

## **Model Governmental Meetings**

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**Your Improvement Suggestions are welcome -**

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***"Human rights are your rights. Seize them. Defend them.  
Promote them. Understand them and insist on them.  
Nourish them and enrich them and they are the best in us.  
Give them life."***

**- UN Secretary General Kofi Annan, December 1997**

**"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."***

**"It is the public policy of this state that ...  
proceedings of public agencies be conducted openly  
so that the public may remain informed."**

**"The people insist on remaining informed  
so that they may retain control  
over the instruments they have created."**

California Open Meeting Laws, Government Code Sections 54950 (Ralph M. Brown Act) and 11120 (Bagley-Keene)

It is notable that **a public agency can never be successfully sued for providing too much public participation,**

However, many public agencies have lost suits for limiting public participation - there are even criminal provisions for violating the Brown Act.

This paper provides the minimum necessary ingredients for full and fair public participation in Governmental meetings. While some are restatements of provisions in California's Brown Act, many of these are significant improvements to existing Open Meeting laws.

When reading these - you might consider weighing -

**"Are quick decisions and short meetings approving long-term, irreversible decisions more important than providing full public participation and fair decisions?"**

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## PUBLIC PARTICIPATION RIGHTS

**The Public attending a governmental meeting or  
Participating in a governmental decision has the  
Two fundamental Rights to a Fair Process and Fair Decisions.**

- **A fair and thorough process to provide facts and reasoning for decisionmakers and the public.**
- **Fair and reasonable decisions based upon facts and reason - after a fair process.**

**To implement these fundamental rights each member of the public attending a  
Governmental meeting or participating in a governmental decision has the --**

- **Right to receive meaningful, free, advance notice**, agendas and full packets of all meetings.
- **Right to attend, listen to and participate in all meetings** without cost, obtaining tickets, signup, giving name, or address or any other personal information.
- **Right to place items on an agenda.**
- **Right to speak with a meaningful amount of time on every agenda item separately**, including each consent item, closed session or any report items without being required to **sign up**, give their name or address or any other personal information.
- **Right to understand all facts and reasoning used to reach a decision.**
- **Right to interrupt** the Body for a **Point of Order** or **Clarification**.
- **Right to speak on any subject not on agenda**, but within the body's concerns.
- **Right to criticize** the body or members for their actions or inactions, during public comment or by holding signs.
- **Right to pull out Consent Agenda items** for public review and discussion
- **Right to speak on every item even if not attending until just prior to the close of public comment** on that item.
- **Right to use any presentation tools available** to the body (e.g. overhead projectors, computers, computer presentations, chalkboards, white boards or television with VCR).

<b>Improvement</b>	<b>1. Law - Required by California Brown Act?</b> <b>2. Where used?</b>
<b>-MEETINGS WHICH SHOULD BE COVERED BY LAW</b>	
<b>Additional Meetings of Staff or Elected or Appointed Officials</b>	
All meetings between any agency elected or appointed official and any other elected or appointed official, including those from other agencies.	1. Not required. Prevents vote trading, secret meetings of subcommittees of a larger board, and surreptitious or accidental serial meetings. 2. Uncommon
In addition to meetings covered by the California Open Meeting Law, all <b>interagency staff meetings</b> of governmental bodies are covered when any non-ministerial decisions, policy or positions are discussed (e.g. City and County Managers).	1. Not required. 2. Federal Advisory Committees Act requires this for federal agency meetings. San Francisco's Sunshine Law provides public notice and attendance of such meetings. Uncommon in local agencies.
All meetings where an elected or appointed official meets with their counterpart from a different agency. (e.g. meetings of a region's Mayors, Associations of Elected Officials - Counties).	1. Not required. 2. Normally open to public, though not for participation and rarely is any notice given.
All executive bodies including <b>Temporary Advisory committees</b> are covered.	1. Required if decisions are delegated to them? Often misused to allow subgroup meetings of covered bodies. e.g. Monterey Co. Planning Comm.
<b>Sunshine</b> Committee Meetings	1. Not required. 2. SF has a Sunshine Task Force
All agency staff meetings where discretionary issues are discussed.	1. Not required.

