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# Staffing a Public Meeting: From War Stories to Your Story

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**STAFFING A PUBLIC MEETING:  
FROM WAR STORIES TO YOUR STORY**

**Attorney Development and Succession Committee  
League of California Cities  
Spring 2022 City Attorneys Department Conference**

## INTRODUCTION

One of the most challenging and exciting tasks to be undertaken by an attorney who is new to municipal law or to an advisory role is that of advising city councils, commissions, and boards during a public meeting.

Through a series of vignettes and the panel discussions that follow, the Attorney Development and Succession Committee seeks to highlight essential skills for a municipal attorney staffing a public meeting. The program will do so through the stories told by each vignette and shared by the panelists from their own experiences. Viewing meetings through the lens of three of the roles that a municipal attorney can inhabit, the program is organized into three parts featuring an archetypal city attorney: 1) City Attorney as “student”; 2) City Attorney as “counselor”; and 3) City Attorney as “referee.”

### City Attorney as “student”

Preparation for meetings often involves more than simply knowing what is on the agenda, although that will of course inform the preparatory work the attorney may feel is needed prior to the meeting. Communication with key staff may reveal new background information or new circumstances germane to upcoming agenda items. As an example, staff may be aware of community or applicant concerns that have arisen with respect to a proposed housing project that could have implications on findings that could be necessary should the client wish to proceed in one direction or another. Staff may also be able to help identify potential conflict of interest issues that may affect which members can participate in a matter.

### City Attorney as “counselor”

During a public meeting, members of the deliberative body may ask questions that would optimally be discussed in either a closed session or a one-on-one conversation rather than in a public setting. Being responsive in a non-confidential setting can be a challenge, and the panel will discuss how an attorney might respond during what can be a rather unsettling experience when an attorney’s advisory role, duty of confidentiality and need to avoid prejudicing the city client can seem to conflict.

### City Attorney as “referee”

The attorney’s role in managing the public meeting process is also important. During the meeting the attorney may need to address procedural and parliamentary issues. Issues that implicate public hearing or due process requirements may also arise, requiring the attorney to weigh in and navigate during the meeting to help the client lawfully accomplish its objectives.

Through the vignettes, we follow a new City Attorney through what ultimately transpires to be a harrowing day. After each vignette, the panelists will discuss how they prepare for meetings, procedural issues that they have encountered during public meetings, and how they respond to conflict and other issues that may arise during the meeting. While acknowledging that it is impossible to be fully prepared for *all* eventualities that may arise during a public meeting, the panelists will discuss general approaches that apply to a variety of circumstances, ways to navigate through common issues, and how to learn from one's experience.

There are also treatises, guides, and informational materials that the Committee's attorneys have found useful and informative during the course of staffing public meetings. These have been described or linked in these materials, and we hope that these resources will be supplemented in the future as our community of attorneys identifies additional resources that will assist other members of the Department. An index for a suggested "Essential Skills Binder" is also provided, containing key resources an attorney may want to take to public meetings.

Attorney Development and Succession Committee  
City Attorneys Department  
League of California Cities

## SETTING THE STAGE: HOW TO STAFF A PUBLIC MEETING

By sharing their experiences and approaches, a panel of city attorneys guided by a moderator will identify and discuss challenges and best practices for advising city councils and other municipal bodies in public meetings. Following a recorded skit that will preface each segment, the discussions will address the essential skills implicated in three different roles played by the City Attorney with respect to public meetings:

- City Attorney as “student”

An introductory vignette introduces us to an attorney the morning of their first council meeting, and some of the steps taken and basic resources they relied upon to prepare for that meeting. The discussion will address how to effectively prepare for meetings, including what resources to review and assemble, how to coordinate with key staff in advance, and how to anticipate potential issues that may arise.

