



City of South Lake Tahoe

Joint City Council & Planning Commission

Meeting Agenda

Tuesday, March 25, 2025 at 3:00 pm

City Hall - Council Chambers - 1901 Lisa Maloff Way, South Lake Tahoe

City Council

City Council:

Tamara Wallace, Mayor

Cody Bass, Mayor Pro Tem

Scott Robbins, Councilmember

David Jenkins, Councilmember

Keith Roberts, Councilmember

Mission of the City Council

The City was established to provide essential, outstanding and cost-effective services that enhance environmental sustainability, economic vitality and the quality of life for our residents, businesses and guests.

Planning Commission:

Natalia Wiecezorek, Chair

Gavin Feiger, Vice Chair

Julia Lucksinger, Commissioner

Steven Imhoff, Commissioner

Douglas Williams, Commissioner

Public Participation

City Council and Planning Commission meetings are held in person at the time and location listed on this agenda. Meetings are live-streamed on Channel 21, City website at www.cityofslt.us, YouTube at <https://www.youtube.com/channel/UC3LYne8lh-kTPLnnuyJW9SQ/live> and via ZOOM at this link

<https://us02web.zoom.us/j/89643507442>

A public agenda packet is available for review at City Hall, 1901 Lisa Maloff Way, on the City's Website at www.cityofslt.us, or by contacting the City Clerk's Office, (530) 542-6005 or sblankenship@cityofslt.us
Providing Public Comment:

In Person: Every agenda for regular meetings provides an opportunity for members of the public to directly address the legislative body (City Council) and Planning Commission), on any item of public interest which is within the jurisdiction of the City Council during Public Communications. For items on the agenda or in connection with any item which the legislative body will consider, the public is given the opportunity to comment before or during the City Council and Commissions' consideration of the item [Government Code Section 54954.3(a)].

Remote Participation: If you are joining the meeting via ZOOM and would like to make a comment, press the "raise a hand" button. If you are joining the meeting via Channel 21 or live stream and would like to make a comment, please call (530) 542-6500. The meeting ID is: 896 4350 7442. Press *9 to indicate a desire to make a comment. Press *6 to unmute your phone. The Clerk will call you by the last three digits

of your phone number when it is your turn to speak. ***Note: The Mayor reserves the right to conduct the meeting with in-person public participation only, if there is a technology malfunction that precludes the use of remote public participation.***

In Writing: Written comments received by 3 p.m. the day before the meeting will be distributed to the City Council and Planning Commission prior to the meeting. Written public comment regarding any item on this agenda may be sent to PublicComment@cityofslt.us. When emailing comments, identify the agenda item number in the subject line to which your comments relate. Any such comment that is a public record and is emailed to PublicComment@cityofslt.us or otherwise provided to a majority of the City Council before the meeting will be made available for public inspection during normal business hours at the City Clerk's Office located at City Hall, 1901 Lisa Maloff Way, South Lake Tahoe [Government Code Section 54957.5(b)]. Written comments will not be read out loud during the meeting.

The City Council Chambers meeting facility is accessible to people with disabilities. Every reasonable effort will be made to accommodate any person needing special assistance to attend this meeting. Contact the City Clerk at (530) 542-6005 at least 48 hours in advance of the meeting for assistance [28 CFR 35.102.35.104 ADA Title II and Brown Act Government Code Sections 54953.2, 54954.1, 54954.2, and 54957.5].

Spanish Interpretations: The public may access Spanish interpretation using the ZOOM link listed on the front of the agenda from an internet device (smartphone, laptop, tablet, home computer) with audio capabilities and selecting the Spanish language option. Persons without an internet device may attend the meeting in-person and a device will be provided while supplies last. Requests for interpreter services to offer public comment may be made by contacting the City Clerk.

Land Acknowledgement

Land Acknowledgement - The City of South Lake Tahoe acknowledges the lands we occupy today are the lands and home of the Wašičiw, the people from here known today as the Washoe Tribe of Nevada and California, a sovereign nation. Since the beginning of time and for thousands of years before the arrival of any other people, the Washoe lived here and cared for this place, with values and intention that we can all learn from. On behalf of the City Council, I would like to acknowledge, thank, and honor the Indigenous Washoe Tribal Communities that are the past, present, and future stewards of the Lake Tahoe Basin.

