

Brown Act

November 1, 2003, Congress of Neighborhoods

Presenters: Gwen Poindexter, Assistant City Attorney

Summary: The office of the City Attorney has a special division that works with the Neighborhood Councils on any legal issues. In this particular workshop they explain what the Brown Act is and how it's legal stipulations affect Neighborhood Council decisions during meetings.

Gwen: We are going to show a twenty minute video that explains different concepts and elements of the Brown Act. Please note that it's not in its final format, but it's close to being completed. I welcome any comments at the end. (Video Shown)

In the video there were seven board members, however, this will be different depending on your Neighborhood Council. Similar to this meeting, all meetings are governed by what is called the Ralph M. Brown Act. It's also called the state's open meeting law. What is the Ralph M. Brown Act? It's a state law that governs open meetings for local government bodies. It establishes rules designed to ensure that the actions and deliberations of commission, boards, councils and other local bodies are made open and accessible to the public's input.

Does that include Neighborhood Councils? Yes. The Brown Act governs the meetings of legislative bodies, including advisory bodies that are created by the charter, ordinance, or by any other formal action of a legislative body. Therefore, because the city charter created the system of Neighborhood Councils and the ordinance that's governing the system mandates certification or recognition by the City of Los Angeles, they're subject to the Brown Act. Once a Neighborhood Council is certified they are considered a local government agent who is subject to the Brown Act. They must hold all their meeting in accordance to the Brown Act.

What is a meeting? A meeting is a gathering of the majority of a Neighborhood Council board, standing committee members or whatever number of board members there are, that can make a decision and discuss on matter on behalf of your Neighborhood Council. The Brown Act requires that all Neighborhood Councils establish a time and place to hold their meetings. All the things discussed must be open not only to the board members and stakeholders, but to the general public. Furthermore, only at these public meetings can Neighborhood Council business and agenda items be discussed and decided upon. In other words, the majority of board members cannot go to a restaurant and discuss matters regarding the Neighborhood Council or agenda items without posting the appropriate notification to the public.

Discussion and actions of the Neighborhood Council board must be taken openly, which means that the decisions or votes cannot be taken by secret ballot.

In addition, discussion and action matters can only occur if the item is listed on the agenda for that meeting. Under the Act, people may attend meetings without being required to sign in or provide any information as a condition of attendance, nor can a fee for attending a public meeting be charged. At the meetings members of the general public have the right to address the board members. They also have the right to make a public comment on matters listed on the agenda before the board takes objection on them. Neighborhood Councils may also use speaker cards to control the flow of public testimony without violating the registration prohibition. In addition, members of the public also have the right to receive material that has been circulated for the board member to review. Members of the public can also take pictures as long as it's not disruptive. Also, as a general rule, the location of Neighborhood Council meetings must be held within the boundaries of the Neighborhood Council area. The Neighborhood Council facilities must also be accessible to all members of the public including those with disabilities. These meetings must be in compliance with state law, which adheres to the Americans with Disabilities Act of 1990. These meetings cannot prohibit the admittance of any person based upon race, religious creed, color, national origin, ancestry or sex.

The Brown Act also requires the Neighborhood Council to post meeting notices as well as the agenda. Meeting notices for regular meetings need to be posted at least 72 hours prior to the meeting. The notices must be accessible for viewing during the entire period to satisfy the notice provisions of the Brown Act. If there's a special meeting, then the notice needs to be posted 24 hours prior to the meeting and members of the media must be given notice if they have made a written request for it. The notice must include a description of the agenda items for that meeting. It is important that the agenda items are very descriptive and not vague. If an item, for example, is about the concerns of accidents due to street racing, its description should say something like, "Discussion regarding concerns over growing number of accidents due to Saturday night street racing on Main Street." You can post your Neighborhood Council's meeting at the posting locations you agree to in your certification application or wherever you set forth in your standing rules. You can also post at the meeting site, your public libraries, City Hall, and public bulletin boards. Posting on telephone poles, streetlights, or city street signs violates the City's municipal code.

The Brown Act was enacted to ensure that public business is conducted openly and the courts take that very seriously. Violations can carry misdemeanor penalties which are prosecuted by the office of the District Attorney. Violations of the Brown Act can also result in a civil lawsuit being filed. This can result in your decision being set aside by a Superior Court judge. Let's play with some skits to see the Brown Act in action.