- City Attorney as “counselor”

This vignette takes us to the meeting itself, where the hapless attorney is bombarded with questions about the defensibility of certain actions, liability that may arise from the same, as well as a potential conflict of interest issue. The panel discussion and stories will address how to give legal advice to the city client in a public setting, including when to speak up during meetings, how to give advice in a non-confidential setting, and how to deal with specific requests received from the dais. Potential strategies to be discussed include giving advice before the meeting, such as with a confidential memorandum, rather than during the meeting itself, and what to do when legal advice is requested during the meeting.

- City Attorney as “referee”

The final scenario finds our beleaguered attorney attempting to explain what happened procedurally during a heated discussion in the prior scene. The stories to be discussed by the panel will explore how to oversee the meeting process, including the different types of matters considered in meetings (e.g., public hearings, workshops, etc.) and how to handle parliamentary procedure, continuances, and other procedural matters that may arise during the course of a public meeting.

Through the discussion, those new to the public meeting context will be provided with suggestions and means by which city attorneys have acquired and applied the knowledge to adapt to issues that may arise, which can in turn be adapted and modified for their own use as suits their personality and style.

## **Resources - City Attorney as “Student” - Preparing for a Meeting<sup>1</sup>**

### **Brown Act:**

Familiarity with the Ralph M. Brown Act (Govt. Code §54950, et seq.), commonly referenced as “the Brown Act,” is a fundamental requirement for those staffing public meetings or advising staff in preparation for them. Chapter 2 of *The California Municipal Law Handbook*, a League of California Cities resource published by CEB and updated by members of the City Attorneys Department (Department), is an absorbing read for attorneys, whether before or after review of the statute itself. It also includes substantive practice tips, citations, and other references that can be key for effective implementation. *The Municipal Law Handbook* is updated annually by Members of the Department. <https://store.ceb.com/the-california-municipal-law-handbook>

Many city attorneys take digital or hard copies of various provisions of the Brown Act with them to meetings. These may include, for example, Govt. Code section 54954.2, subdivision (b) of which delineates the findings that a legislative body must make to take action on items of business not appearing on the posted agenda, to add items to an agenda at the time of the meeting and Govt. Code section 54957.1, which contains the requirements for reporting out of closed session.

Cal Cities’ *Open & Public V: A Guide to the Ralph M. Brown Act (2016)*, developed by the Department, contains a summary of the Brown Act, its requirements, and remedies. [https://www.calcities.org/docs/default-source/city-attorneys/open-public-v-revised-2016.pdf?sfvrsn=995414c9\\_3](https://www.calcities.org/docs/default-source/city-attorneys/open-public-v-revised-2016.pdf?sfvrsn=995414c9_3). The California Attorney General’s Office also has a guide, “The Brown Act: Open Meetings for Local Legislative Bodies (2003), <https://oag.ca.gov/system/files/media/the-brown-act.pdf>. Additionally, see this Institute of Local Government (ILG) resource: [https://www.ca-ilg.org/sites/main/files/file-attachments/resources\\_25908.preparing\\_for\\_public\\_hearings.pdf?1436996368](https://www.ca-ilg.org/sites/main/files/file-attachments/resources_25908.preparing_for_public_hearings.pdf?1436996368)

Given recent changes in teleconferencing regulations and earlier changes to agenda provisions for closed sessions, if utilizing any resource other than the statute, particularly older resources such as the Attorney General’s resource noted above, care should be taken to refer back to applicable statutory provisions to ensure your knowledge and citations are up to date.

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<sup>1</sup> The placement of resources within the vignette headings is unabashedly arbitrary for purposes of this paper. All listed resources can be relevant, and are often critical, to matters that are addressed and/or discussed in further detail in another vignette. For example, the Municipal Law Handbook contains information relating to most, if not all, of the issues raised by this presentation, but is only cited in the first section. Accordingly, please do not respect these boundaries when preparing for your own meetings!

## Municipal Code and, if applicable, City Charter:

Local regulations such as zoning codes can govern appeals and can contain other requirements that are germane to the conduct of public meetings and public hearings, and may differ from city to city. Attorneys should be familiar with provisions that may pertain to the items that appear on upcoming agendas.

