

Standing and *Ad Hoc* Committees of Neighborhood Councils Under the Brown Act

Office of the City Attorney Neighborhood Council Advice Division

Standing Committees.

Standing committees of Neighborhood Councils are subject to the Brown Act (also, “Act”). The Act describes a standing committee as one which has “continuing subject matter jurisdiction.” This means that a permanent committee that is designed to handle an issue or issues on a continual basis will be a standing committee and is subject to the Act’s notice and posting requirements. For example, many Neighborhood Councils have established various committees through their bylaws, such as Land Use and Planning Committees, Public Safety Committees, Election Committees, *etc.*¹ These committees, because of their subject matter, generally are of an ongoing nature and regardless of their configuration, (whether comprising solely less than a majority of board members, or of a combination of board members and stakeholders) are subject to the notice and posting requirements of the Act.²

Standing committees need not establish a “regular meeting time and place” in any operating rules but they must meet in public and post notices of their meetings. The Act presumes that whenever a standing committee holds a meeting that is posted at least 72 hours in advance, that noticed meeting is considered the “regular meeting” of the standing committee. See Gov’t Code § 54954.

Establishing Standing Committees.

Standing committees, as noted above, are generally established in the operating bylaws of the Neighborhood Council by simply listing their titles and functions. However, a Neighborhood Council may also create additional committees by formal board action (*i.e.*, a vote or resolution of the board to establish a committee). In situations where the board creates a new standing committee that has not been listed in the bylaws, the best practice is for the Neighborhood Council to amend its bylaws to identify this new standing committee.

¹ Many Neighborhood Councils also have Executive Committees, comprised of the Governing Body’s officers. The functions depending upon the Neighborhood Council may vary, but generally since this Committee is set up by the bylaws, it too is a standing committee, subject to the Act.

² A standing committee can also be created if it has a meeting schedule that is fixed by charter, ordinance, or resolution, or formal action of a legislative body.

Ad Hoc Committees.

Ad hoc or “temporary” committees are treated differently under the Act. *Ad hoc* committees are *not* subject to the notice and posting requirements of the Act *so long as* the committee

- is comprised *solely* of members of the governing *body*, *i.e.*, the committee may not contain individuals other than the members of the governing body;
- consists of less than the number of board members who, if present at a meeting, would be able to make a decision, (*e.g.*, if a Neighborhood Council has 21 board members, a quorum of 11 and makes decisions by a majority of those board members present at a meeting, then as few as 6 board members would have the ability to make a decision; therefore, the *ad hoc* committee should be comprised of less than the majority or, as stated in this example, less than 6 board members);
- has a defined purpose and a time frame to accomplish that purpose; and
- is advisory, *i.e.*, the committee has not been delegated any decision-making power and will be returning to the full board on its recommendation. See, *Joiner v. City of Sepastopol* (1981) 125 Cal App. 3d 799.

Ad hoc committees are commonly used in City government. For example, the President of a City commission or the commission itself might choose to appoint three or fewer commissioners (depending upon the size and quorum of the board) to evaluate and report on a particular issue or subject relevant to that commission. Once that committee has completed its work, the committee is then disbanded.

Neighborhood Councils may create *ad hoc* committees in similar fashion by having the board or the President, depending on the bylaws, appoint *less than a majority of the Neighborhood Council board members* to evaluate a particular issue and report its findings, conclusions or recommendations to the full body. However, should any person other than an existing Neighborhood Council board member be appointed to the *ad hoc* committee, then the committee must operate under the notice and posting requirements of the Brown Act.

Establishing Ad Hoc Committees.

Members of *ad hoc* committees designed to be advisory to the Neighborhood Council may be appointed by the President, on behalf of the entire board, or by action of the entire board, depending upon the rules under which the Neighborhood Council operates. Although, as noted above, the *ad hoc* committee itself is not subject to the Act, if the board desires to create an *ad hoc* committee, then the *action to create* the

committee should be done at a publicly noticed meeting under the Act and the item should be placed on an agenda for that purpose.³

Establishing Committees That Are Not Subject to the Brown Act.

Advisory committees composed of non-Neighborhood Council board members may be created that are not subject to the Brown Act but only if they are advisory to a single-decision maker, rather than to the entire Neighborhood Council board. The Attorney General has concluded that advisory bodies that report to a single member of a legislative body or a single officer are not subject to the Act since they are not “created” by any formal action of the entire legislative body. See, 56 Ops. Cal Atty Gen 14 (1973).

Thus, an individual board member could create an advisory committee that reports directly to him or her. For example, a board member could ask a group of stakeholders (not during a public meeting to avoid the appearance that the entire board has created the advisory body by “consent”) to investigate a particular item, report to the appointing board member, after which the board member could then make a recommendation or initiate discussion on the item that the committee investigated. As long as it is clear that the advisory committee is not created by the Neighborhood Council itself, these types of committees are not subject to the Brown Act.⁴

Implementing Projects - Not a Committee.

One point that may need clarification: Groups that are formed to implement a project are not treated as a standing or *ad hoc* committee under the Act; thus, gatherings to implement a project would not be considered a “meeting” subject to the Brown Act. For example, if a Neighborhood Council approves an action to conduct a tree-planting project along a street, the gathering of those people at a certain place and time to plant the trees would not be treated as a “meeting” under the Act. That would be true of other activities such as, purchasing goods and supplies for the Neighborhood Council or implementing other projects approved by the board, such as a graffiti abatement projects, *etc.*, or activities designed to outreach to stakeholders.

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³ The *appointments* to that Committee, if made by the President, may occur either in or outside a public meeting, depending upon the Neighborhood Council’s rules; however, the better practice is for this to be done publicly.

⁴ Of course, stakeholders may also separately, and on their own initiative, form advisory groups and report the results, findings or recommendations to the Neighborhood Council board.