Mary: I can't believe another robbery occurred on Main Street Park, Peter. I was noticing that on the Neighborhood Council flier you're the president of the Neighborhood Council. I think it would be a good idea if you all could see what could be done about this. I would suggest putting up some more lights.

Peter: As the Neighborhood Council president and according to our bylaws I can set the agenda. Unfortunately the agenda for the upcoming meeting has already been posted, but you can come to the meeting and bring this up during the public comment section of the agenda.

Gwen: Was this correct? Since this is communication between Mary and only one board member this is perfectly acceptable communication under the Brown Act. In regards to the agendas, there should always be an opportunity for the public to comment on each of the items listed before the board votes on something. By doing this you will allow other concerned citizens, like Mary, to address their issues. These issues can be discussed in the future. Let's look at another scenario.

Board Member1: We'd like you to fill out this mailing list if you'd like to get some information about our community events.

Mary: I want to make general comments tonight.

Board Member: Can you complete this speaker card?

Gwen: The Brown Act provides that a member of the public may not be required to sign in as a condition of attending a public meeting. It is appropriate to ask people to voluntarily provide information or ask them to sign a mailing list. Also, when the majority or a quorum of the board is present, they can conduct Neighborhood Council business. The board must go through each of its agenda items and the members of the public must be given an opportunity to comment.

Mary: I'm a concerned citizen in this community. I talked to the president of this Neighborhood Council and he said I should address this issue with you all. There are some gangs in the park that are drinking and making too much noise in the park. I want you all to do something about this. Please consider my proposal of putting up more lighting in the park to deter these gangs from hanging out at the park.

Board Member 1: Annie, Cliff, what are your thoughts on this issue?

Board Member 2: I agree with the lights.

Board member 3: I also agree.

Peter: Do I have a motion?

Board Member 3: I move that we recommend to the city that lights be installed in Main Street Park.

Peter: It has been moved and seconded. Let's take a vote.

Gwen: What's wrong with this picture? It started out perfectly because Mary a stakeholder was given the opportunity to address issues that were concerning her. What went wrong is that it's a violation of the Brown Act for board members of a Neighborhood Council to discuss matters or take action on items not listed on the agenda. Mary's issue wasn't listed, therefore, they couldn't vote on it. What needs to be done is the boards needs to agree to put this issue on the agenda. By doing this, they can vote on what to do about the park.

The Brown Act only allows for closed sessions under very limited circumstances, most of which will not be applicable to Neighborhood Councils and in rare instance when your board could discuss an item in closed session the item would have to be listed on your agenda with a citation to the Brown Act provision that would allow your Neighborhood Council to go into a closed session.

Let me briefly recap on everything that I've stated today. All Neighborhood Councils are considered local governmental agencies because they were created by the charter and the city ordinance and certified by the City of Los Angeles. Thus, they must comply with the Brown Act. The Brown Act requires that all Neighborhood Councils establish a time and place for their regular meetings. A meeting is the gathering of the majority of Neighborhood Council board members that will decide on something.

Standing committees of your Neighborhood Councils are also subject to the act. All the meetings must be open to all members of the general public and located within the boundaries of the Neighborhood Council area. These meetings must also be accessible to all the members of the general public, including person with disabilities, and cannot be held in facilities that prohibit a person from entering based on race, religion, color, national origin, ancestry or sex. In addition, the Brown Act also requires Neighborhood Councils to post the meeting notice and agenda. Agendas for regular meetings, including committee meetings need to be posted at least 72 hours prior to the meeting. Special meetings need to be posted 24 hours prior to the meeting, but there is an additional requirement to notify the media of these meetings. The requirements are only if they have made the request to your Neighborhood Council in writing for the notice of your special meeting.

Serial communications among a majority of the board members to discuss matters with the goal of coming to a decision outside the public eye is a violation of the Brown Act. Also, a majority of the board cannot come to a decision on an issue outside the public eye or conduct closed meetings. The Brown Act is set up to allow and protect public access and participation in Neighborhood Council meetings.

