

I did talk the City Manager but I want to share with you how we did it before. I, when I was a mayor, I call each of City Council and I say, "How do you think? Can you do this? OK. Can you?" They say, "No, I don't have the time" so I say OK. Then I find somebody else.

---Tony Wu, 2024 Mayor Pro Tem

But, if this is a concern, if you want to pull this and then discuss internally, we can, you know, so it doesn't have to be out in public because this is internal representing for different committees so if you wish we can.

---Councilwoman Letty Lopez-Viado

West Covina City Council Meeting, February 6, 2024

Agenda Item 2. Appointment of Council Members to Advisory Boards, Committees

The Brown Act: Public vs. Private City Council Discussions

At the February 6, 2024 City Council meeting, the Mayor's annual committee assignments were an agenda item. Mayor Pro Tem Tony Wu's objection to a committee assignment change resulted in a very insightful discussion. As council members discussed the process they used when they were mayor vs. the process used this year for making committee assignments, residents gained insight into their internal communications, a process that just happens to violate at least one aspect of the Ralph M. Brown Act—California's Open Meeting Act by holding serial meetings. This paper reviews serial meetings within the context of the Brown Act. A companion paper—The Mayoral Appointment Process--discusses the actual appointment process within the context of the Brown Act and parliamentary procedures.

Definition of a Meeting: California Government Code prohibits a majority of council members "from using 'a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action' on business within its subject matter jurisdiction outside of a meeting" except for specified matters: litigation, employee discipline, and negotiation for real estate transaction.¹ Simply stated, the Brown Act, "Requires that public agency actions 'be taken openly and that their deliberations be conducted openly' and that all 'meetings' of a 'legislative body' must be open and public."² ***The opening quotes to this paper describe a serial meeting, a violation of the Brown Act.***

A ***serial meeting*** is a series of private meetings, conversations, and/or communications where city council members engage in collective deliberation on public business through a series of letters, telephone calls, emails, informal discussions and the like on city business is considered a Brown Act violation.¹ Serial meetings occur as follows:

- ***Hub-spoke*** is a system of communications arranged like a wire wheel. One council member acts as the hub, the center of the wheel, and feeds and receives information to and from the other members. The hub-spoke allows one person to coordinate and create a plan outside of an open posted meeting, a violation of the Brown Act.¹

THE BROWN ACT: PROMOTING TRANSPARENCY & PUBLIC PARTICIPATION IN GOVERNMENT LEGISLATIVE INTENT

The Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

CA Government Code § 54950

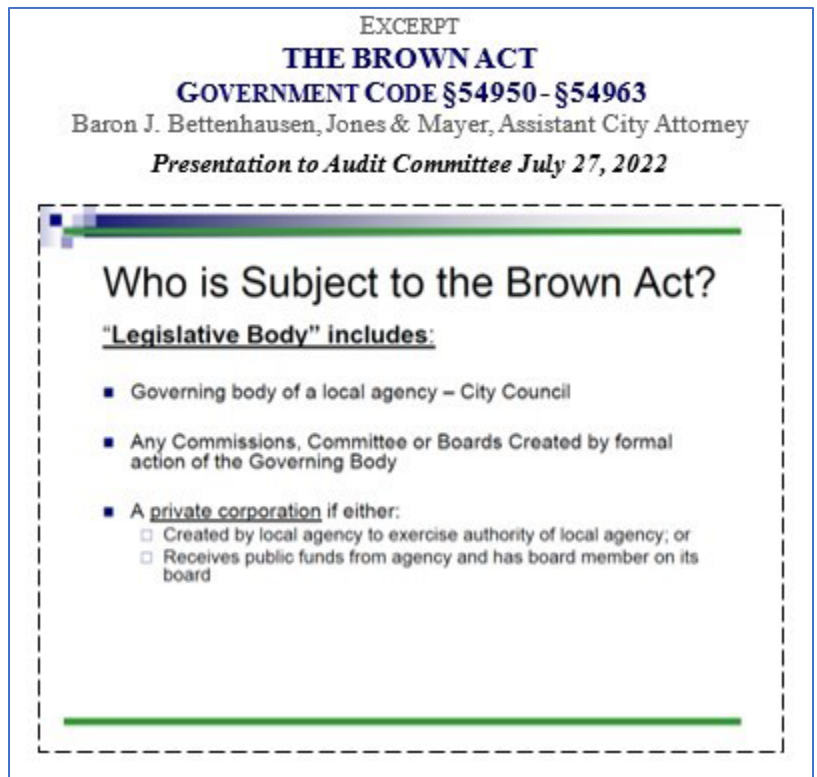
- **Daisy chain** is when one council member calls another to discuss business and the second member calls a third to discuss the conversation, etc. This communication is similar to the game of telephone and is a violation of the Brown Act. ¹

Consequences for violating the Brown Act include nullification of a decision, criminal sanctions for intentional violations (up to 6 months in jail/\$1,000 fine); intense adverse media attention. ² Constituents can, and should, vote elected officials out of office who fail to follow the Brown Act.

Our Concern

The Brown Act—California’s Open Meeting Law—was signed into law in 1953 in response to a 1952 *San Francisco Chronicle* 10-part series “Your Secret Government” that exposed secret meetings conducted by local governments. ¹ The Brown Act has been updated through the years but its basic purpose remains the same: **foster good government.**

The Brown Act is part of the training a new council member receives. In 2022, the City of West Covina reinforced the Brown Act’s importance to good government when it held a series of presentations for the city council and each commission and committee.



Since 2019, numerous West Covina residents have expressed concern about “secret council meetings”. The Council majority’s reaction to resident concerns has been dismissive. Good government practices should be the norm, not dismissed.

Changes We Would Like to See

The above referenced February council meeting sheds light on the city councils disconnect with the Brown Act and resident concerns. “Off-line” private discussions are secret meetings and are not permissible for conducting public sectors business. The City Council must stop serial meetings.

Additional Information

City of West Covina. (February 6, 2023) City Council Meeting. Agenda Item 2. Consideration of Appointments of Council -members to Serve on Various Advisory Boards and Committees. YouTube. Approximate Timestamp: 50:21 <https://youtu.be/idBs48XE6M4?si=CIqsMPhOrNvyU47J&t=3021>

Notes

- ¹ Carney, Kendra L. and James C. Sanchez. League of California Cities. (2016) Serially? Seriously. Avoiding the Perils and Pitfalls of Serial Meetings in the Digital Age. Annual Conference. *The League notes: It is not a violation for a majority of council members to attend conferences; open, publicized meetings that address a community topic; open and noticed meeting of another local body; ceremonial or social events; or open and noticed meeting of a standing committees providing they do not discuss business among themselves. A violation occurs when a series of individual meetings result in a collective concurrence on an issue.*
- ² Bettenhausen, Baron J. Jones & Mayer. (2022) Who is Subject to the Brown Act?. Presentation to West Covina Audit Committee on July 27, 2022