## PROPER LOCATIONS

<p>Meetings shall be held <b>within boundaries of agency jurisdiction</b>. Interagency and Counterpart-Officials meetings are exempt only if they provide full access to the meeting place.</p>	<ol style="list-style-type: none"> <li>1. Required.</li> <li>2. Rarely violated.</li> </ol>
<p>Meetings shall be <b>held</b> in a meeting room in the community or area <b>closest to the most controversial agenda item</b> (Generally that item with the most opposition correspondence.)</p>	<ol style="list-style-type: none"> <li>1. Not Required</li> <li>2. Uncommon.</li> </ol>
<p>Whenever any member of the public cannot hear, or speak to, the body in the meeting room for reasons of maximum occupancy, disabled access or public participation, the meeting shall be recessed or adjourned until adequate meeting space is made available.</p>	<ol style="list-style-type: none"> <li>1. Unclear. Teleconferencing may not cover this.</li> <li>2. Some jurisdictions use Teleconferencing to other rooms for overflow. SF Sunshine Act actually weakens this requirement by allowing meetings to be held in rooms too small to allow public attendance, in some cases preventing <b>any</b> public attendance.</li> </ol>
<p>All screens and viewed materials shall be equally visible to all audience members as they are to the decisionmakers.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Common practice in larger meetings. However, small bodies (Planning Commissions) often have applicants display items only towards the decisionmakers.</li> </ol>
<p>Any government official attending a meeting held in violation of the above sections shall pay a \$100 fine and pay for public notice in the local newspaper of record admitting that they violated this law meeting held.</p>	<ol style="list-style-type: none"> <li>1 Not required.</li> <li>2. Similar to provisions in California's Education Code.</li> </ol>
<h3>Attendance</h3>	
<p><b>Right to attend</b> without cost, obtaining tickets, signup, giving name, or address or any other personal information.</p>	<ol style="list-style-type: none"> <li>1. Required.</li> <li>2. FCC Monterey Hearing July 2004, required obtaining tickets in advance (free) to attend hearing. This discouraged and prevented people from out of town from attending.</li> </ol>

## PUBLIC NOTICE

<p><b>Notice of Specific Projects and Activities</b> shall be mailed to all persons who ask, who own property, or live, or work near the proposal. "Near" is the <b>minimum</b> distance which notice shall be sent for each type of activity as described below. In no case may the distance be less than the 50 closest neighbors or 300 feet.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Notice is typically only required or mailed to those who own property - not residents, neighbors, business owners or those who ask.</li> </ol>
<p>Agendas of all bodies covered by the Open Meeting Law or the Public Records Act shall be publicly <b>noticed at least 10 working days in advance in a free local newspaper</b>. The only exemption for special meetings is for interagency staff meetings which must have at least 5 working days public notice.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Coastal Comm. sends out agendas 2 weeks early. Only Regular Meetings require Published Notice. Special, Continued and Emergency Meetings only need to have notice posted on an obscure bulletin board 72 hours in advance of meeting. Pacific Grove uses Special Meeting exemptions to avoid public participation.</li> </ol>
<p><b>Agenda is sent free</b> by mail or email to all who request it.</p>	<ol style="list-style-type: none"> <li>1. Required to be sent, but not for free.</li> <li>2. Rarely not done. Long battle to get PG to do this.</li> </ol>
<p><b>Topic Notice</b> shall be sent free by mail or email to all who ask. A Topic (e.g. tree cutting, traffic lights, stop signs) is an item that may appear on many different agendas within an agency (e.g. Council, Planning and Traffic Commissions)</p>	<ol style="list-style-type: none"> <li>1. Not Required</li> <li>2. Required for Tax increases by Gov. Code 54954.6 (b) Regional Water Quality Control Boards use lists. Pacific Grove has fought this for years.</li> </ol>
<p>Agendas shall be posted on the web site at the same time they are emailed.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Becoming common practice.</li> </ol>
<p>Each <b>Special Meeting</b> shall be noticed by <b>email at least 10 working days</b> in advance by anyone requesting such notice.</p>	<ol style="list-style-type: none"> <li>1. Only 24 hours notice required.</li> <li>2. Carmel tries. Pacific Grove avoids notice of Special Meetings, and is one of a very few Peninsula agencies where agendas are absent from website until after the meeting.</li> </ol>
<p>Each <b>Emergency Meeting</b> shall be noticed by <b>email at least 24 hours</b> in advance by anyone making such a request.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Carmel tries. Pacific Grove avoids notice of emergency meetings, one of a very few Peninsula agencies where agendas are absent from website until after the meeting.</li> </ol>