Speaker: The video we watched, is it available on the Website or in CD-ROM format? Is it available to other councils and committees?

Gwen: I need to discuss that with the Department of Neighborhood Empowerment staff when the final version of it comes out. Also, I would need to

ask how we can make it available on CD-ROM format. That is something that we will look into. We only have it available to Neighborhood Councils and we would have to sit and see whether or not it's useful for other groups.

Speaker: What did the Brown Act require that the Neighborhood Council board do prior to having a meeting?

Gwen: Post it.

Speaker: Pursuant to the Brown Act what constitutes the meeting of the Neighborhood Council?

Gwen: When a majority of the board members meet to discuss business. A majority of the board must be present at the same time and place. This gathering could be in form of a quorum because some of the Neighborhood Councils have identified a quorum or a number of different gatherings of the majority of the boards as a meeting. Let me clarify something with all of you. A special meeting requires a posting of 24 hours prior to that meeting. When you have your agenda it needs to say regular meeting or special meeting. What's the difference between a special meeting and a regular meeting? If you read the Brown Act itself it doesn't make it very clear. What I'm going to advise is that it depends on the circumstances. A special meeting is one that involved promptness. You can't make your decision at your regular agenda-item meeting, so you'll hold a special meeting. You'd still have to have an agenda. In addition, you also have to differentiate that specific item that you want to address at that special meeting, but because you need to take immediate action, you only need 24 hours notice.

You also want to make these posting visible during the 72 hour period. The purpose of the Brown Act is for things to be open, therefore, these postings must be at a location that is not locked for that 72 hour period. If the public cannot see that posting, then it's not complying with the Brown Act.

Speaker: Can't they close the library, for example?

Gwen: You need to make sure that it's a location that doesn't close within those 72 hours. Otherwise you're going to have to postpone that agenda item until you are able to notify the public for 72 hours.

Speaker: Does it have to be consecutive?

Gwen: If you're using consecutive hours as your minimum notice frame then you're going to need to back it up for a couple of days because you must meet the minimum posting requirement of 72 hours.

Speaker: You keep on saying posting, but that sounds like only one post. Is it one or several?

Gwen: The Brown Act speaks about a posting, then that's the correct language that I'm using. What I recommend is that your Neighborhood Council certification application does include adequate outreach, which includes postings at five locations. Therefore, in order to reach all your stakeholders I would recommend postings at all these five locations or anything similar to them.

Speaker: Isn't it correct that if your posting is at the library on the glass door then anybody can see it through the glass door? Does that comply?

Gwen: If the library is open then it's okay, but if it's closed and it's posted on the glass door then you're not going to be able to see it. The library must be open in order for that posting to comply.

Speaker: Do all five postings have to be accessible for 72 hours? What if four of them are and one of them isn't is that going to be a problem?

Gwen: Under the plan and ordinance the Department's position is that all of your posting sites should comply. For state law purposes all you need is one posting notice to comply. We are, however, looking at a system that should be inclusive.

Speaker: Are these documents written in Spanish?

Gwen: We don't have those legal documents in Spanish or any other language yet, but we will look into that.

Speaker: Are there secret ballots allowed at a Brown Act meeting?

Gwen: No. Your deliberations, discussions, and votes are open to the public so your members can see and observe the process.

Speaker: What about the election of offices? What do you do with the past elections?

Gwen: Election of offices are a different format. We discussed that in paper and we have opted early that if you have an election in a ballot-type process it's not part of your official meeting. You can have your elections in a secret manner in the sense that there's a ballot box and you can also have absentee ballots. If you're electing your officers, your presidents, your vice-president, your board members, and you're doing it in a meeting context then the election will be open.

Speaker: That means that you need to be open and not have secret ballots?

Gwen: Correct. In most cases if you're using an election system we've discovered that the Neighborhood Councils elect their board members through a ballot type election process. Many Neighborhood Councils have their board

members elect their offices, president, secretary, vice-president at a meeting of the Neighborhood Council meeting then it's going to be open.

The Attorney General has said that if you want to have a ballot process even to elect your officers you may do so as long as the ballots are tallied openly and there's an ability for the members to know who voted for whom. An announcement would have to be made if that was the process that the Neighborhood Council chooses to use.