For attorneys of charter cities, applicable charter provisions should be reviewed prior to public meetings. Charters will vary significantly in length and scope of content and regulatory effect. Additionally, it should be noted that certain charter provisions may be superseded or preempted by state law, which over time has eroded charter city authority. For example, pursuant to SB 1333 (Wieckowski, 2018), certain charter provisions relating to general plan adoption and housing elements may be superseded.

Finally, some cities have adopted formal procedural rules governing how their public meetings are to be conducted, and some cities with formal meeting rules have also established other legislative bodies subject to the Brown Act and have adopted or permitted the other bodies to adopt their own, separate meeting rules. Attorneys covering public meetings of legislative bodies subject to the Brown Act will need to be familiar with any local meeting rules that apply to the meetings in addition to applicable provisions of the Brown Act.

## **Resources – City Attorney as “Counselor” – Giving Advice on Meeting Items**

### Conduct of Public Meetings and, if applicable, City Code of Conduct

*“Counsel and Council: A Guide for Building a Productive Employment Relationship,”* is a very helpful and informative League of California Cities resource. Its initial discussion of the “Nature of the Relationship” contained in pages 5 – 14, describes some of the fundamental duties, professional obligations, and constraints inherent in the city attorney position and the relationship with the client. Chapter II.C (the second C, beginning on page 21) contains a good discussion of navigating the procedural rules and the Brown Act. Chapter III.B, beginning on page 30, describes dilemmas that may occur with respect to communication and the provision of legal advice, whether in a public meeting or otherwise. As a soup-to-nuts primer, this resource can be useful throughout one’s tenure as a city attorney.

The Department’s *“Counsel and Council”* publication was recently updated, and is available on the CaCities website. [https://www.calcities.org/docs/default-source/city-attorneys/cc-counsel-council-2022-ver4.pdf?sfvrsn=ffd5aa65\\_1](https://www.calcities.org/docs/default-source/city-attorneys/cc-counsel-council-2022-ver4.pdf?sfvrsn=ffd5aa65_1)

The ad hoc committee responsible for the update will be discussing the new edition at this conference.

Even those who have not yet staffed a meeting know that interesting issues can arise during the course of a public meeting discussion. The Institute for Local Government (“ILG”) has a resource entitled “Tips for Promoting Civility in Public Meetings” (2011), which provides strategies for dealing with different points of view and the disagreements that can arise as a result. The brief guide also includes a number of helpful references and resources for the quest for civil discourse. [https://www.ca-ilg.org/sites/main/files/file-attachments/tips\\_for\\_promoting\\_civility\\_in\\_public\\_meetings\\_3.pdf?1395441954](https://www.ca-ilg.org/sites/main/files/file-attachments/tips_for_promoting_civility_in_public_meetings_3.pdf?1395441954)

Another resource for general information on open meetings is “the ABCs of Open Government Laws,” an ILG resource. <https://www.ca-ilg.org/sites/main/files/file-attachments/abcs.pdf?1485796214>.

Civil discourse and non-personalized dialogue are also encouraged in the ILG resource entitled “Attributes of Exceptional Councils:” [https://www.ca-ilg.org/sites/main/files/file-attachments/exceptional\\_councils\\_6.21.pdf?1497853394](https://www.ca-ilg.org/sites/main/files/file-attachments/exceptional_councils_6.21.pdf?1497853394), and additional strategies are included in “Dealing with Deeply Held Concerns and Other Challenges to Public Engagement Processes,” [https://www.ca-ilg.org/sites/main/files/file-attachments/deeply\\_held\\_concerns.pdf?1497552740](https://www.ca-ilg.org/sites/main/files/file-attachments/deeply_held_concerns.pdf?1497552740)