<p>Printed Public Notice <b>type size</b> shall not be smaller than that used for news reporting (<b>12 point type</b>) so the vision impaired can read without effort.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Minimum 10 point type required for tax increase notices. 54954.6 c1 Widely ignored. Monterey City often uses large type for specific notices, but uses <b>unreadably tiny type (4 point)</b> for published agendas. Most other agency notices are in type too small for vision impaired.</li> </ol>
<p><b>Meeting Notice and Agendas shall be sent free</b> by mail or email to all who ask.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Notice is commonly sent free. Agendas are sometimes sent free (Pacific Grove now does after a long battle).</li> </ol>
<p>For <b>construction, use permits or variances</b>, the minimum radius to which notice shall be mailed is the greater of the 50 closest neighbors, 300 feet or ten percent of the square footage of the change in size. For projects above the ground floor the mailing notice distance is multiplied by the number of stories above ground.</p>	<ol style="list-style-type: none"> <li>1. State law only requires one-size-fits-all 300 foot notification of property owners.</li> <li>2. Additional provisions are unknown. Monterey County uses 500 feet.</li> </ol>
<p>For <b>road construction</b>, the minimum radius to which notice shall be mailed is the greater of the 100 closest neighbors, 500 feet, or one foot per three square foot of roadway affected - from all edges of the proposed construction.</p>	<ol style="list-style-type: none"> <li>1. State law only requires 300 foot notification of property owners.</li> <li>2. Uncommon.</li> </ol>
<p>For <b>events or activities creating noise, or light pollution, traffic or parking greater than normal</b>, the minimum mailing notice radius is that distance which may experience any parking, light or noise impacts plus 300 feet.</p>	<ol style="list-style-type: none"> <li>1. State law only requires 300 foot notification of property owners.</li> <li>2. Uncommon.</li> </ol>
<p>For <b>tree cutting or removal</b>, the minimum radius to which notice shall be sent is the greater of 50 closest neighbors, 300 feet, two blocks, one city block per ten feet of tree height, or one hundred feet per inch of maximum tree diameter.</p>	<ol style="list-style-type: none"> <li>1. State law only requires 300 foot notification of property owners.</li> <li>2. Uncommon.</li> </ol>

<p>For <b>wildlife habitat loss</b>, the minimum radius to which notice shall be sent is the greater of 50 closest neighbors, 300 feet, two city blocks per 1,000 square feet of habitat; or one hundred feet per foot of stream length affected.</p>	<ol style="list-style-type: none"> <li>1. State law only requires 300 foot notification of property owners.</li> <li>2. Uncommon. Coastal Commission recommends it.</li> </ol>
<p><b>International orange netting</b> shall at a minimum outline all heights and extremities of construction projects for one month immediately prior to any approval and <b>until all appeal periods are exhausted</b>. Trees shall have a solid international orange netting wrapped around the most visible portion of limbs or trunks proposed for removal one month immediately prior to any approval.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Commonly required by land use agencies.</li> </ol>
<p><b>Mailed Notice</b> must obtain a successful proof of delivery to be valid.</p>	<ol style="list-style-type: none"> <li>1. Not required</li> <li>2. 40 million Americans change addresses every year. Simply mailing notice does not insure its delivery.</li> </ol>
<p>These provisions are the minimum necessary to provide adequate notice for public participation. Exceeding these minimum requirements is easy to do and strongly encouraged. <b>Any approval given lacking any of the <u>minimum</u> notice required here is untimely, invalid and void.</b></p>	<p>Generally consistent with state law.</p>
<p><b>AGENDA ORGANIZATION</b></p>	
<p><b>Agenda items may not be added or changed</b> after agenda is mailed, unless an emergency arises. "An emergency is an event - not a condition." Item removal or continuance is allowed only if the public is allowed to speak on the substance and process of the noticed agenda item.</p>	<ol style="list-style-type: none"> <li>1. Not Prohibited until 72 hours before meeting.</li> <li>2. The Water Board and Monterey County regularly change agendas. Carmel, Pacific Grove and Monterey cities rarely change items. Monterey County allows a developer to continue an item without any public notice and then prohibits the public from speaking on the substance.</li> </ol>



<b>Each Agenda shall contain -</b>	
General Public Comment shall be the first item of business following the roll call.	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Normal practice. City of Pacific Grove however has tried many times to put Public Comment at the end of the meeting -- or make it so difficult as to discourage public participation. If public comment is delayed until a quorum is lost the entire meeting can be adjudged void.</li> </ol>
<ul style="list-style-type: none"> <li>• All <b>Policy Items shall be placed before</b> any item which could depend upon that policy. To be safe - policy items should be placed at front of agenda.</li> </ul>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Water Board and Pacific Grove regularly approve projects which contradict a policy approved later on the same agenda.</li> </ol>
<ul style="list-style-type: none"> <li>• * A <b><u>clear</u> explanation of citizen meeting rights</b> - in large type, at the front.</li> </ul>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Occasionally done. Coastal Commission makes a faint attempt.</li> </ol>
<ul style="list-style-type: none"> <li>• A <b><u>clear</u> explanation of each agenda item's meaning for the public</b> and its important effects shall be described with two complete sentences. <b>The description may not use acronyms, jargon or doublespeak.</b> The specific location of any activity shall be described by street address where possible.</li> </ul>	<ol style="list-style-type: none"> <li>1. Explanation required, clarity and meaning is not required.</li> <li>2. Rarely done. Pacific Grove agendas regularly have obscure items (e.g. "Crespi Pond"; "Contract with PARS"). Carmel normally makes items clear. Water Board explains the proposed action, but not the meaning of item. Pacific Grove joined a lawsuit against the Water District without ever disclosing the topic (May 2002).</li> </ol>
<ul style="list-style-type: none"> <li>• When an agenda item's description has any ambiguity the item shall be continued to the next meeting.</li> </ul>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Unknown.</li> </ol>
<ul style="list-style-type: none"> <li>• A set of <b>choices for each agenda item</b> including no action, denial, and continuance. Not merely an Approve or Deny recommendation only.</li> </ul>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Rarely done. TAMC tries.</li> </ol>
Agenda shall give <b>names and map of seats</b> of decision makers and advisors.	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Monterey City does this.</li> </ol>