Earlier someone asked, what is the definition of a personnel matter under the Brown Act for the purposes of going to close session? The Neighborhood Councils do not have jurisdiction or authority to deal with personnel matters. Those are matters where you're dealing with hiring, or employment issues of a city employee. And Neighborhood Councils, while we've said that you are all public officials, you are not, however, city employees. Any issues that you have with your fellow board members are not the type of personnel matter that would justify you to go into a closed-door session.

Speaker: Is it in violation of the Brown Act if the maker of a motion is not reported in the minutes of a meeting?

Gwen: That doesn't involve the Brown Act at all. That's more of a procedural question as to what you require and how you're going to draft your minutes and what you think needs to go in them.

Speaker: Name the four things that the posted agenda must contain in order to be in compliance with the Brown Act?

Gwen: Public comment, time of the meeting, location of the meeting, and the agenda. You don't necessarily need to have the ADA compliance on there, but you should let people know that if they have any type of disability you are going to accommodate them. If they need hearing devices then talk to the Department of Neighborhood Empowerment about that. Don't forget to put the language of the meeting on the agenda so that a member of the public will know. Your meeting locations do have to comply with the ADA, for example, they must be handicap or wheelchair accessible. Talk to your Project Coordinator if you need help in this area.

Speaker: Can we post the agenda on the Neighborhood Council Web site?

Gwen: That could be an additional posting, however, as of today the Brown Act does require a physical posting.

Speaker: Does the public have the right to comment on anything that's going to be voted on?

Gwen: Yes. This is very important. The public must be allowed to voice their opinion prior to voting on anything.

Speaker: Do they have to sign the sign-in sheet?

Gwen: No, they have the right not to sign the sign-in sheet. Registration is also not required.

Speaker: Can the speaker card require any information, such as contact information?

Gwen: The speaker card is just that-a speaker card. They don't require for a speaker to fill out or give out any information.

Speaker: Are you required to put what you want to speak about on the speaker card?

Gwen: It's not required in the Brown Act. It's permissive to do so. The purpose of the speaker card is only to let the board know that you're going to speak. By doing this they can organize the meeting accordingly.

Speaker: Is there an order for those speaker cards? Can they shuffle the speaker cards?

Gwen: That's not a Brown Act issue. That's a process issue and your Neighborhood Council would decide on that. The speaker cards tend to identify which agenda item the person is speaking on. In that regard, that's why it's helpful.

Speaker: When somebody makes a complaint what is that called?

Gwen: A challenge.

Speaker: How would you fix the notice of a meeting? Are notices inspected by the department or are checked by the department? Let's say that you decided upon an issue that wasn't noticed properly, what should we do with the decision that was made?

Gwen: In that particular case, the Brown Act doesn't have a remedy that would require you to set aside an action because you didn't take action, but you could potentially be vulnerable to a lawsuit. The Brown Act does have several remedies. There are criminal penalties and also have specific actions that they've taken and there's also general injunctive relief that if you're continually violating the act by engaging in discussions somebody theoretically could file lawsuit and get a court order that specifically enjoins the city Neighborhood Council from having meeting.

Speaker: What is the addition of a non-board member to an ad hoc committee?

Gwen: That's something that's written directly in the Brown Act. It has to be comprised solely of the members of the board. If you add stakeholders or the public to that ad hoc committee it becomes a Brown Act meeting.

Speaker: Can board members attend a social event if a quorum or majority of the board is present?

Gwen: As long as they don't discuss any of the items on the agenda. Some people tend to exaggerate the Brown Act by assuming that you could never talk to your fellow board members about anything, but that's not the case. You do have to be careful about the type of conversations you have with them in social events, as long as they're not agenda items or certain substantive issues that might come up before your meetings.

Speaker: What do you mean by quorum when it comes to committees and how do you define the quorum as it comes to a committee?

Gwen: I can't define a quorum as it comes to your committees. Your Neighborhood Council must do so.

Speaker: What about the Brown Act?

Gwen: If you have set up a system where your committees operate by majority rule then that would be your quorum. If you specify in your bylaws that we have 10 people or 11 people on your standing committee and six in a quorum then that's how you would operate, but you define your own quorums.

