



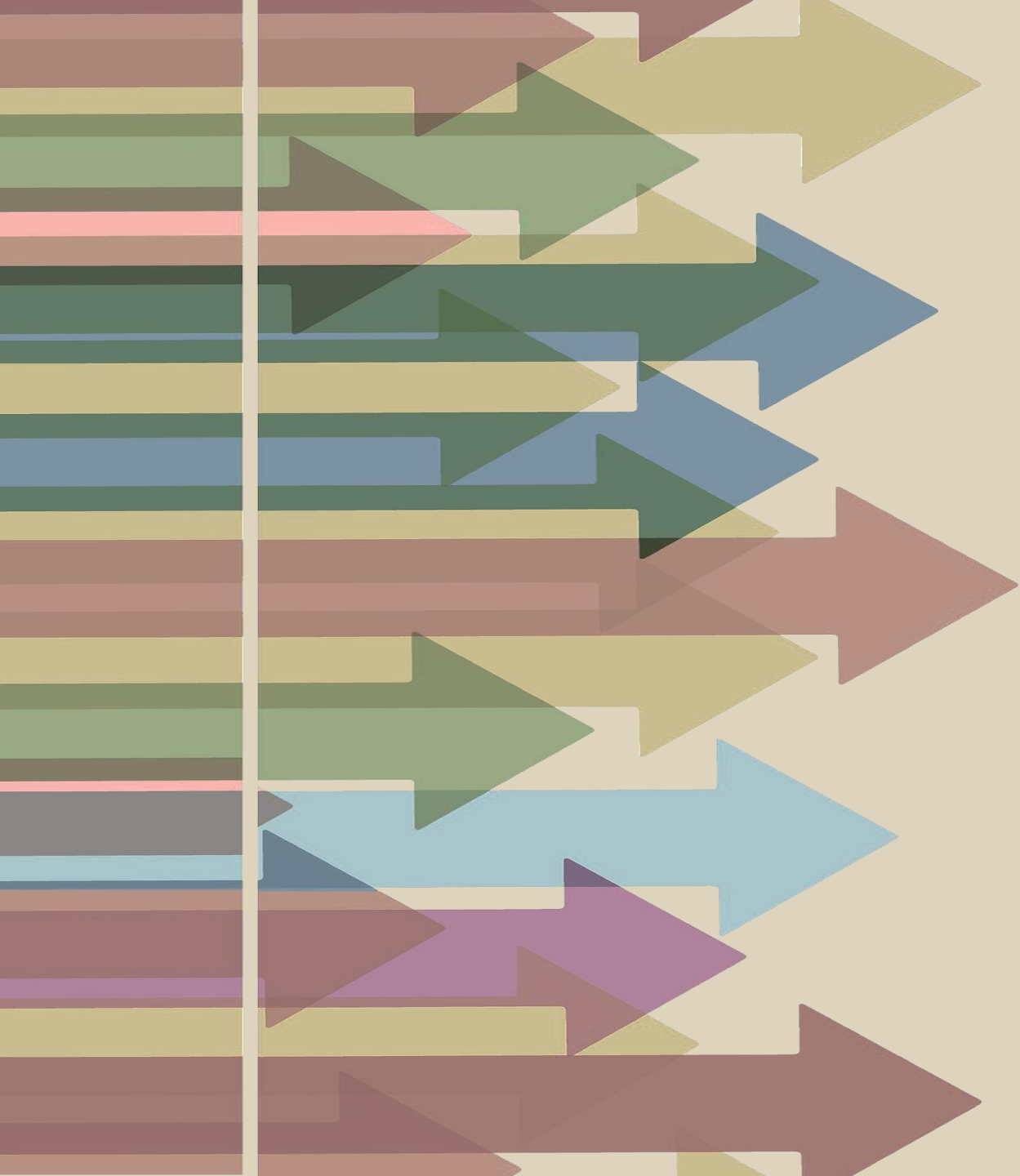
Brown Act Training for Advisory Committee Members & Staff Liaisons