With respect to issues relating to voting requirements for various types of actions including absences, vacancies, abstentions and disqualifications, and the Rule of Necessity, a 2006 paper for the Department’s Spring Conference provides a good grounding of statutory requirements applicable to various situations. [https://www.ca-ilg.org/sites/main/files/file-attachments/resources\\_LEAGUE\\_OF\\_CA\\_CITIES\\_VOTING\\_REQUIREMENTS\\_ABSENCES\\_VACANCIES\\_ABSTENTIONS\\_AND\\_DISQUALIFICATIONS-1.pdf?1395441985](https://www.ca-ilg.org/sites/main/files/file-attachments/resources_LEAGUE_OF_CA_CITIES_VOTING_REQUIREMENTS_ABSENCES_VACANCIES_ABSTENTIONS_AND_DISQUALIFICATIONS-1.pdf?1395441985)

With respect to meeting logistics, the 2011 ILG Resource “Understanding the Role of Chair” and the Strategies for Success set forth therein can be very helpful: [https://www.ca-ilg.org/sites/main/files/file-attachments/understanding\\_the\\_role\\_of\\_chair\\_nov\\_2012\\_3.pdf?1396626970](https://www.ca-ilg.org/sites/main/files/file-attachments/understanding_the_role_of_chair_nov_2012_3.pdf?1396626970)

Some attorneys keep a copy of Govt. Code §54957.9 available in the event of potential meeting disturbance. Only applicable in event of an actual disruption of the meeting, it provides the basis for legislative bodies to clear a meeting and the constraints on the exercise of that ability.



## Resources – City Attorney as “Referee”- Procedure & Ethics

### Parliamentary Procedure

Municipalities generally reference the procedural regulatory framework to be used in their Municipal Codes or in a meeting policy (Govt. Code §36813). Historically, many jurisdictions have utilized *Robert’s Rules of Order*, now in its 12<sup>th</sup> edition, the *In Brief* edition of which is in its 3<sup>rd</sup> edition. <https://robertsrules.com/>.

The application of Robert’s Rules can be complicated. A 2007 paper, “Unraveling some common Procedural Tangles” may help with various motions and Govt. Code and due process requirements.

<https://www.cacities.org/UploadedFiles/LeagueInternet/f6/f69097b8-e3c5-47ff-afd5-3c6799600759.pdf>

*Rosenberg’s Rules of Order* were developed by Judge Dave Rosenberg, a parliamentarian and former member of the Yolo County Board of Supervisors as well as a former Davis City Council Member and Mayor. Judge Rosenberg’s work has been hailed as a commonsense simplification of parliamentary procedure and adaptation of meeting rules in a manner suitable for use by smaller governing bodies. *Rosenberg’s Rules of Order* are used by a growing number of jurisdictions.

[https://www.calcities.org/docs/default-source/get-involved/rosenberg's-rules-of-order-simple-parliamentary-procedures-for-the-21st-century.pdf?sfvrsn=d3f73e91\\_3](https://www.calcities.org/docs/default-source/get-involved/rosenberg's-rules-of-order-simple-parliamentary-procedures-for-the-21st-century.pdf?sfvrsn=d3f73e91_3)

There are also additional resources relating to *Rosenberg’s Rules of Order*, which can be located at: [https://www.ca-ilg.org/sites/main/files/file-attachments/resources\\_A\\_Note\\_on\\_Votes.pdf?1395441985](https://www.ca-ilg.org/sites/main/files/file-attachments/resources_A_Note_on_Votes.pdf?1395441985), as well as a handy shortened description of *Rosenberg’s Rules* and operative guidance available here: <https://www.el-cerrito.org/DocumentCenter/View/3382/Parliamentary-Procedures-Cheat-Sheet>

