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Published February 3rd, 2010

How it Works-The Local Civic Process

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"Two heads are better than one" is an old adage, and may be an obvious one, but the belief that the work of many minds will yield the best ideas remains relevant and is fundamental to the concept of participatory democracy. Our local legislative bodies are formed with groups of three, five, seven, or more elected or appointed individuals who, together, are charged to discuss and debate issues to find the best solutions. Participatory democracy creates the opportunity for members of the public to contribute to this decision-making process, and the Ralph M. Brown Act is the California law that guarantees the people's right to attend and participate in meetings of local legislative bodies. The premise of the Brown Act, which was enacted in 1953, is that the work of our local legislative bodies is the people's business, and therefore meetings of these bodies must be open and public.

Who's covered: The Brown Act applies to the "legislative bodies" of local agencies, so this includes our Town and City Councils, School Boards, Commissions, and Committees. Any subgroup of these bodies is also required to meet in an open and public setting and follow the Brown Act rules. A commission, such as the Traffic Safety Advisory Commission, is an example of a subgroup to which the Brown Act applies.

Who's not covered: Ad hoc advisory committees that contain less than a quorum (typically a majority) of the covered board do not have to comply with the Brown Act requirements. For example, if the five-member City Council creates a two-member subcommittee to explore an issue and report back, the subcommittee is not subject to the Brown Act. However, the subcommittee may choose to make their meetings open to the public to promote participation and transparency. Other government agencies are also exempt; the Bagley-Keene Open Meeting Act covers state governmental agencies.

What's Covered: When a majority of members of a board covered by the Brown Act meet to hear, discuss, or deliberate on any matter within the jurisdiction of the board, the rules of the law kick in. Therefore, all regularly scheduled, special and emergency meetings of our local Councils and Boards must comply. No vote or action is required for the gathering to be a meeting, nor must the members meet face to face. In the case of our local five-member Councils or Boards, if three or more members gather and discuss business, the Brown Act applies.

In this technological age where email, texting, teleconferencing, and telecommuting are standard practices in the workplace, what constitutes a meeting? According to Jim Ewer, legal counsel for the California Newspaper Publishers Association, local bodies must be cognizant that electronic communications can easily lead to a discussion of the majority of the group's members, creating what is termed a serial meeting-a violation of the Brown Act. Ewer notes that the California Attorney General discourages the use of group emails among local Boards and Councils due to this risk.

The Brown Act recognizes that some matters require a more confined discussion. Closed meetings are an exempt from the Brown Act requirements, but closed meeting can be held only to discuss certain things, such as, personnel matters, pending litigation, and labor and property negotiations. Although the public cannot attend, any actions or votes that occur at a closed meeting must be publicly reported and copies of any approved contracts or settlements must be made available.

What Needs to Happen: Notice and access are essential components of the Brown Act. Regularly scheduled meetings must be noticed 72 hours in advance, special meetings 24 hours or more and emergency meetings with at least an hour. The public must be given the opportunity to address the local Board or Council on any item within the group's purview. Votes must be conducted openly; secret ballots are prohibited. Documents provided to the local body must also be made available to the public.

How it Works-The Local Civic Process is a series of articles to be published in the Lamorinda Weekly that will review how government operates in Lamorinda and how you can keep informed about or become a part of this process. In the next issue the How it Works series will shift gears to take a look at our public schools and how they are financed.

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