## PACKETS

<p>Packets shall include minutes of the previous meeting.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Unknown.</li> </ol>
<p>Packets shall include copies of all correspondence, and an accurate transcript of every verbal public concern delivered, by phone call or at a public meeting, on that issue - except closed session attorney communications.</p> <p>Pages of a report exceeding 40 pages may be omitted only if they are available at the agency, on demand, the day of the packet mailing at no charge.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Generally done. Staff often fail to include vital correspondence even when from from other agencies. Monterey Peninsula Water Management District tries to capture verbal comments for their minutes, but other agencies rarely recorded them.</li> </ol>
<p>Meeting <b>Packets are sent free</b> to all parties who ask, who are not either benefiting financially from their participation or assisting those who would. To allow reasonable time for responses to questions packets must be received a full 10 working days in advance of the meeting. Website posting is not an acceptable substitute as only a tiny percentage of the public use the Internet.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Monterey Bay Air Pollution Control District does prepare sufficient packets for the public - for free.</li> </ol>
<p>Each Item shall have a cover page with a <b>summary</b> which includes - a short and long term <b>financial impact summary</b>, and a short and long term <b>environmental impact summary</b>.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Rare.</li> </ol>
<p>Revisions of law or documents shall use <del>strikeout</del> (i.e. <del>strikeout</del>) and <u>underline</u> to clearly illuminate deletions and additions to previous wording.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Common practice in many cities.</li> </ol>

<p>Projects shall identify the principal human owners benefiting from an approval.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Usually done, but not in Pacific Grove where they allow only the Architect's name.</li> </ol>
<p>Packets for the public shall be identical to those for the body.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Unknown.</li> </ol>
<p>Packets shall be posted on the web site at the same time they are emailed.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Becoming common practice.</li> </ol>
<p>For each minimum requirement for Notice, Agenda or Packet which is not met, that item shall be continued to the next meeting. If the item is heard any approval is denied, or null and void.</p>	<ol style="list-style-type: none"> <li>1. Not exactly required.</li> <li>2. Rarely observed.</li> </ol>
<p><b>CONFLICT OF INTEREST PREVENTION</b></p>	
<p><b>Meeting may not be held in building owned or controlled by any applicant</b> or person who has a financial relationship with an application for approval by the decision making body.</p>	<ol style="list-style-type: none"> <li>1. Not Prohibited.</li> <li>2. Calif. Energy Commission meeting at Duke's Moss Landing offices. June 2001</li> </ol>
<p>No body member may vote on, or make any official decision upon, any issue where they, or their family, have or could receive a financial benefit or anything of value or advantage, directly or indirectly, including a decision which benefits anyone, directly or indirectly, who has contributed in any way to their campaign.</p>	<ol style="list-style-type: none"> <li>1. Generally prohibited by the Political Reform Act.</li> <li>2. Frequently violated in Pacific Grove and Monterey County.</li> </ol>
<p><b>FAIRNESS - DUE PROCESS</b></p>	
<p><b>The Public has the right to a fair and reasoned decision based on facts and evidence.</b></p>	<ol style="list-style-type: none"> <li>1. Generally required by the California Administrative Procedures Act (Gov. Code 11340 - 11528)</li> <li>2. Widely ignored.</li> </ol>
<p>Vote Trading is absolutely prohibited. Vote trading shall be punished by a \$1000 fine and a year in jail.</p>	<ol style="list-style-type: none"> <li>1. Not prohibited.</li> <li>2. Widely practiced by government officials.</li> </ol>