### Voting and Ethics

With respect to the Rule of Necessity and its application to resolve issues relating to a maintenance of a quorum for voting purposes, the previously referenced 2006 paper for the Department’s Spring Conference provides background on the Rule and its application. [https://www.ca-ilg.org/sites/main/files/file-attachments/resources\\_LEAGUE\\_OF\\_CA\\_CITIES\\_VOTING\\_REQUIREMENTS\\_ABSENCES\\_VACANCIES\\_ABSTENTIONS\\_AND\\_DISQUALIFICATIONS-1.pdf?1395441985](https://www.ca-ilg.org/sites/main/files/file-attachments/resources_LEAGUE_OF_CA_CITIES_VOTING_REQUIREMENTS_ABSENCES_VACANCIES_ABSTENTIONS_AND_DISQUALIFICATIONS-1.pdf?1395441985)

In addition to promulgating regulations relating to conflict of interest and disqualification, which are available on its website, the FPPC has guidance for public

officials on disqualifying conflicts of interest. The following page contains basic parameters for disqualifying financial interests, impacts, or effects, as well as a link to the page which explains how public officials can obtain advice from the FPPC. <https://www.fppc.ca.gov/learn/conflicts-of-interest-rules.html>

The League of California Cities guide to “*Providing Conflict of Interest Advice*” remains the gold standard for city attorneys evaluating potential conflicts of interest. The 2016 version has been updated, and the 2022 version is now available on the Department’s webpage. [https://www.calcities.org/docs/default-source/city-attorneys/conflict-of-interest-guide1240b84a-e02b-4ba3-9b4b-909ae4713742.pdf?sfvrsn=bb62333c\\_8](https://www.calcities.org/docs/default-source/city-attorneys/conflict-of-interest-guide1240b84a-e02b-4ba3-9b4b-909ae4713742.pdf?sfvrsn=bb62333c_8). The FPPC committee will be discussing the new edition at this conference.

Also informative is a 2016 ILG publication, “*Public Service Ethics Laws*,” 2016, [https://www.counties.org/sites/main/files/file-attachments/csac\\_ethics\\_booklet.pdf](https://www.counties.org/sites/main/files/file-attachments/csac_ethics_booklet.pdf).

Having 500’ and 1,00’ radius maps relating to property owned by each member of the body can be helpful, both before and during meetings.

# ESSENTIAL SKILLS: STAFFING A PUBLIC MEETING

## RESOURCES INDEX

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3.	GC § 54954.2	Urgency Items not on the Agenda
4.	GC § 54957.1	Reporting Out of Closed Session
5.	GC § 54957.9	Willful Interruptions that Disrupt Meetings
6.	Fair Political Practices Commission	Conflict of Interest Rules, Disqualifications
7.	California Attorney General	The Brown Act: Open Meetings for Local Legislative Bodies (2003)
8.	Institute for Local Government	The ABCs of Open Government Laws (2015)
9.	Institute for Local Government	Attributes of Exceptional Councils
10.	Institute for Local Government	Dealing with Deeply Held Concerns and other Challenges to Public Engagement Processes (Oct. 2012)
11.	Institute for Local Government	A Note on Votes Required for Action as Referenced in Judge Rosenberg's Video
12.	Institute for Local Government	Preparing for Public Hearings (2009)
13.	Institute for Local Government	Public Service Ethics Laws (2016)
14.	Institute for Local Government	Tips for Promoting Civility in Public Meetings (Dec. 2011)
15.	Institute for Local Government	Understanding the Role of Chair (2011)
16.	League of California Cities	Counsel and Council: A Guide for Building a Productive Employment Relationship (2022)
17.	League of California Cities	Open & Public V, a Guide to the Ralph M. Brown Act (2016)
18.	League of California Cities	Providing Conflict of Interest Advice (2022)
19.	League of California Cities	Simple Parliamentary Procedures Cheat Sheet, Adapted from Rosenberg's Rules (2011)
20.	League of California Cities	Unraveling Some Common Procedural Tangles (2007)
21.	League of California Cities	Voting Requirements: Absences, Vacancies, Abstentions and Disqualifications (May 2006)
22.	Rosenberg's Rules of Order	Simple Rules of Parliamentary Procedure for the 21st Century, Revised 2011