Presented By:

Office of Yolo County Counsel – Phil Pogledich, County Counsel

With Support From:

Yolo County Human Resources – Makayle Leigh, Senior Personnel Analyst



• Preface •

Important Basics

Desired Learning Objective (DLO)

- Workshop Agenda
- Meet Your Trainers
- Housekeeping

Workshop Agenda

3:00 PM – 3:05 PM: Welcome & Introductions

3:05 PM – 3:10 PM: Important Basics

3:10 PM – 3:50 PM: The Brown Act

3:50 PM – 4:00 PM: Questions & Answers

Optional Break Out Session

4:00 PM – 4:30 PM: Staff Liaison Roles & Responsibilities



Meet Your Trainers

PHIL POGLEDICH County Counsel



Joined Yolo County in 2004; appointed County Counsel in 2014

20 years of experience as an attorney in private practice and with Yolo County

Primary Focus Areas:

- Land Use and Environmental Law
- Litigation
- Contracts and Conservation Easements
- Delta Water Policy
- Other aspects of Public Agency Law

MAKAYLE LEIGH Senior Personnel Analyst



Joined Yolo County in February 2013; with Your HR Team since February 2017

Primary Focus Areas:

- Workforce Development Coordination – Learning Management System (Training) and Talent Management System (Performance)
- Intranet Webmaster and Employee Communication
- Professional Development and Employee Engagement – Gallup Certified Strengths Coach and YES Team Member

Housekeeping

- Training Length: 1 – 1.5 Hours
- Take Care of Your Needs as Needed
- Interruptions / Attention
- Parking and Building Basics
- Emergency Contacts and Color Codes
- In the Event of an Evacuation...

YELLOW	Bomb Threat
RED	Fire
BLUE	Medical Emergency
GRAY	Workplace Violence
PINK	Infant / Child Abduction
SILVER	Weapon / Active Shooter
ORANGE	Chemical Exposure / Hazardous Material
BROWN	Internal / External Disaster



• Section 1 •
Brown Act Basics

An overview of maintaining compliance

- History and Intent
- Legislative Bodies
- Meetings
- Notice / Agenda and Public Participation Requirements
- Closed Sessions
- Remedies for Noncompliance

History of the Brown Act

Section 1: Brown Act Basics

- Authored by Ralph M. Brown (1908–1966) a Central Valley assemblyman, the Legislature adopted the Brown Act in 1953 to safeguard the public's right to access and participate in local government meetings.
- “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, except as otherwise provided in this chapter.”
- Legislative bodies covered by the Brown Act should conduct their affairs as if within a “house of glass” (meaning, be entirely transparent)
- The Brown Act is found at California Government Code Sections 54950-54963.

Further reading: Open and Public V, p. 9.



Intent of the Brown Act

Section 1: Brown Act Basics

- To ensure that deliberations and actions of legislative bodies are open and public.
- To ensure meaningful public access to local government decisions.
- Meetings must be open to the public, held on a regular schedule, follow a noticed agenda.
- No secret votes.
- Not just the law, but a good business practice as well!

Further reading: Open and Public V, pp. 6, 8-9.



Legislative Bodies – Who Must Comply?

Section 1: Brown Act Basics

- The Act applies to the meetings of “legislative bodies” of local agencies.
- Governing bodies
- Subsidiary bodies
 - Any board, commission, committee, or other body of a local agency created by charter, ordinance, resolution or formal action of a legislative body is itself a legislative body.
 - **Exception:** Ad hoc advisory committees.

Further reading: Open and Public V, pp 12-14.



Legislative Bodies – Standing Committees

Section 1: Brown Act Basics

- Notice and agenda requirements are the same as the parent body.
- Must be less than a quorum.
- Other members can attend but only as passive, neutral observers. (Note: *This is unusual*)
 - No wincing, frowning, smiling, thumbs up.
 - Must be neutral in expression and body language.
 - No questions or comments.

Further reading: Open and Public V, p. 13.