<p>All campaign contributions and gifts to elected officials, appointed officials, or agency staff including anything of value or advantage, cumulatively equaling \$20 or more must be publicly reported within two weeks of its receipt.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Monetary contributions of \$100 or more are required to be reported by existing California law.</li> </ol>
<p>All records related to the deliberative process of any agency staff or official are public records.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. SF Sunshine Act provides this.</li> </ol>
<p>The Agency shall not allow any <b>Applicant's advocacy materials</b> to be displayed in the meeting other than when entirely supported by a person or during the applicant's presentation.</p>	<ol style="list-style-type: none"> <li>1. Not Prohibited.</li> <li>2. Occasionally occurs. Calif. Energy Commission meeting at Duke's Moss Landing offices replete with many large propaganda posters. June 2001</li> </ol>
<p><b>Applicant shall not</b> be seated at <b>Board Table</b>.</p>	<ol style="list-style-type: none"> <li>1. Not prohibited.</li> <li>2. Calif. Energy Commission meeting at Duke's Moss Landing offices. June 2001</li> </ol>
<p><b>Staff shall not</b> be seated at <b>Board Table</b>.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Monterey Attorney is seated with Council (vs. Water Board where Attorney is at separate table).</li> </ol>
<p><b>Directors</b> shall not <b>discuss</b> any <b>Quasi-Judicial item</b> with anyone either scheduled or potentially to be on an agenda during their term.</p>	<ol style="list-style-type: none"> <li>1. Not prohibited.</li> <li>2. Standard practice in Courts.</li> </ol>
<p><b>Penalty for Ex Parte (judicial decision maker discussing subject with applicant outside meeting) Communication</b> of decision is Project Denial; if discovered after the approval - revocation of project and fines for both the public official and the applicant. Plus the approval may not be resubmitted for three years.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Coastal Commission to some degree. Water Board to a smaller degree.</li> </ol>
<p><b>PUBLIC INFORMATION AVAILABILITY</b></p>	
<p><b>Sufficient Agendas</b> shall be available at meeting for all members of public.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Carmel, Pacific Grove, Monterey &amp; Water Dist. often run out.</li> </ol>

<p><b>Sufficient packets</b>, identical to those received by the body, available for public to review.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Air District Provides adequate free packets for all who attend. Water District generally provides two but they are often incomplete. Pacific Grove provides a single packet for a hundred people to share. Carmel provides none.</li> </ol>
<p>Large Board showing audience <b>current Agenda Item</b> under discussion. (e.g. Item 7A) Flip Cards to identify which part of an item is current (e.g. Public Questions)</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Rare. Pacific Grove provided this from 1999 to 2001, but did not resume when they began meeting in the new Council chambers.</li> </ol>
<p>All Meetings, including Closed Sessions shall be <b>video and audio taped</b>.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Audio taping is normally done. Video is becoming common. e.g. PG, Carmel</li> </ol>
<p><b>Video and audio tapes shall be kept permanently</b> and shall never be destroyed or damaged.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. SF's Sunshine Law requires this. Many agencies, Pacific Grove, County &amp; Water Dist., destroy meeting tapes after 30 days.</li> </ol>
<p><b>No Secret votes</b> - preliminary or final.</p>	<ol style="list-style-type: none"> <li>1. Required.</li> <li>2. Closed sessions regularly violate this - PG.</li> </ol>
<p><b>Minutes shall record each member's vote.</b></p>	<ol style="list-style-type: none"> <li><b>1. Minutes are not required by any California law.</b></li> <li>2. Usually done, often not.</li> </ol>
<p><b>Minutes shall record each member's reasoning</b> in making that decision.</p>	<ol style="list-style-type: none"> <li><b>1. Recording each member's reasoning is not required by any California law.</b></li> <li>2. Occasionally done.</li> </ol>
<p><b>Minutes shall clearly record each substantive and procedural, factual and reasoning comment</b> from each public speaker. Speaker's written statements of 2 pages or less shall be included in the minutes.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Rare, but some agencies do this. SF Sunshine Act allows public's 150 word statement to be included in minutes.</li> </ol>
<p>Draft Minutes shall be made available within 10 working days.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. SF Sunshine law provides this.</li> </ol>

## MEETING PROCEDURES

Any Citizen may **interrupt for a Point of Order or clarification**. They may not do so to comment on substantive information.

1. Not Required
2. Meeting chairs almost always allow this and provide a response.

Roll Call

1. Not Required.
2. Sometimes not done.

## ANNOUNCEMENT OF PUBLIC RIGHTS (No Announcements are required by the Brown Act)

**Chair reads aloud "The people of this State do not yield their sovereignty to the agencies which serve them."**

1. Not required
2. Unknown.

**"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."**

**Verbal Explanation by Meeting Chair of every attendee's rights. (enumerated at beginning of this document)**

1. Not required.
2. Sometimes partially done.

## ORDER OF AGENDA

Every interested person must be allowed to speak during each public comment and agenda item period, no maximum time limit may be set for any item.