Call to Order/Pledge of Allegiance

Roll Call

Public Communications

This is the public's opportunity to speak on any topic NOT LISTED on this agenda. Comments shall be limited to four (4) minutes. In accordance with the Brown Act, the City Council cannot deliberate or vote on any matter raised under public communications, but may briefly respond to statements made or questions posed. (Government Code Sections 54954.2)

Regular-New Business

1. AB 1234 Ethics Training
Requested Action / Suggested Motions: Receive two hours of training in general ethics principles and ethics laws relevant to public service
Responsible Staff Member(s): Heather Stroud, City Attorney, and Dan Bardzell, Assistant City Attorney
[South Lake Tahoe Ethics Training_March 2025.pdf](#)

Adjournment

I, Susan Blankenship, City Clerk for the City of South Lake Tahoe, declare that the foregoing agenda for

the Tuesday March 25, 2025, Joint City Council and Planning Commission Meeting was posted and available for review on Thursday, March 20, 2025, at City Hall, 1901 Lisa Maloff Way, South Lake Tahoe, CA 96150. The agenda was also available on the City's website at <https://www.cityofslt.us>.
Signed March 20, 2025

\\sb\\ Susan Blankenship, Elected City Clerk

AB 1234 Ethics Training

City of South Lake Tahoe

City Council and Planning Commission

PRESENTED BY

Heather Stroud, City Attorney

Dan Bardzell, Assistant City Attorney



Ethics

- **General Principles**
 - What one ought to do
 - Trustworthiness
 - Responsibility
 - Respect
 - Loyalty
 - Compassion
 - Fairness



Agenda

Section 1: Personal Financial Gain by Public Servants

Section 2: Laws Relating to Claiming Perks of Office

Section 3: Government Transparency Laws

Section 4: Laws Relating to Fair Processes



Goals

Familiarize you with laws that govern your service and when to ask questions

Encourage you to think beyond legal restrictions

Satisfy your AB 1234 requirement



Section 1: Personal Financial Gain by Public Servants

Bribery

Conflicts of Interest under the Political Reform Act

Contractual Conflicts of Interest (Gov. Code § 1090)

Conflicts of Interest and Campaign Contributions

Conflicts of Interest When Leaving Office



Bribery

Basic Rules

- Elements of the crime
 - A government official (elected, appointed, employed) requests, takes, or agrees to take bribe and
 - Represents that the bribe would unlawfully influence vote, decision, or opinion (express or implied)
- Must have corrupt intent that official duty would be unlawfully influenced
- Bribe is “anything of value or advantage, present or prospective”



In the News...

How a Real Estate Boom Drove Political Corruption in Los Angeles

Prosecutors say that corruption is rising in California cities as one-party rule, inattentive voters and weakened news media have reduced the traditional checks on power.

Listen to this article · 10:47 min [Learn more](#)

By **Ralph Vartabedian**
Reporting from Los Angeles

Published Aug. 29, 2024 Updated Aug. 30, 2024

Jose Huizar's downfall at Los Angeles City Hall success, a political tragedy that, like many in the familiar one.

BAY AREA // EAST BAY

Ex-Oakland Mayor Sheng Thao charged with bribery as 3 others are indicted in corruption probe

By **Megan Cassidy, Sarah Ravani**
Updated Jan 17, 2025 2:09 p.m.



Westminster City Councilwoman Charged With Attempting to Bribe Parking Officer



By **NOAH BIESIADA**
Jan 23, 2025

[Why you can trust Voice of OC](#)



Westminster City Hall on Wednesday April 12, 2023. Credit: VOICE OF OC

Westminster City Councilwoman Amy Phan West is being charged with a misdemeanor for attempting to bribe parking enforcement officers to stop her husband's car from getting towed, according to a news release from the county's top prosecutor on Thursday morning.



Conflicts of Interest under the PRA

- Basic Rule
 - Public officials have a disqualifying conflict of interest under the Political Reform Act of 1974 when the decision has a:
 - Reasonably foreseeable and
 - Material financial effect on economic interest
 - Different from the public generally
 - Official making / participating in making / influencing governmental decision



Purpose of Conflict Rules

- Public officials owe paramount loyalty to the public.
- Personal or private financial interests should not be allowed to enter into the decision-making process.