Legislative Bodies – Ad Hoc Committees

Section 1: Brown Act Basics

Must be:

- Composed solely of less than a quorum of the legislative body (i.e., no public members)
- Created for limited or single purpose
- Limited term—to be dissolved upon completion of task
- Meeting schedule is not fixed by legislative body

Unless **all** of these requirements are satisfied, it is a standing committee and subject to the Brown Act

Further reading: Open and Public V, p. 14.



Meetings – When does the Brown Act apply?

Section 1: Brown Act Basics

Meetings

- Congregation of a majority of the members of a legislative body
 - Same time and place
 - To hear, discuss or deliberate
 - Agency business
- Can include use of technology (email, phone) by a majority of board members to discuss an issue (though teleconference meetings can legally occur if requirements are met)
- Meeting requires quorum to get started and stay in business

Further reading: Open and Public V, p. 18.



Meetings – When does the brown act not apply?

Section 1: Brown Act Basics

- Individual contacts & conversations
- Conferences open to the public (e.g., annual association conferences)
- Open and publicized community meetings (e.g., local service club)
- Other legislative bodies (e.g., members of city council attending meeting of planning commission)
- Social/ceremonial events (e.g. football games, wedding, retirement party, etc.)
- BUT.... DON'T DISCUSS AGENCY BUSINESS UNLESS PART OF AGENDA OR PROGRAM!

Further reading: Open and Public V, pp. 18-21.



Meetings - Serial Meetings

Section 1: Brown Act Basics

- **Hub and Spoke** (i.e., a superintendent briefs board members prior to a formal meeting and reveals information about the members' respective views.)
- **Daisy Chain** (i.e., Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, sharing positions along the way.)
- **Email—Beware of “reply to all”**
- **Collective concurrence on action required? No longer the law!**

Further reading: Open and Public V, pp. 21-25 (Note that the discussion seems to say that even one-on-one conversations without revealing the views of others may be a violation—most public agency attorneys would disagree).



Meetings – OOPS! Was that a meeting?

Section 1: Brown Act Basics

- **Collective Briefings**
 - Quorum cannot meet together with staff in advance of a meeting for a collective briefing (**smaller briefings ok**)
- **Retreats or Workshops**
 - Brown Act will apply, including if discussion concerns long-term agency planning or even “team building”
- **Informal Gatherings**
 - Beware of pre- or post-meeting gatherings

Further reading: Open and Public V, pp. 21 and 24.



Meetings – Types of Meetings

Section 1: Brown Act Basics

- **Regular Meetings:**
 - Agenda posted in publicly accessible location 72 hours before meeting.
- **Special Meetings:**
 - Called by chair or majority of board members.
 - 24 hours before meeting: Post notice. Notify board members in writing. Notice to requesting newspapers.
- **Emergency Meetings:**
 - For health and safety emergencies.
 - Same notice requirements as for special meetings, but only one hour notice required

Further reading: Open and Public V, p. 18.

Meetings – Types of Meetings

Section 1: Brown Act Basics

- **What if I lose a quorum, or simply don't have a quorum show up?**
 - **If you lose a quorum**, the meeting is effectively adjourned. Usually the remaining members will announce the adjournment and conclude the meeting.
 - But, while the “legal” meeting is over, there is no bar to continuing to receive public comments and any presentations by staff or third parties. The remaining legislative body members simply can't take any action in response.
 - The best approach requires case-by-case consideration, balancing inconvenience to staff and the public against the value of having a quorum present to hear all comments and presentations
 - **If you simply don't have a quorum appear**, no “meeting” occurs under the Brown Act. No action can be taken by those present other than receiving public comments and presentations by staff or third parties, as discussed above.

Further reading: Open and Public V, p. 32.

Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Requirements For Meetings

- **Notice:** Required for all meetings
- **Agenda:** Required only for regular meetings (**but in practice, agenda/notice often one in the same**)
- **Open and public:** All persons must be permitted to attend, no secret voting
- **No conditions on attendance:** May not require to sign-in, cannot charge for attendance.