1. Brown Act allows chair to set a maximum amount of time for an item. This can easily prevent many people from speaking - wholly preventing those who cannot write from participating.
2. FCC (July 2004) randomly drew numbers to allow only a subset of public to speak. Maximum time for an item is rarely set.

<p>Public Comment on any meeting or agenda <i>procedural</i> item. 2 minutes each.</p>	<ol style="list-style-type: none"> <li>1. Not required to be separate and with special time for procedural issues.</li> <li>2. Unknown as separate from substantive issues.</li> </ol>
<p><b>Public</b> Requests to pull <b>Consent Agenda</b> Items</p>	<ol style="list-style-type: none"> <li>1. Required.</li> <li>2. Not often followed. PG does this fairly well.</li> </ol>
<p><b>Public Comment</b> on any subject <b>not already on agenda</b>. Minimum of 5 minutes each. Speakers shall be allowed to finish their sentence if time elapses.</p>	<ol style="list-style-type: none"> <li>1. Required.</li> <li>2. Common practice, but not always done. <b>California's Attorney General suggested that 5 minutes is a reasonable amount of time for public comment.</b> 75 Ops. Cal. Atty. Gen. 89 (1992) FCC (July 2004) restricted time for each speaker to 2 minutes and would not allow speakers to finish sentences.</li> </ol>
<p>Public comment may include up to 90 seconds of <b>silence</b> with or without a sign.</p>	<ol style="list-style-type: none"> <li>1. Not clearly required by the Brown Act, however the US and California Constitutions prohibit political censorship of the form of speech.</li> <li>2. PG's Mayor Koffman sharply cut off silence.</li> </ol>
<p>Public Comment on any agenda items where the person <b>cannot stay until the item is heard</b>. Only two minutes each.</p>	<ol style="list-style-type: none"> <li>1. Not clearly required.</li> <li>2. Common Courtesy. PG's Sandra Koffman cut this off by her own ruling in 2000</li> </ol>
<p>Request for the public to pull any Consent Agenda items.</p>	<ol style="list-style-type: none"> <li>1. Indirectly Required.</li> <li>2. Rare</li> </ol>
<p>Consent Agenda vote.</p>	<ol style="list-style-type: none"> <li>1. Required.</li> <li>2. Common</li> </ol>

<p><b>Citizen Petition Items</b> (before Regular items) - Items which citizens have petitioned to place on the agenda. When at least the number of voters equal to the board members (if 7 board members - 7 signatures are needed) sign a petition to have an item on the agenda, the item shall be placed on the agenda for the earliest possible regular meeting and no later than 60 days after the petition is presented unless the petitioners request the item go on a specific meeting more than 60 days in advance. The agenda item shall be described using petitioner supplied language. Citizen petitioners shall be provided at least 15 minutes to present.  <b>Citizen Petition Items may not be tabled or continued in any way without the consent of all petitioners.</b></p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Calif. Education Code section 35145.5 allows members of the public to place items on a future agenda.</li> </ol>
<p><b>Board Member Agenda Items</b>  When a Board member delivers a request to have an item on the agenda - the item shall be placed on the agenda at the earliest possible regular meeting - no later than 60 days after the request is presented.  <b>Board Member Agenda Items may not be tabled or continued in any way without the consent of the requesting Board member.</b></p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Common practice. Pacific Grove's charter requires this, but it is sometimes fought - PG Mayor Koffman repeatedly <b>threatened</b> Councilmember Dan Davis when he requested placing an item on agenda. In 2003 Pacific Grove Councilman Jim Costello made a motion to table a controversial item placed on an agenda by Councilwoman Susan Goldbeck.</li> </ol>
<p>Citizen Pulled Consent Agenda Items.</p>	<ol style="list-style-type: none"> <li>1. Items are required to be heard, but not at any particular time.</li> </ol>

<p><b>AGENDA ITEMS</b></p>	
<p>A <i>clear</i> explanation of each agenda item's <b>meaning for the public</b> and why it is important. The specific location of any activity shall be described by street name where possible. <b>The description may not use acronyms, jargon or doublespeak.</b></p>	<ol style="list-style-type: none"> <li>1. Clear explanation required, meaning is not required. him</li> <li>2. Normally done. Carmel normally makes items clear. Pacific Grove agendas regularly have almost fully obscure items (e.g. "Crespi Pond"; "Contract with PARS"). Water Board explains the proposed action, but not the meaning of item.</li> </ol>