Recognizing and Seeking Advice

- The conflict rules are complex.
- Recognizing your own potential conflicts is essential.
- Talk early with City Attorney's Office.
- Consider seeking advice from FPPC when economic interests may be affected by a decision.



Pending FPFC Requests



Office of the City Attorney
Heather L. Stroud

January 27, 2025

Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811
advice@fpfc.ca.gov

RE: Request for Formal Advice Letter Regarding Chateau Site Development on Behalf of Councilmember Keith Roberts

To Whom It May Concern:

This request for a formal advice letter is submitted on behalf of newly elected Councilmember Keith Roberts, who is employed as the Chief Operating Officer of Tahoe Investment Capital and Stewardship (TICS), a Nevada stock corporation. TICS contracts with local businesses to provide management services, all of which are in the vicinity of an approximately 8-acre privately-owned site on which the City is trying to spur development, commonly called the Chateau site.

We seek advice as to whether Councilmember Roberts has a disqualifying conflict of interest on future decisions regarding the Chateau site.

Questions:

- 1) Would Councilmember Roberts be prohibited from participating in governmental decisions regarding the Chateau site because of his management position in TICS?
- 2) Would Councilmember Roberts be prohibited from participating in governmental decisions regarding the Chateau site because the businesses that are clients of TICS are sources of income to him?

Background:

The Chateau Site and Project History

The Chateau site consists of approximately 8 acres of privately-owned land located across U.S. 50 from Heavenly Village, near the intersection of Strateline Avenue and Cedar Avenue, in the area of South Lake Tahoe called the Tourist Core. The Chateau site was slated to be redeveloped as part of a project called South Lake Tahoe Redevelopment Project 3, which was originally approved by the City Council in 1998 as a mixed-use development consisting of two condominium-hotel structures, a publicly owned entertainment venue, retail stores, a below-grade parking structure, and public amenities including a park, underpass below Lake Tahoe Boulevard/U.S. 50 to connect to Heavenly Village, and stormwater

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Office of the City Attorney
Heather L. Stroud

July 17, 2024

Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811
advice@fpfc.ca.gov

RE: Request for Formal Advice Letter on Behalf of Councilmember Cristi Cregan Regarding Her New Position as Chief Executive Officer of the Lake Tahoe South Shore Chamber of Commerce

To Whom It May Concern:

This request for a formal advice letter is submitted on behalf of Councilmember Cristi Cregan, who was recently hired as the Chief Executive Officer (CEO) for the Lake Tahoe South Shore Chamber of Commerce (Tahoe Chamber). We seek advice as to whether Councilmember Cregan has potential conflicts of interest on matters regarding the Tahoe Chamber or its members.

Questions:

- 1) Would Councilmember Cregan be prohibited from participating in governmental decisions regarding the Tahoe Chamber?
- 2) Would Councilmember Cregan be prohibited from participating in governmental decisions regarding a business that is a member of the Tahoe Chamber?
- 3) Does Government Code section 1090 prohibit the City of South Lake Tahoe from entering future contracts, including its annual membership contract, with the Tahoe Chamber?
- 4) Once Councilmember Cregan's term ends in December 2024, what is the extent of Government Code section 87406.3's prohibition on communication with City officials and staff for one year regarding implementation of projects and initiatives that have previously been approved administratively or legislatively?

Background:

Councilmember Cregan was elected to City Council in November 2020. Her term is up in December 2024, and she does not intend to run for reelection. On June 10, 2024, Ms. Cregan started a new position in her private capacity as the CEO of the Tahoe Chamber. The Tahoe Chamber is a nonprofit organization formed under Section 501(c)(6) of the Internal Revenue Code. The Tahoe Chamber seeks to

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Conflicts of Interest under the PRA

- Four-Step Test
 - Step 1: Is the financial effect on economic interest “reasonably foreseeable?”
 - Step 2: Is it “material?”
 - Step 3: Is the effect on the official the same as on the “public generally?”
 - Step 4: When is the official “making, participating in the making, or using his or her position to influence” the governmental decision from which the financial effects result?