Further reading: Open and Public V, pp. 30-32, 34-37.



Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Requirements For Meetings (*continued*)

- **Accessible**
 - Must provide reasonable accommodations, cannot allow some members of public to attend and others not, can't hold in facility that prohibits attendance on discriminatory bases
- **Video/audio recording**
 - Must allow photos, audio/videotaping of the meeting (unless it is disruptive to the meeting)
- **Voting (New in 2014)**
 - Must report how each individual official votes on any action, and record the vote in the minutes.

Further reading: Open and Public V, pp. 30, 35-36.

Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Requirements For Meetings (*continued*)

What about meeting minutes?

- The Brown Act does not require the keeping of meeting “minutes”.
- However, it does require a report on actions taken in open session and the vote of each member thereon. While the language of the statute seems to make this a requirement that applies at the time the vote occurs, in practice most agencies announce the vote taken and keep at least brief minutes that include:
 - Content of the motion
 - First/second of the motion
 - Vote on the motion

Check your bylaws or other rules of procedure for specific requirements on keeping minutes

Further reading: Open and Public V, pp. 30, 35-36.

Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Agendas

- Must post in a location “freely accessible to members of the public” 24/7.
- Must state time and place of meeting and a “brief general description” of each item of business to be transacted or discussed, including items to be discussed in closed session.
- People should have enough information to decide whether they want to attend.
- Notices must be posted on agency’s website, if it has one

Further reading: Open and Public V, pp. 30-31.



Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Items NOT on the Agenda

- No action can be taken... except when:
 - Majority decides there is an **emergency** situation; **or**
 - 2/3 of the members present (or all members if less than 2/3 are present) vote that immediate action is needed **and** the need came to board's attention after agenda was posted (regular meetings only); **or**
 - When an item appeared on the agenda of, and was continued from, a meeting held not more than 5 days earlier.

Further reading: Open and Public V, pp. 34-35.



Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Items NOT on the Agenda (*continued*)

- During general public comment:
 - Brief response to statements or questions during public comment is permitted
 - May refer to staff for response during meeting
 - May request staff to report back and/or place on a future agenda
- May also briefly announce or report on member's own activities

Further reading: Open and Public V, pp. 34-35.



Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Rights of the Public

- May address Board:
 - Matters on the agenda—before or during consideration of the item
 - Other matters within jurisdiction—regular meetings only unless Board allows otherwise
 - Brief response and/or referral to staff, but NO ACTION!
- Cannot prohibit public criticism of agency and governing body, but personal attacks need not be permitted
- **Reasonable time limitations and other regulations are permitted (be consistent)**

Further reading: Open and Public V, pp. 34-35.



Notice/Agenda and Public Participation Requirements

Section 1: Brown Act Basics

Records & Public Access

- General rule: agendas, minutes (if any) and handouts distributed at board meetings are public records.
- Documents pertaining to an agenda item must be made available to the public (**website posting only is ok**). This includes staff handouts distributed to board members less than 72 hours prior to the meeting.
- **Handouts provided by staff during a meeting must be made available to public at same time; handouts from public must be made available after meeting.**

Further reading: Open and Public V, pp. 36-37.



Closed Sessions

Section 1: Brown Act Basics

- If situation meets one of the specific exceptions to the open meeting rules, may hold in closed session
- Not enough that it is sensitive, embarrassing or controversial
- Meeting is either open or closed. Cannot invite selected members of public
- **Generally used to avoid revealing confidential information that would prejudice legal or negotiating position of the body or compromise privacy interest of employee**

Further reading: Open and Public V, p. 42.



Closed Sessions – Agendas and Reports

Section 1: Brown Act Basics

- Legal authority for closed session must be on the posted agenda with a brief description
- Brown Act supplies a series of **fill-in-the-blank templates** for agenda description that provide a safe harbor from legal attacks
- Must **report out** on certain actions taken and the vote of each member present. Required content specified in Government Code section 54957.1
- May keep a confidential minute book to record actions taken in closed session (*Note: This is unusual*)
 - Minutes are open to a court if lawsuit claims an open meeting violation and
 - Board members may inspect.

