

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

June 6, 1994

To: To All Directors  
From: General Counsel  
Subject: Meetings Subject to Ralph M. Brown Act

This office was recently requested to reiterate the application of the Brown Act to Metropolitan activities with particular regard to its application at events outside the customary standing committee and Board meetings. Amendments to the Ralph M. Brown Act (Brown Act) (Gov. Code, § 54950 et seq.), effective April 1, 1994, define the types of meetings that are subject to the Act. These amendments codify existing case law and Attorney General opinions on meetings subject to the Brown Act.

Government Code section 54952.2 (a) defines "meeting" as any congregation of a majority of the members of a legislative body in 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 its local agency, and any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members to develop a collective concurrence as to action to be taken on an item. Subpart (b) of section 54952.2 provides that the following are not meetings:

- Individual contacts or conversations between a board member and any other person;
- Attendance of a majority of members of the board or council at a conference or similar gathering open to the public that involves discussion of issues of general interest to the public or to public agencies of the type represented by the board or council, provided a majority of the members do not discuss among themselves specific business within the board's or council's jurisdiction;

June 6, 1994

- Attendance of a majority of the members at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided a majority of the members do not discuss among themselves specific business within the board's or council's jurisdiction; and
- Attendance of a majority of the members at a purely social or ceremonial occasion provided a majority of the members do not discuss among themselves specific business within the board's or council's jurisdiction.

The use of the term "any congregation" in the above definition emulates court opinions holding that the Act applies to informal as well as formal meetings of a majority of the legislative body.

Therefore, while luncheon meetings, gatherings outside of a conference, a dinner honoring a retiring Board officer, or an inspection trip usually are not subject to the Act, they may become meetings subject to the open meeting requirements if a quorum of Metropolitan's Board hears, discusses, or deliberates upon an item within Metropolitan's subject matter jurisdiction to develop a collective concurrence as to action to be taken on an item. Deliberation includes the collective acquisition and exchange of facts preliminary to an ultimate decision, as well as the collective discussion of the topic.<sup>1</sup>

However, these same informal meetings are not subject to the Brown Act if discussions concern only Board procedural matters, such as meeting times or dates, or placement of a matter on an agenda.

The Brown Act also applies to seriatim contacts, either by direct communication, through personal intermediaries, or technological devices, whereby a quorum of Metropolitan's members develop a collective concurrence as to action to be taken on an item. Thus, individual telephone calls, or personal conversations, between a staff member and a quorum of the Board about an item of specific Board business, aside from a procedural matter, would constitute a meeting

---

<sup>1</sup> (See: Sacramento Newspaper Guild v. Sacramento County Board of Supervisors (1968) 263 Cal.App.2d 41, 47-48.)

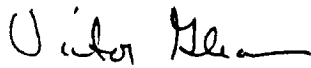
June 6, 1994

under the Brown Act. Serial conversations between members constituting a quorum of the Board about an item of Board business would also constitute a meeting under the Brown Act.

All meetings subject to the Brown Act must be open to the public. At least 72 hours before a regular meeting, an agenda generally describing the items of business to be transacted or discussed at the meeting, and setting forth the time and location of the meeting, must be posted in a location that is freely accessible to members of the public. With limited exceptions, no action or discussion may take place on any item not appearing on the posted agenda.

Notice of a special meeting, specifying the time and location of the meeting and the business to be transacted, is to be delivered personally or by mail to each director and to each local newspaper of general circulation, radio, or television station that has requested such notice at least 24 hours before the time of the meeting. The notice and call must be posted at least 24 hours prior to the special meeting at a location freely accessible to members of the public.

Agendas for regular meetings and the notices for special meetings must provide an opportunity for members of the public to directly address the meeting. Closed sessions must be identified on the agendas in the manner specified in the statute.

  
for N. Gregory Taylor

SES:pmsm:gm  
setsch\board\meeting