Conflicts of Interest under the PRA

- Key Steps
 - Economic Interests
 - Business Investments - \$2,000 or more
 - Business Position – Director, Official, Partner, Employee
 - Real Property - \$2,000 or more
 - Sources of Income - \$500 or more within 12 months
 - Exception: government salary
 - Sources of Gifts - **\$630** or more within 12 months



Conflicts of Interest under the PRA

- Key Steps
 - Materiality Standards
 - Different standards for different types of economic interests
 - For businesses, unless directly involved, look to whether decision would impact stock price or business value
 - Public Generally
 - Generally any decision that affects 25% of city properties or businesses.
 - 15% for residential property



Conflicts of Interest under the PRA

- Recusal
 - Public official with a disqualifying interest must:
 - Publicly identify interest in sufficient detail
 - Recuse self from discussions or acting on matter
 - Leave room, unless matter on consent agenda
 - Exception: May speak during public comment if the interest is one's personal interest
 - This exception only applies during public meeting



Enforcement

- Criminal prosecution
- Jail time
- Loss of public office
- FPPC fines



1	JAMES M. LINDSAY Chief of Enforcement
2	JENNA C. RINEHART Commission Counsel
3	FAIR POLITICAL PRACTICES COMMISSION
4	1102 Q Street, Suite 3050
5	Sacramento, CA 95811
6	Telephone: (279) 237-9510
7	Email: JRinehart@fppc.ca.gov
8	Attorneys for Complainant
9	Enforcement Division of the Fair Political Practices Commission
10	BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
11	STATE OF CALIFORNIA
12	In the Matter of
13	SHAWN FARMER,
14	Respondent.
15	FPPC Case No. 20/730
16	STIPULATION, DECISION AND ORDER
17	Date Submitted to Commission: March 2024
18	INTRODUCTION
19	Respondent Shawn Farmer ("Farmer") has served as a member of the Galt City Council since
20	assuming office on December 5, 2018.
21	This case arose from an anonymous complaint.
22	The Political Reform Act (the "Act") ¹ prohibits public officials from making, participating in
23	making, or attempting to influence governmental decisions in which the official knows or has reason to
24	know they have a financial interest. Farmer violated the Act by making a governmental decision
25	involving real property located within 500 feet of Farmer's real property financial interest.
26	///
27	///
28	¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18104 through 18098 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.
	1
	STIPULATION, DECISION AND ORDER
	FPPC Case No. 20/730

Conflicts of Interest in Contracts

- Basic Rule (Gov Code § 1090)
 - Prohibits public officials and employees from having financial interests in contracts made by them in their official capacities
- Applies Broadly
 - Applies to renewals, extensions, oral contracts
 - Financial interests in contracts is broadly construed



Conflicts of Interest in Contracts

- City Council deemed to make all city contracts
 - City Council members are deemed to have participated in making all contracts of the city except where an exception applies
 - Contract prohibited whether member participates or abstains in decision to award contract
 - Employees can avoid prohibition by not participating in the making of the contract



Conflicts of Interest in Contracts

- Remote Interest Exceptions
 - Public official does not have an interest in contract if the interest is “remote” and if fact of the remote interest is disclosed to the legislative body and noted in official records
 - Examples:
 - Employee or officer of non-profit
 - Landlord or tenant of contracting party
 - Salary or per diem from a directly involved government department



Conflicts of Interest in Contracts

- Non-interest Exceptions
 - Public official is deemed not interested and may participate in making of the contract
 - Examples:

Ownership of less than 3% of stock

Salary or per diem from a non-directly involved government department

Spouse of officer/employee of public agency, if the officeholding or employment has existed at least one year prior to the spouse's election/appointment

Non-salaried member of nonprofit, with disclosure and noting in records



Conflicts of Interest in Contracts

Consequences of Violations

- Contract is void and unenforceable
 - Payments made to the contracting party must be returned to the public agency
 - Public agency may keep benefit of the contract
- Willful violations are criminal
 - Permanently disqualified from holding office
- FPPC has jurisdiction and can issue fines
 - Offering 1090 advice



1090 Enforcement

- County IT employee
- Owned Pixabytes
- 6 contracts with County (\$40,000 total)
- \$15,000 fine