<p><b>Required stepping down for each Board member</b> who has done business with the applicant or his/her family exceeding \$100; or received \$20 or more as a campaign contribution from the applicant, his/her family members or anyone with whom the Applicant has conducted business exceeding \$500 or who will probably do so in the next 5 years.</p>	<ol style="list-style-type: none"> <li>1. Not required by Brown Act, but other financial conflict of interest laws may apply.</li> <li>2. Rare to unknown.</li> </ol>
<p><b>Each Board member shall Disclose all Communications they have had</b> with anyone directly or indirectly representing a financial interest in the item.</p>	<ol style="list-style-type: none"> <li>1. Not Required.</li> <li>2. Uncommon: Coastal Commission and Monterey Peninsula Water District rules provide this.</li> </ol>
<p><b>Staff</b> (not applicant) <b>gives report</b> on all items including items pulled from Consent Agenda.</p>	<ol style="list-style-type: none"> <li>1. Not required, but often followed.</li> <li>2. Monterey County allows applicant to make staff presentation.</li> </ol>
<p>If <b>applicant</b>, or agency introduces any <b>new information</b> including project changes or conditions of approval which is not available, for free, to public a week before meeting, item must be continued.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Uncommon.</li> </ol>
<p><b>Board Questions</b> of staff.</p>	<ol style="list-style-type: none"> <li>1. Not required, but normally done.</li> <li>2. Astonishingly David Potter as chair of the Water District, prohibited the Board from questioning staff before public comment.</li> </ol>
<p><b>Public Right to comment on every item on any agenda including consent items and reports.</b></p>	<ol style="list-style-type: none"> <li>1. Required.</li> <li>2. Often resisted. City of Monterey Attorney Connors refuses this. Some cities only allow a single 3 minute comment period for entire agenda - precluding meaningful comment when one wishes to discuss more than one item.</li> </ol>
<p><b>Public Questions</b> (not public comments or advocacy.)</p>	<ol style="list-style-type: none"> <li>1. Questioning is a legal right, though the agency is not required to allow questioning separate from public comments.</li> <li>2. Unknown</li> </ol>

<p><b>Staff Answers</b> to each separate question from public and members of body.</p>	<ol style="list-style-type: none"> <li>1. Not required!</li> <li>2. Uncommon. Water District and PG Council provide this to a small degree. Some agencies improperly defer to project applicants to answer questions.</li> </ol>
<p><b>Public Comment Time.</b>  <b>To allow each citizen to get all their points across five minutes shall be provided for each person's comments on any single agenda item.</b>  Five minutes allows time for a speaker to add thanks to the body for the portions which are agreeable.</p>	<ol style="list-style-type: none"> <li>1. While Public Comment is required, any minimum time provided is unclear. <b>There is no maximum time limit.</b></li> <li>2. <b>Unlimited</b> - Monterey Co &amp; Pacific Grove Planning Commissions.  <b>Five (5) minutes</b> is the California Attorney General's opinion for a reasonable amount of time for public comment. 75 Ops. Cal. Atty. Gen. 89 (1992) and is used by the Coastal Commission.  <b>Three (3) minutes</b> is common locally - Pacific Grove, Monterey &amp; Carmel Councils and too brief to make more than 1 or 2 points.</li> </ol>
<p>(Alternate) Because boards rarely read the packet, three (3) minutes to make each point up, to a maximum of 30 minutes per person when signed up by 5:00 the previous day.</p>	<p>(same as above)</p>
<p>Each citizen has the right to the <b>equal number of speaking opportunities</b> and amount of time as the applicant and staff.</p>	<ol style="list-style-type: none"> <li>1. Not required</li> <li>2. Occasionally observed.</li> </ol>
<p><b>No Board discussion during testimony.</b></p>	<ol style="list-style-type: none"> <li>1. Not prohibited.</li> <li>2. Pacific Grove Council &amp; Coastal Comm routinely do other things during testimony including speak on telephones.</li> </ol>
<p><b>Rebuttal Public Comment.</b> Up to 3 minutes each.</p>	<ol style="list-style-type: none"> <li>1. Not required</li> <li>2. Uncommon</li> </ol>
<p><b>Audience is asked if there are any unanswered questions?</b></p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Uncommon. Some Quaker gatherings use this to prevent a decision based on incomplete information.</li> </ol>