Speaker: How are we supposed to get anything accomplished in the Neighborhood Councils if we can't discuss anything? We're all volunteers, but there are always certain people who are doing everything, so how are we ever going to comply with the Brown Act in that regard? It seems like I can't even go home and talk to my husband about Neighborhood Council issues.

Gwen: That's not true. Your husband is only one board member and yes you could talk to him. The way that you accomplish your goals is at your meetings.

Speaker: We wouldn't get anything accomplished because we're constantly having to comply with all these things. We need to do ongoing outreach, deal with city entities, and crime in the neighborhood.

Gwen: This is state law and the entire City operates under that law. If that's the case, business still gets done by the city, so it's not that difficult. I've worked with many Neighborhood Councils who have complained about that same issue, but as time goes by they have learned to work around the constraints of the Brown Act. You can speak to individual board members, ask them their opinion, how

might you go about this etc. The correct term for that type of meeting is a serial meeting. A serial meeting is if one board member communicates on a matter of substance with the rest of the board members.

Speaker: We all understand that we have to work within the constraints of the Brown Act, but unlike the City of Los Angeles we don't have a staff, we don't work eight hours a day and we only meet once a month. It's extremely difficult to get things done for all Neighborhood Councils and the Brown Act makes things difficult. What can you do to make it easier for us?

Gwen: The city has lots of advisory bodies like commissions. All the commissions of the City are volunteers too. They are all on the same boat except for that staff issue. I can't give you a legal answer to that question.

Speaker: Does the board president have to report, inquire, or ask for specific city services? Can another board member act as a liaison between the city and the board? If so, are they subject to the same laws as the Brown Act?

Gwen: You're asking if it's okay at a board meeting to designate one of your board members to discuss this matter with another city office. If that's the case then that's acceptable. How the Neighborhood Councils want to operate in terms of establishing their own protocols and how they want to interface with the city is up to yourselves and is not so much a Brown Act question as long as you're complying with those rules.

Speaker: In case of conflict between the Brown Act, your bylaws and Robert's Rules, which one prevails?

Gwen: The Brown Act.

Speaker: Does the Brown Act apply to all public governing bodies in California? Does that mean that the City Council also has to comply with it?

Gwen: Yes, the Brown Act does apply to all our governmental bodies including the City Council and all the city commissions. They too have constraints from discussing matter among a majority of their fellow board members or council members about items that are not on the agenda.

Speaker: If you have a town hall meeting do you still have to notice it according to the Brown Act?

Gwen: You still would have to have an agenda that says this is a public forum, but no decisions would be made because you've noticed that meeting for that purpose.

Speaker: One of the ways that we try to work with the Brown Act and be able to get business done is by having an extensive committee system. In my Hollywood Hills West Neighborhood Council we have 18 committees. They are all based in our Neighborhood Council and they take care of certain important issues that all of us don't have the time to handle or research. All these committees are standard because they're all named in our bylaws.

When we first heard about the Brown Act we were terrified because we thought to ourselves, "We're going to have to post 18 meetings a month and everyone will know what we're going to talk about." This wasn't the case, however. What it did force us to do is get organized by preparing agendas. By doing this we were able to let the other committees know what exactly everyone else was doing. It helps us get work done and point to each committee that's doing certain things for our neighborhood.

Gwen: Thank you, that's an excellent example of how things are getting accomplished while complying with the Brown Act. Don't forget the Congress of Neighborhood's main purpose is to share information and input from Neighborhood Councils just like his.

Speaker: Can a Neighborhood Council hold an emergency meeting within a meeting?

Gwen: No. Let me explain that the Neighborhood Council thinks is an emergency meeting is different from what the Brown Act thinks an emergency meeting is. Under the Brown Act, an emergency meeting is where an emergency situation exists and it's defined as being a crippling activity, a work stoppage or another activity that impairs public health and safety. It's being defined as a disaster, such as a terrorist threat or activity that requires an emergency meeting to occur. Overall it's a state of emergency. What's required is a one-hour notice that a specific action is going to take place. Neighborhood Councils are not going to have the jurisdiction or authority to hold what's called an emergency meeting according to the Brown Act. If you think your Neighborhood Council needs to discuss something, let's say an hour before the City Council meets then hold a special meeting, not an emergency meeting. After, what you do is put that item on the agenda and hold your meeting to comply with your notice requirement and take action at that point in time.