Further reading: *Open and Public V*, p. 43.



Closed Sessions – Personnel

Section 1: Brown Act Basics

- **Limited Topics:** Appointment, employment, evaluation of performance, discipline or dismissal of a public employee or to hear complaints or charges brought against the employee
- Restricted to discussing particular employees, **not** general personnel policies or employee compensation (consider **labor negotiation** closed session instead)
- For disciplinary issues considered by governing body (rather than settled at staff level), must give employee 24 hours notice – they have a right to a public meeting. Failure to notice makes any action void.

Further reading: Open and Public V, pp. 46-47.



Closed Sessions – Labor Negotiation

Section 1: Brown Act Basics

- To instruct bargaining representatives on employee salaries and benefits
- May occur before, during, or after negotiation sessions
- Prior to closed session, must identify designated representatives and employee(s) or employee groups

Further reading: Open and Public V, pp. 47-48.



Closed Sessions – Pending Litigation

Section 1: Brown Act Basics

- “Litigation” includes lawsuits, arbitration, administrative proceedings
- Existing litigation
 - May discuss existing litigation with counsel, approval to settle, etc.
- Threatened litigation
 - Legal counsel can inform body of exposure to litigation
- Potential litigation initiated by the agency
 - May seek legal advice about whether to initiate litigation

Further reading: Open and Public V, pp. 43-35.



Closed Sessions – Real Estate Negotiations

Section 1: Brown Act Basics

- Discuss purchase, sale, exchange or lease of specific real property by or for the agency
- Must identify negotiator and the real property involved
- Must focus on price and other terms of purchase (or lease)

Further reading: Open and Public V, pp. 45.



Closed Sessions – Reporting Out

Section 1: Brown Act Basics

- Not all decisions must be reported – some examples of items that must be reported:
 - Real estate agreement
 - Approval of lawsuit initiation or intervention
 - Settlement of litigation (if action makes it final)
 - Agreement with labor union
 - Actions affecting employee's status
- Some reports not required until issue is finalized (i.e., administrative remedies are exhausted.)

*Further reading: Open and Public V, p. 43.
(see individual topics on pp. 43-49 for specific reporting requirements).*



Remedies For Noncompliance – Enforcement, Penalties & Remedies

Section 1: Brown Act Basics

Civil Action

- District Attorney or any interested person may ask court to:
 - Stop violations
 - Determine applicability of Brown Act to certain actions
 - Compel Board to tape record closed session

Further reading: Open and Public V, pp. 56-57.

Invalidation

- Any person may seek to invalidate an action that violates the Brown Act
- Board first has a chance to cure—best opportunity to address an issue!

Remedies For Noncompliance – Enforcement, Penalties & Remedies

Section 1: Brown Act Basics

Costs and Attorneys' Fees

- Someone who successfully invalidates an action or enforces one of the Act's civil remedies may seek court costs and attorneys' fees
- Award is only against the local agency, not individual members

Further reading: Open and Public V, pp. 58-59.

Criminal Complaints

- Within District Attorney's discretion to file
- A violation done with improper intent is a misdemeanor
- Requirements:
 - Overt act. Board must have taken action. Not just deliberation or a vote, but a collective decision.
 - Intent. Must have intended to deprive public of information to which the Board knew or should have known public is entitled.