1	JAMES M. LINDSAY Chief of Enforcement	
2	BRIDGETTE CASTILLO Senior Commission Counsel	
3	FAIR POLITICAL PRACTICES COMMISSION	
4	1102 Q Street, Suite 3050 Sacramento, CA 95811	
5	Telephone: (279) 237-3764 Attorneys for Complainant	
6		
7		
8	BEFORE THE FAIR POLITICAL PRACTICES COMMISSION	
9	STATE OF CALIFORNIA	
10		
11	In the Matter of	FPPC Case No. 2019-00419
12	ARMANDO JARAMILLO,	STIPULATION, DECISION AND ORDER
13	Respondent.	Date Submitted to Commission: November 2024
14		
15	INTRODUCTION	
16	Respondent Armando Jaramillo ("Jaramillo") is a former Systems Integration Analyst for the	
17	Imperial County Office of Education ("ICOE"). Jaramillo worked in this capacity for approximately	
18	eight years, until November 2018. In addition, Jaramillo owns Pixabytes Solutions, Inc ("Pixabytes"), an	
19	audio visual and projector installation business. At the same time Jaramillo worked for ICOE, Jaramillo	
20	contacted their supervisor and submitted quotes for Pixabytes to enter into contracts with ICOE at least	
21	six times, resulting in at least six contracts. As a result, Jaramillo participated in the planning,	
22	discussions, reasoning, preparation of, and specifications of six contracts with ICOE in which Jaramillo	
23	had a financial interest, in violation of Government Code Section 1090.	
24	The Imperial County District Attorney provided authorization to the FPPC, in writing, to bring this	
25	administrative action. In regard to this determination, this decision applies only to proceedings brought	
26	by the Commission and this decision is not admissible in any proceeding other than a proceeding brought	
27		
28		
	1 STIPULATION, DECISION AND ORDER FPPC Case No. 2019-00419	

Conflicts of Interest and Campaign Contributions

- Basic Rule
 - Public officials are disqualified from making a decision involving a license, permit, or entitlement for use if official has accepted a campaign contribution exceeding **\$500** in preceding 12 months
 - Official may not accept a campaign contribution exceeding **\$500** while an application is pending, and for twelve months after the decision is made



Conflicts of Interest When Leaving Office

- Lobbying Former Agency
 - One year ban on lobbying former agency
 - Applies to elected officials, city managers, county executives, and general managers
 - Applies only if compensated and representing another person
- Decisions Involving Prospective Employers
 - Public officials and employees are prohibited from being involved in governmental decisions directly relating to a prospective employer



QUIZ

- **Question No. 1**

- City Council will be considering a franchise agreement with a new waste hauler that includes construction of a recycling facility. Which situation requires recusal?
 - a) The waste hauling company gave you a \$300 contribution to your recent city council campaign.
 - b) You rent a house 200 feet away from the proposed recycling facility.
 - c) Your spouse is the in-house accountant for the waste hauling company.
 - d) The CEO of the waste hauling company gave you a wedding gift worth \$700.
 - e) All of the above.



QUIZ

- **Question No. 2**

- You have a home occupation making jewelry. A neighbor reported you to code enforcement for customer visits. You tell the officer you are a Planning Commissioner, and recently voted to allow customer trips.
- What are the issues?



Section 2: Laws Relating to Claiming Perquisites of Office

Personal Financial

Limitations on the Receipt of Gifts

Honoraria Ban

Misuse of Public Funds

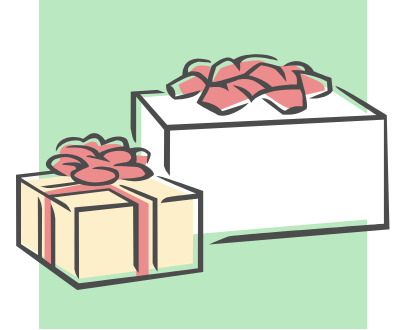
Prohibitions against gifts of public funds

Mass mailing restrictions

Prohibitions against acceptance of free or discounted transportation by transportation companies



Gifts



- Basic Rules
 - Gift Limit Prohibition
 - Public officials and employees may not accept gifts from a single source during a calendar year in excess of \$630
 - Gifts in excess of limit from a single source during a calendar year are disqualifying
 - Gifts in excess of \$50 from a single source must be reported



Gifts

- What is a Gift?
 - Anything of value that provides a personal benefit for which the donor does not receive equivalent consideration
 - Includes rebates or discounts unless given in the regular course of business to members of the public



Gifts

- What is a Gift?
 - A gift is received when
 - The public official has actual possession of the gift or
 - When the official takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person
 - Give it back or donate it to charity



