions and committees**
- **Need to provide good training on noticing requirements and agenda content to attending staff, especially if City attorney will not be present at the meeting**

## FOR REGULAR MEETINGS.....

- **Each legislative body (excluding advisory or standing committees) must formally adopt a meeting schedule specifying the date, time and place for its regular meetings ( § 54954(a)).**
- **In many jurisdictions the City Council adopts a Resolution annually, setting the schedule of regular meeting for the upcoming year.**



# Post Agendas



- **Post agendas**
  - ✓ **Publically accessible place**
  - ✓ **72 hours before regular meetings**
  - ✓ **24 hours before special meetings**
  - ✓ **1 hour for emergency meetings**
  - ✓ **Website, if agency has one**
  - ✓ **Additional requirements if Skype or Teleconference**

# SAY IT CLEARLY



# AGENDA CONTENT REQUIREMENTS

- **Time and location of meeting**
- **Brief description (20 words or less) clearly describing the item to be discussed**
- **Any action to be taken by the legislative body must be separately identified**



# **SPECIFIC REQUIREMENTS FOR ACTIONS ON ENVIRONMENTAL DETERMINATIONS**

- **Notice must “specifically and separately” list the actual action on any environmental determination**
- **Wording which includes “CUP and related approvals” is not sufficient. Need to be specific, i.e., Consideration of approval of Negative Declaration**

# SPECIAL NOTICING REQUIREMENTS

- **Land use entitlements and zoning decisions:**
  - 10-day noticing requirements
- **Development Impact Fees:**
  - 14-day noticing requirements
- **Proposition 218:**
  - 45-day noticing requirements

IT'S WORTH REPEATING....



**DON'T TAKE ACTION ON ITEMS NOT ON  
THE AGENDA!**



# EXCEPTIONS TO THE RULE....

- **If an items was agendized for a previous meeting and was continued to the meeting at which action is being taken,**
- **If emergency situations exist that could impact public health, safety**
- **Immediate action needed, but that need did not exist when the agenda was posted.**



**“I’m going to cover my ears now to avoid information overload.”**

# NOTICE REQUIREMENTS FOR SPECIAL MEETINGS

- **Written notice sent to each member of the legislative body and to each local newspaper of general circulation**
- **Agenda to contain brief description of each item on the agenda**
- **Clearly specify meeting time and location**
- **In a general law city, no Ordinances may be adopted at a special meeting.**



# NOTICE REQUIREMENTS FOR EMERGENCY MEETINGS

- **Deliver notice at least one hour prior to meeting,**
- **Notify media at least 1 hour prior to meeting,**
- **The minutes, roll call vote outcomes, description of any action taken**
- **List of people notified about the meeting and discussion of actions taken**
- **Must stay posted for 10 days.**

# ADJOURNMENT AND CONTINUANCES

- **Meetings may be adjourned to a future date**
- **Can use the same agenda if meeting is less than 5 days from the original meeting;**
- **New agenda and proper posting required if meeting is more than 5 days from original meeting**

# CAN YOU HEAR ME NOW?

est Man Launch"



# NOTICING FOR TELECONFERENCE MEETINGS

- **Agenda posted 24 hours before a special meeting and 72 hours prior to a regular meeting**
- **Identify location of each teleconference site, which must be open and accessible to the public**
- **Provide meeting time and location**
- **Avoid if at all possible**



# TELECONFERENCE MEETINGS.....

- **Include a description of each item to be discussed**
- **Roll call vote only**
- **Quorum of Council must be at the usual meeting location.**

# CLOSED SESSIONS

- **Cannot occur unless expressly authorized by statute**
- **Closed session items must be identified on the agenda and announced prior to going into closed session**
- **No mandatory descriptions or specific language for noticing closed session**
- **“Safe Harbor” provisions to prevent potential noticing violations.**

# EMPLOYEE APPOINTMENT, DISCIPLINE & EVALUATIONS

- **Appointed official evaluations and compensation negotiations**
- **Employee discipline and employee evaluations (employee must receive 24 hours written notice)**



# PENDING OR POTENTIAL LITIGATION

- **Allowed in closed session if open discussion “ would prejudice the position of the agency in litigation”**
- **All substantive discussions pertaining to litigation should be held in closed session, otherwise would violate the Attorney/Client communication privilege**
- **Written claims and threats of litigation against the City need to be available for public inspection**



# REAL ESTATE NEGOTIATIONS

- **Allowed to discuss strategy, price and payment terms with agency's identified bargaining agent**
- **Final price and payment terms must be disclosed when the actual lease or contract is brought for approval.**
- **Reportable action is required when the Council's action renders the purchase or lease agreement complete.**

# LABOR NEGOTIATIONS

- **In Closed Session, Council may receive updates and may instruct the agency's negotiator on negotiating strategy, compensation issues and other matters.**
- **Agency must identify the negotiating team and the bargaining unit prior to going into closed session.**

# CURING NOTICING VIOLATIONS

- **Cities have 30 days to correct after written demand to cure any violations of the challenged action and to notify the party of such corrective action**
- **Most common approach is to void the challenged action, re-notice and reconsider the item**
- **Exceptions and detailed procedures are identified in the code**
- **Time is of the essence**

# HAVE YOU NOTICED?

**It's better to “over-notice” than to  
“under-notice”**





# QUESTIONS AND ANSWERS