### BODY DELIBERATION

<p><b>No break</b> between public comment and taking action.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Pacific Grove often violates this on controversial issues and Board members are often seen conversing with applicants. e.g. Mayor Koffman asking Eric Miller to step outside to discuss his Water Transfer proposal during break between public testimony and deliberation.</li> </ol>
<p><b>Each concern raised by the public shall be separately and substantively answered.</b></p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Occasionally a lukewarm response is offered.</li> </ol>
<p><b>If any</b> items are <b>negotiated or discussed</b> with Applicant that were not explicitly described in packet for the meeting, the item shall be continued to the next meeting where the public comment period shall be reopened for that new item to allow everyone to comment.</p>	<ol style="list-style-type: none"> <li>1. Not Prohibited.</li> <li>2. Pacific Grove, Monterey County and developers regularly violate this.</li> </ol>
<p><b>No communication with applicant</b> unless <b>all audience members are allowed 5 minutes each to respond</b> to the same question.</p>	<ol style="list-style-type: none"> <li>1. Not Prohibited.</li> <li>2. Pacific Grove, Monterey County and developers regularly violate this.</li> </ol>
<p>No Finding or Condition of approval may be adopted unless it has been publicly available for 10 working days and included in the packet.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Reasonable practice.</li> </ol>
<p><b>No vote for approval may be made until each Board Member has explained their reasons for their vote.</b></p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Uncommon. Courts have a Statement of Decision.</li> </ol>
<p>After a motion is made and seconded, but before the vote, after each Board member has explained their reasons, the public shall be allowed comment on the specific motion.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Occasionally seen in Federal Court. In the form of "Let me give you my preliminary conclusion and let you try to talk me out of it."</li> </ol>
<p>Each member's individual <b>vote</b> must be distinct and <b>recorded</b> as well as their reasons.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Uncommon.</li> </ol>

<p><b>Public Comment on the Decision.</b> Up to 3 minutes each.</p>	<p>1. Not required. In 2. Rare</p>
<p><b>CONSENT AGENDA</b></p>	
<p>Any member of the public may ask for any or all consent item(s) be heard as a regular agenda item.</p>	<p>1. Required. 2. Rarely denied, but discouraged and public unaware of it.</p>
<p>Public pulled Consent item process shall follow same format as Regular Items.</p>	<p>1. Not clearly required. 2. Pacific Grove's Mayor Koffman makes the citizen pulling item describe their concern without hearing a staff report first. Unfortunately, when item is unclear - one can not describe concern of substantial item - only procedural "lack of clarity" concern.</p>
<p>Board Pulled Consent Agenda Items Follow same format as Regular Item.</p>	<p>1. Not clearly required. 2. Usually followed.</p>
<p><b>MEETING WRAP UP</b></p>	
<p><b>Second Public Comment</b> on any decisions earlier on agenda. Up to 3 minutes each.</p>	<p>1. Not required. 2. Coastal Commission allows General Public comment every day of multi-day meetings though not specifically for this purpose.</p>
<p><b>CLOSED SESSION</b></p>	
<p>All <b>Closed Session</b> items shall be <b>on the agenda</b>.</p>	<p>1. Required. 2. Common, Carmel holds separate meetings for Closed Sessions.</p>
<p>Public interest civil suits on Open Meetings, Public Records, City Charter or CEQA may not be discussed in closed session. <b>The only Litigation which may be</b> discussed in a Closed session are employee contracts, tort claims, and property negotiations.</p>	<p>1. Brown Act is not this restrictive. 2. Currently civil suits on procedural issues such as CEQA, and property negotiations are often discussed behind closed doors. Pacific Grove joined a lawsuit against the Water District without ever disclosing the topic (May 2002).</p>

<p>When an active suit is agendized, a copy of all the pleadings not sealed by a court shall be made available to the public at the meeting for inspection and copying.</p>	<ol style="list-style-type: none"> <li>1. Not required. The Public Records act requires that the public be able to inspect and copy all pleadings.</li> <li>2. Pacific Grove refuses to provide copies of actual pleadings to the Council. The City attorney has seriously mislead the Council about the nature of a suit.</li> </ol>
<p><b>Public Comment shall be solicited</b> before the item is orally described.</p>	<ol style="list-style-type: none"> <li>1. Public comment is required, soliciting it is not.</li> <li>2. Rarely done. Pacific Grove now solicits comments.</li> </ol>
<p><b>No action or vote may be taken in closed session</b>, not even straw votes. No settlement may be approved until it has been reported in public.</p>	<ol style="list-style-type: none"> <li>1. Prohibited.</li> <li>2. Pacific Grove often takes votes in secret and rarely reports them.</li> </ol>
<p>Closed session shall be video and audio taped and detailed minutes kept as for a regular item.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. Rare. Can be ordered by Judge.</li> </ol>
<p>Closed session recordings, settlements and results shall be released as soon as available.</p>	<ol style="list-style-type: none"> <li>1. Not required.</li> <li>2. SF Sunshine Act requires this for recordings.</li> </ol>
<p>Closed Session <b>Vote Reporting</b></p>	<ol style="list-style-type: none"> <li>1. Required</li> <li>2. Often not followed.</li> </ol>
<p>Third <b>Public Comment on any decisions made</b> during closed session or consent agenda. Up to 3 minutes each.</p>	<ol style="list-style-type: none"> <li>1. Not Required</li> <li>2. Unknown</li> </ol>
<p><b>Adjourn (not actually required, but normally done)</b></p>	