Gifts

Numerous Exceptions to Gift Rule

Gifts returned	Disaster relief provisions	Reciprocal exchanges in a social relations
Gifts donated to charity (without claiming a deduction)	Travel and subsistence as part of campaign activities	Personalized plaques or trophies valued at less than \$250
Gifts from family members	Entrance to an event while performing a ceremonial role (includes one guest)	Bona fide date or dating relationship
Informational material	Prizes received in a bona fide competition	Acts of human compassion
Inheritance	Benefits received as a guest while attending a wedding	Gifts from long-term, close personal friends
Home hospitality (w/some important limitations)	Bereavement offerings	
Leave credits	Acts of neighborliness	



Gifts

- Limitations on Receipt of Gifts
 - Special Exceptions for Travel Payments
 - Some payments are not subject to limits and not reportable
 - Payments by government agency or non-profit
 - Others are not subject to limits but are reportable
 - Travel rules are very specific; check with City Attorney if your travel will be paid for by a third party



Honoraria Ban

- Basic Rule
 - Elected officials, city managers, city attorneys, and city treasurers may not accept any payment for:
 - Giving a speech
 - Publishing an article or
 - Attending a public or private conference, convention, meeting, social event, meal or similar gathering



Honoraria Ban

- Exceptions
 - Bona fide business (teaching, practicing law, banking, medicine)
 - Returned honorarium
 - Donated to agency general fund
 - Made directly to a bona fide non-profit



Misuse of Public Funds

- Basic Rule
 - Public officials and employees may not use public resources for private gain (whether financial or political)
 - Government cannot expend resources to promote a partisan position in an election campaign, but it can educate about ballot measures
 - State law permits minimal/incidental use of agency resources



Gifts of Public Funds

- Constitutional Prohibition
 - Public agencies may not make gifts of public funds
 - An expenditure is not a gift if it serves a public purpose, even if it benefits a private party
 - Legislative body's determination of a public purpose is given great deference



Mass Mailing Prohibition

- Basic Rule: May not be sent at public expense
 - A “mass mailing” is:
 - A tangible item sent or delivered to 200 or more people within a calendar month that “features” an elected officer by:
 - Including the photograph or signature, or
 - Singling out the officer by the manner of display of name or office in the layout, such as by headlines, captions, type size, typeface, or type color
 - For which the costs of design, production and printing exceed \$50 and are paid with public moneys



Acceptance of Free or Discounted Travel

- From Travel Companies
 - Public officers (not all employees) may not accept free passes or discounts from a transportation company
 - One who accepts forfeits his/her office
 - Prohibition does not apply to discounts offered to the general public



QUIZ

- **Question No. 3**

During a “Coffee with the Mayor” event, the Mayor mentions that she has a family reunion coming up in Hawaii and might miss it due to the steep cost of airfare to Hawaii this time of year. The owner of an airline was in attendance at the event and offered the Mayor a travel voucher to fly on his airline to Hawaii with a monetary value of \$600.

- Can the Mayor accept the ticket?



QUIZ

- **Question No. 4**

A councilmember has been asked to give a keynote address at the annual convention of a national business group on the topic of how to navigate local regulatory systems. The business group is offering a \$500 honoraria to the councilmember in consideration for giving the address. The councilmember would like to accept the \$500 and deliver it to the City for donation to the City's general fund.

- Is this proper?



Section 3: Government Transparency Laws

Economic interest disclosure under the Political Reform Act

Brown Act

Public Records Act



Government Transparency Laws

Public Policy Considerations

- Right to access
- Brown Act has broad applicability
 - It covers all local agencies and broadly defines “public meetings” and “legislative bodies”
 - Broad public notice/participation requirements



Economic Interest Disclosure

- Under the Political Reform Act
 - A Form 700 must be filed by certain public officials including those listed in an agency's Conflict of Interest Code
 - Filed upon taking office, leaving office, and on an annual basis
 - Requires disclosure of personal financial interests
 - Public document