Resources

Section 1: Brown Act Basics

Best:

“Open and Public V” —League of California Cities
(<http://www.cacities.org/Resources-Documents/Resources-Section/Open-Government/Open-Public-2016.aspx>)

Good but Dated:

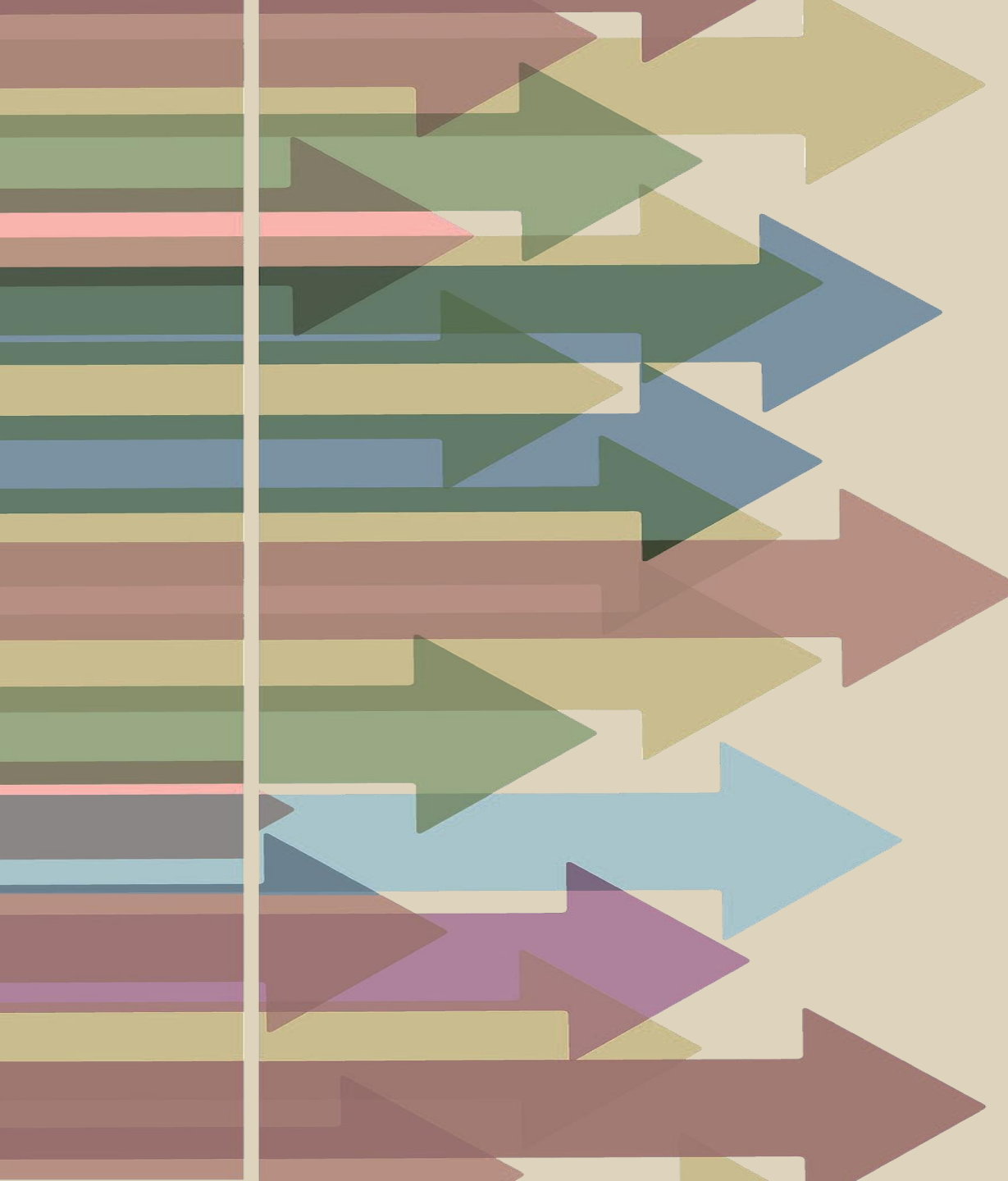
“The Brown Act—Open Meetings for Local Legislative Bodies)—California Attorney General, 2003
http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf

The Brown Act, California Government Code § 54950-54963

Office of the County Counsel

(530) 666-8172 or philip.pogledich@yolocounty.org





• Section 2 •

Staff Liaison Roles & Responsibilities

**An overview of maintaining compliance
during advisory board support.**

- Roles and Responsibilities
- Webpages and Online Calendars
- Helpful Resources

Roles and Responsibilities

Section 2: Staff Liaison Roles & Responsibilities

Clerk of the Board

- Advisory Body Appointments, Term, Vacancy Management
- Communication Link to Board of Supervisors
- Agenda Quick Term Tracker, Rosters
- Ensuring Follow-up after Board of Supervisors Decisions / Recommendation (Minute Orders)
- Advisory Body Webpage Maintenance

For information and support, contact the
Clerk of the Board's Office

(530) 666-8195 or clerkoftheboard@yolocounty.org
julie.dachtler@yolocounty.org • lupita.ramirez@yolocounty.org

Assigned Staff Liaison

- Meeting Notifications and General Recordkeeping
- Communication Link to COB, CAO, Departments
- Guidance, Issue Analysis, Recommendations
- Support in Research, Report Preparation, Correspondence
- Ensuring Follow-up after Advisory Body Decisions / Recommendation
- Assisting the advisory body in staying on track, focused and within its role.
- Maintaining a positive working relationship with the Chair and committee members.

Webpages and Online Calendars

Section 2: Staff Liaison Roles & Responsibilities

- Webpages
- Online Calendars
- eNotifications

The screenshot shows the Yolo County website homepage. At the top, there is a navigation menu with links for "About Us", "Board Meetings", "Departments", "Contact Us", and "Translate". The main header features the "YOLO COUNTY" logo, a weather widget showing "60° Mostly Cloudy", and a search bar. Below the header is a secondary navigation menu with categories: "Residents", "Business", "Visitors", "Health & Human Services", "Community Services", "Law & Justice", and "General Government".

The main content area is divided into two columns. The left column features a large banner image of a sunflower field. The right column, titled "In the Spotlight", contains several links: "Unhealthy Air Quality Guidance", "Emergency alerts sign-up: www.Yolo-Alert.org", "2018 Holiday Closures", "Yolo Supports Keep Families Together Act", "Donation/Volunteer Info for Camp Fire", and "County Fire Recovery Information".

Below the main content is a horizontal menu with icons and labels for "Parks", "Report An Issue", "Landfill", "Jobs", "GIS", and "I Want To...".

The bottom section of the page is divided into three columns: "PRESS RELEASES", "EVENTS", and "MEETINGS".

DATE	EVENT
NOV 28	Esparto - Senior Adult Art Class with Julie November 28, 2018, 10:00 AM
NOV 28	Davis - Hug-A-Bye Baby November 28, 2018, 10:15 AM
NOV 28	West Sacramento - Preschool Story Time November 28, 2018, 11:00 AM

DATE	MEETING
DEC 04	Board Governance Session December 04, 2018, 9:00 AM
DEC 04	North Davis Meadows CSA Advisory Committee Meeting - Cancelled December 04, 2018, 7:00 PM
DEC 05	Wild Wings CSA Golf Sub-Advisory Committee December 05, 2018, 5:30 PM

At the bottom of the page, there are three buttons: "EMERGENCY HEALTH ALERT" with a red arrow, "EMAIL SUBSCRIPTION SIGNUP", and "SOCIAL MEDIA SITES" with icons for Facebook, Twitter, and LinkedIn.



Helpful Resources

Section 2: Staff Liaison Roles & Responsibilities

Resources for Local Governing and Advisory Body Members

www.yolocounty.org/resources-for-local-governing-and-advisory-body-members

- **Yolo County's Mission, Values and Strategic Plan**
- **Brown Act Presentation - 2018**
- **Open & Public V: A Guide to the Ralph M. Brown Act**
- **Rosenberg's Rules of Order / Simple Rules of Parliamentary Procedure**
- **Advisory Body Membership**
- **Advisory Body Handbook**
- **Ordinance Establishing Procedures for Advisory Boards, Commissions and Committees**
- **Establishing Authorities / Bylaws**



Thank you.