Speaker: Is there a requirement that there only be one item on the agenda for the special meeting?

Gwen: There isn't a requirement. The Brown Act doesn't specify what you're holding your special meetings for. If you need to deal with several items at a special meeting you may do so as long as you only do business on those special items. Don't use your special meetings to get around the regular meeting requirements because at some point one might say that you're really holding these special meetings so that you don't post the 24 hour required posting.

The Brown Act does state that if you're going to call a special meeting you need to have dialogue with your board members as to why you're having a special meeting. In these discussions, however, you can't discuss whether or not you're for or against an issue that you're going to vote on. If you plan on voting for something then you need to post that and allow stakeholders or public members to have input and express their opinions on that matter.

Speaker: Does an ad hoc committee meeting where the majority of the board is present adhere to the Brown Act?

Gwen: Yes.

Speaker: What about a subcommittee or a standing committee? Does the project selection committee, for example, or our entire committee have to adhere to the Brown Act?

Gwen: How was the subcommittee created?

Speaker: It was created by the land use planning committee.

Gwen: If it's a standing committee let's designate two members of our committee to come back and report and investigate this item and come back to us that wouldn't be subject to the act but if you've created a formalized subcommittee that's subject to the act as well.

Speaker: If any of those two subcommittees, standing and sub-committee, do not constitute a quorum under the board then they don't have to abide by it?

Gwen: Right, because under the Brown Act the standing committee's going to have jurisdiction over that particular matter, regardless of the number of people that are on the board.

Speaker: The standing committee should be set up with a standard number that constitutes a quorum of that committee.

Gwen: Yes, you can do that. If you've defined your land use committee and it's a standing committee you should probably designate how many member are going to be on that committee and what your majority is.

Speaker: Does the standing committee meeting have to be posted in the same way as the requirements under the Brown Act or your certification applications?

Gwen: Remember the distinction. Your certification is what dictated that you have five posting sites for your meetings. The Brown Act only required one posting site. Your standing committees would be posting according your application as to how you decided that you were going to comply with it. The

standing committee meetings would have to be posted according to the Brown Act.

Speaker: The committee meeting would have to be posted in at least one location?

Gwen: That's correct and within 72 hours.

Speaker: The way that it works is that the standing committee creates the ad hoc committee.

Gwen: No. Ad hoc committees, by definition under the Brown Act, are subject to the Brown Act.

Speaker: We have ad hoc committees but not there's only four on it, but I'm a board member. Does this make it become subject to the Brown Act?

Gwen: It's subject to the Brown Act if three board members are there. Don't forget that you must always identify, under the Brown Act, how this meeting was created. If it was created by an action of the board, the board said we need to have an ad hoc committee to discuss this issue, we're going to create it through three stakeholders and a member of the board, that would be subject to the Act. You have to notice your meetings and comply with other provisions.

Speaker: Why do you have an ad hoc meeting and not have it follow under the Brown Act?

Gwen: You've created an ad hoc committee of the board. Let's say you have 11 board members and the majority of your board would be six, right? You create an ad hoc committee that's going to discuss and report back on a particular issue, it has limited jurisdiction. Let's say it's going to meet for six months to report back on how we're going to solve our graffiti problem and if that committee includes less than six members it would not be subject to the Act.

You can have a board meeting and let's say that it's board members A, B, and C in attendance. Then why don't you form a committee to investigate the graffiti problem, for example. This meeting where they will discuss the graffiti problem doesn't have to comply with any provisions of the Act.

Speaker: If the board decides to have an ad hoc committee to do something and a stakeholder is attending the community council meeting, wishes to join that ad hoc committee, can the board bar them from joining that ad hoc committee?

Gwen: Yes. The board sets up the committee structures. The board is making the decision that we want to have this ad hoc committee.

Speaker: So if the board or the president is making the decision on forming that the ad hoc committee did not want to adhere to the Brown Act all they would have to do is stop any member of the public from becoming part of that committee. Correct?