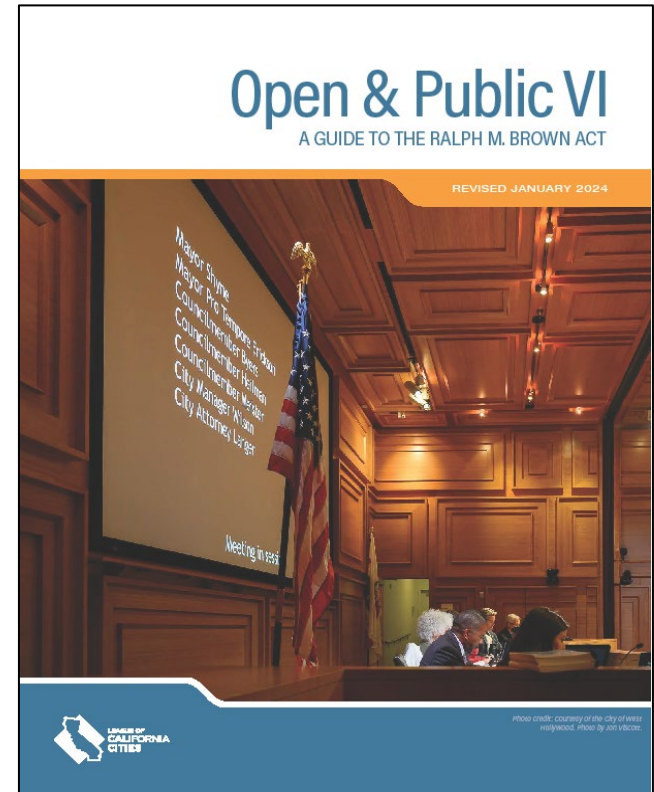
Behested Payments

- Payments to charity/government over \$5000 from same source in calendar year
- Must be reported to FPPC within 30 days
- Triggered when official is coordinating or requesting donations
- New Reg. 18424: additional disclosures required where official has role at nonprofit and nonprofit has item before body



Ralph M. Brown Act

- Gov Code § 54950 *et seq.*



Brown Act

- Open Meeting Requirements
 - Elements:
 - (1) Meetings of
 - (2) legislative bodies shall be
 - (3) open and public



Enforcement of Violations

- Criminal prosecution
- Civil lawsuit with attorney fees
- Action taken invalidated
- Erosion of public trust



Meetings

- A congregation of a **majority** of members at the same time and place to hear, discuss, or deliberate on an **item of business within the agency's subject matter jurisdiction**
- Exceptions:

Conferences	Individual contacts
Community meetings	Standing committees
Social or ceremonial occasions	Meetings of other legislative bodies



Serial Meetings

Majority may not
use a series of
communications
to discuss,
deliberate or
take action on
any item of
business

- Examples:
 - Daisy Chain
 - Hub and spoke
- Does not prevent employees and officials from engaging in separate conversations outside of a meeting provided that the comments or positions of other members are not communicated



Special Recommendations for E-Mail

- Avoid sending e-mails to the whole body
- Be careful replying to e-mails
 - Do not communicate your position or make a commitment on a pending matter
 - Do not direct a reply to a majority
- Think before sending any e-mail



Special Rules for Social Media

- OK: Use your social media platforms to answer questions, provide info, and solicit info from members of public
- NOT OK:
 - Discuss public business with other members of legislative body
 - Comment/like/emoji on another member's post



Legislative bodies

- What is a legislative body?
 - Governing body
 - Appointed body
 - Standing committee
- What is not a legislative body?
 - Temporary (ad hoc) committee if comprised of less than a quorum



Brown Act

Closed Sessions

- Examples
 - Real estate negotiations
 - Pending or threatened litigation
 - Initiation of litigation
 - Personnel
 - Labor negotiations
- Closed session discussions are confidential
- Required to publicly report certain actions taken in closed session and vote tally



Closed Session Confidentiality

- Disclosure of confidential information prohibited unless legislative body authorizes disclosure
 - “Confidential information” means communication made in closed session specifically related to the basis for the closed session meeting. (Gov. Code §54963(a)-(b))



Closed Session Reporting

Reporting out action and vote (Gov. Code § 54957.1):

- Real estate negotiations – final agreement
- Pending litigation
 - Defend, appeal, amicus brief
 - Settlements – final agreement
- Personnel actions – action and title of position
- Labor negotiations – final agreement



Agenda

- May only take action on items on posted agenda
 - Posting requirements
 - Regular meetings must be posted 72 hours before meeting
 - Special meetings 24 hours
 - Exceptions
 - Emergency
 - Urgency
 - Need for immediate action that came to the agency's attention after posting on the agenda



Public Participation

- Public may speak regarding any matter within the body's jurisdiction
 - Body can briefly respond and refer matters to staff, but cannot take action
- Public can address the legislative body on agendized matters before or during consideration of the item
- Public has the right to make audio/video recordings