Gwen: That's correct. I would phrase it differently, though. If the president wants to appoint an ad hoc committee that's not subject to the Brown Act, that would be the method to do it, just create it compromising only the members of the board.

Speaker: Can that stakeholder challenge that decision by the president?

Gwen: No, because the board operates under its own bylaws and its procedures and if that's the method that it chooses to create its committees then so be it.

Speaker: Can we consult with stakeholders just to get information from them so that we can form wisely-made decisions?

Gwen: Of course you consult with your stakeholders. That's why the meetings are public.

Speaker: If we send a survey where we asked a couple of thousand stakeholders some questions and the results of those surveys came back, can we consult them personally?

Gwen: Yes, you can do that. Just because you create an ad hoc committee that is not subject to the Act doesn't mean that you can't conduct your committee meetings as if it was. You can invite members of the public and consult with them.

Speaker: We would have to call a public forum?

Gwen: Absolutely.

Speaker: Do all ad hoc committee decisions have to come back to the board?

Gwen: That's a legal question that I will give you an answer.

Speaker: In my Neighborhood Council we might sometimes have an email discussion where we discuss an array of issues. What precautions can we take to enable that to be the type of community discussion forum that board members can listen in on or participate in? Would we be violating the Brown Act?

Gwen: Those Web site chat groups are complicated. I don't have an answer for you yet. What I can tell you is that if the majority of the board members engage in those conversations then technically you're engaging in a serial meeting.

Someone could easily accuse you of that. If that's the case then they would fall into the Brown Act then let's just hold off on answering that question specifically.

Speaker: What if we were to notify every member of the Neighborhood Council that the chat room exists? Then it'll become an ongoing process.

Gwen: That's not correct. Everybody who has a computer would be able to access the chair room, but what about the ones who don't? What if somebody has a disability? You need to account for everybody and then you definitely can't exclude those with disabilities.

Speaker: The bylaws indicate that the board president can make appointments for ad hoc meetings. Therefore, he can include anyone he want and exclude anyone he doesn't want. I don't see how the president can benefit from that in any way from making that kind of a n appointment just for that purpose of not having other people participate.

Gwen: The state law is crafted in a way to allow a process that is less burdensome when you're just having a temporary committee. The state decided that for certain limited purposed we're going to allow ad hoc committees that aren't going to be subject to the Act.

Speaker: Wouldn't the Web site chat room be a record of discussion? Then we would be complying with the Public Records Act, right?

Gwen: Why do you find it difficult to have those same discussions in person or in a meeting?

Speaker: In those meetings everything is on the agenda and it gets to be too much. In our last meeting we had 30 items on there.

Gwen: Then the problem isn't the Brown Act it's probably your agenda. I could only tell you what that law states so I wouldn't recommend that. Meetings are a valid practice where you encourage public opinion. The Brown Act doesn't restrict your individual right to view anybody's Web site or go into a chat room. It's the dialogue that we're concerned about. What you can do is use the chat room as a resource for information that a member of the public can get from the board. The Brown Act does have a restriction on the board's having dialogue among each other, but one stakeholder could have communication with every single member of the board on a particular issue. That does not violate the Brown Act. You could also talk to members of the public.

Speaker: When does an ad hoc committee become a permanent committee?

Gwen: There's no real answer because we don't have specific time frames in the Act. It's a judgment call or a reasonable standard. I would suggest that you get to the point where you're feeling comfortable and determine that time.

Speaker: Is there a maximum time frame for posting the notices?

Gwen: There isn't a maximum time frame but think in terms of practicality. You don't want to post them too far in advance. There is a minimum time frame. The reason why the Brown Act requires that you have regular meeting times is that so people already know that you're going to meet every month or every two months.

Speaker: Is there a resource list that the board members can call to find out if a particular thing is a violation of the Brown Act?

Gwen: Yes. There is a Neighborhood Council division in the City Attorney's Office. We could answer any questions you have. I would recommend that first you go through your Project Coordinator. The Department of Neighborhood Empowerment can help you with things like that.

Speaker: Can someone with a disability require the Neighborhood Council to provide sign language?

Gwen: Yes. That is why you have agenda language that specifies the ADA requirements. If you have a disability you need to contact the Department. Don't forget that you're part of the City now and you do get certain benefits like those.