Remote Participation

Traditional Brown Act rules

- Location listed on agenda 72 hrs in advance
- Location open to public
- Quorum within City

Just Cause/Emergency rules (AB 2449/2302)

- Just cause: caregiving, contagious, disability, traveling for city business
- Emergency: physical or family medical emergency



Public Records Act

- Basic Rule
 - Makes all non-exempt, state and local government agency records in any form subject to public inspection during office hours or copying upon payment of duplication costs
 - “Record” defined broadly
 - Includes any tangible thing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics



Public Records Act

- Duty to Assist Requestors
 - Agencies are required to
 - Assist the request to identify records and information that are responsive to the request or to the purpose of the request
 - Describe the information technology and physical location in which the records exist
 - Provide suggestions for overcoming any practical basis for denying access to the records or information sought



Public Records Act

Exemptions

Drafts	Pending litigation	Personnel records
Medical, dental and other insurance records	Closed session minutes and legal memoranda and other materials distributed in a closed session	Record protected by the attorney/client privilege



QUIZ



- **Question No. 5**

– Three Planning Commissioners are Rotary Club members. Can they all attend the same Rotary Club meeting?



QUIZ

- **Question No. 6**

- You are unsure how to vote on an item at an upcoming meeting and request information from the City Manager. Should you:
 - a) Copy the email to the entire City Council
 - b) Forward the City Manager's response to the rest of the councilmembers
 - c) Only e-mail the City Manager
 - d) None of the above



Section 4: Laws Relating to Fair Processes

Common law bias prohibitions

Due process requirements

Doctrine of Incompatible Offices

Competitive bidding requirements for public contracts

Disqualifications from participating in decisions affecting family members (anti-nepotism laws)



Common Law Bias Prohibition

- *Elements:*
 - A public officer must exercise the powers conferred on him or her with disinterested skill, zeal and diligence, and primarily for the benefit of the public
 - One cannot be tempted by personal or pecuniary interest
 - Applies to non-financial interests
 - Disqualifies one from participating



Due Process Requirements

- Applies only to “quasi-judicial” matters (i.e. those involving the application of existing rules to a specific set of facts)
- “Procedural due process” gives those with a property interest a right to:
 - Notice and opportunity to be heard by a fair and impartial decision maker



Ex Parte Contacts

- On quasi-judicial matters (land use permits and appeals), beware ex parte contacts
- Best practice:
 - Avoid
 - Listen but do not engage
 - Disclose and describe ex parte contacts and site visits when item is called
 - This allows other party to respond



Doctrine of Incompatible Offices

- Now codified at Gov. Code § 1099
- Elements
 - A person may not hold two public offices simultaneously (significant clash of duties)
 - If the potential for conflict or overlap in the functions or responsibilities in the office exist
- Forfeiture of first office
- Common law rule often overridden by statute



Incompatible Activities

- Elements (Gov. Code § 1126):
 - Agency officers and employees shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, or in conflict with his/her duties
 - Only applies if the local agency has adopted a statement of incompatible activities



Anti-Nepotism Laws and Policies

- Disqualification from participating in decisions affecting family members (anti-nepotism laws)
 - Political Reform Act requires recusal when decisions have a material impact on one's spouse or dependent children
 - Common law bias will require recusal in many cases
- Jurisdiction's own policies often limit participation in matter affecting family members



Competitive Bidding Requirements

- Public works projects must be awarded to lowest responsible bidder
 - Generally, applies only to construction projects
- Purpose
 - Not to protect bidders
 - Guards against favoritism, fraud and corruption
 - Prevents waste of public funds
 - Seeks to obtain best economic result for the public



QUIZ



- **Question No. 7**

– A planning commissioner writes a letter to the editor that is published in South Tahoe Now in opposition to a resident's property rental activities which the commissioner believes violate the City's hosted rental permitting rules. Three months later, the resident's hosted rental permit is revoked by City staff and the resident appeals the staff decision to the Planning Commission.

- Should the commissioner recuse himself?



QUIZ



- **Question No. 8**

- A City Planning Commissioner has been informed by the Governor she will be appointed to the Tahoe Transportation District Board.

- Can she accept the appointment and act in both positions?



QUESTIONS?



Thank you for attending.

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