



Planning Commission

Regular Meeting **AGENDA**

(to be held both at the physical and virtual locations below)

Civic Center Council Chamber ♦ 300 Seminary Avenue ♦ Ukiah, CA 95482

To participate virtually, go to the following link: <https://us06web.zoom.us/j/91264543193>

To view the meeting (without participating), go to: <http://www.cityofukiah.com/meetings/>

Or you can call in using your telephone only:

- Toll-free 1-669-444-9171
- Enter the Access Code: 912 6454 3193
- Raise hand: After being recognized, Enter *9
- To Speak after being recognized: enter *6 to unmute yourself

October 11, 2023 - 6:00 PM

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **PLEDGE OF ALLEGIANCE**

4. **APPROVAL OF MINUTES**

4.a. Approval of the Minutes of September 27, 2023, Planning Commission Meeting

Recommended Action: Approve the Minutes of September 27, 2023, Planning Commission Meeting

Attachments:

1. September 27, 2023, PC Minutes

5. **APPEAL PROCESS**

All determinations of the Planning Commission regarding major discretionary planning permits are final unless a written appeal, stating the reasons for the appeal, is filed with the City Clerk within ten (10) days of the date the decision was made. An interested party may appeal only if he or she appeared and stated his or her position during the hearing on the decision from which the appeal is taken. For items on this agenda, the appeal must be received by October 23, 2023.

6. **COMMENTS FROM AUDIENCE ON NON-AGENDA ITEMS**

The Planning Commission welcomes input from the audience that is within the subject matter jurisdiction of the Planning Commission. In order for everyone to be heard, please limit your comments to three (3) minutes per person and not more than ten (10) minutes per subject. The Brown Act regulations do not allow action to be taken on audience comments.

7. SITE VISIT VERIFICATION

8. VERIFICATION OF NOTICE

9. PLANNING COMMISSIONERS REPORT

10. DIRECTOR'S REPORT

10.a. Receive Community Development Director's Report

Recommended Action: Receive Community Development Director's Report.

Attachments:

1. Planning Division Projects Report - 10-1-23

11. CONSENT CALENDAR

12. UNFINISHED BUSINESS

13. NEW BUSINESS

13.a. Consideration of an offer of public artwork in Todd Grove Park that would formalize existing mural components on a public structure and approve a proposal for the remaining portion consistent with the City's Public Art Policy

Recommended Action: Staff recommends that the Planning Commission accept the offer of public artwork, as presented based on the Findings in Attachment 1 and the Conditions of Approval in Attachment 2.

Attachments:

1. Draft Findings
2. Draft Conditions of Approval
3. Application Materials

13.b. Receive Planning Commissioners Training from City Attorney's Office and Discuss and/or Ask Questions as Necessary.

Recommended Action: Receive Planning Commissioners training presentation from City Attorney's Office and discuss and/or ask questions as necessary.

Attachments:

1. AB 1234 Self-Study Outline
2. Brown Act Outline
3. Ethics training forms - sign in sheet certificate

14. ADJOURNMENT

Please be advised that the City needs to be notified 72 hours in advance of a meeting if any specific accommodations or interpreter services are needed in order for you to attend. The City complies with ADA requirements and will attempt to reasonably accommodate individuals with disabilities upon request. Materials related to an item on this Agenda submitted to the Planning Commission after distribution of the agenda packet are available at the Civic Center 300 Seminary Ave. Ukiah, CA 95482; and online at: www.cityofukiah/meetings/ at the end of the next business day.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Ukiah City Hall, located at 300 Seminary Avenue, Ukiah, California, not less than 72 hours prior to the meeting set forth on this agenda.

Dated: October 5, 2023

Stephanie Abba, Planning Commission Secretary

**CITY OF UKIAH
PLANNING COMMISSION MINUTES
REGULAR MEETING**
Civic Center Council Chamber ♦ 300 Seminary Avenue ♦ Ukiah, CA 95482
Virtual Meeting Link: <https://zoom.us/j/91264543193>

**September 27, 2023
6:00 p.m.**

1. CALL TO ORDER

The City of Ukiah Planning Commission held a Regular Meeting on September 27, 2023. The meeting was legally noticed on September 20, 2023. The meeting was held in person and at the following virtual link: <https://zoom.us/j/91264543193>. Chair Mark Hilliker called the meeting to order at 6:00 p.m.

CHAIR M. HILLIKER PRESIDING.

2. ROLL CALL

Roll was taken with the following **Commissioners Present:** Thao Phi, Alex deGrassi, and Chair Mark Hilliker. **Commissioners Absent:** Rick Johnson **Staff Present:** Craig Schlatter, Community Development Director; Jesse Davis, Chief Planning Manager; and Stephanie Abba, Planning Commission Secretary.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

4. APPROVAL OF MINUTES

a. Approval of the Minutes of September 13, 2023, a Regular Meeting.

Motion/Second: T. Phi/A. de Grassi to approve the Minutes of September 13, 2023, a Regular Meeting as submitted. Motion **carried** by the following Roll Call votes: **AYES:** T. Phi, A. deGrassi, and Chair M. Hilliker. **NOES:** None **ABSENT:** R. Johnson **ABSTAIN:** None

5. APPEAL PROCESS

Chair Hilliker stated that the appeals deadline date is October 09, 2023. No appeals were received.

6. COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS

No Comments from Audience

7. SITE VISIT VERIFICATION

Verified by Commissioners

8. VERIFICATION OF NOTICE

Verified by Staff

9. PLANNING COMMISSIONERS REPORTS

Report Received by M. Hilliker

10. **DIRECTOR'S REPORT**

Presenter: Craig Schlatter, Community Development Director

Report received

11. **CONSENT CALENDAR**

No items on the Consent Calendar

12. **UNFINISHED BUSINESS**

No Unfinished Business Agendized.

13. **NEW BUSINESS**

a. **Modification to a previously approved Major Use Permit to allow for on-site consumption of Cannabis Products in a designated Cannabis Consumption Area – Outdoor on the premises of an existing Cannabis-Related Business in accordance with the Ukiah City Code Section 9174.3(c)(5) at 1076 & 1078 Cunningham Street; APN 003-140-65; File No. 23-8481**

Presenter: Jesse Davis, Chief Planning Manager

Motion/Second: A. de Grassi/T. Phi Approve the requested modification to the previously approved Major use Permit to allow for on-site consumption of Cannabis Products in a designated Cannabis Consumption Area Outdoor in accordance with Ukiah City Code Section 9174.3(c)(5) at 1076 & 1078 Cunningham Street; APN 003-140-65; File No. 23-8481. Motion **carried** by the following Roll Call votes:

AYES: T. Phi, A. deGrassi, and Chair M. Hilliker. **NOES:** None **ABSENT:** R. Johnson **ABSTAIN:** None

14. **ADJOURNMENT**

There being no further business, the meeting adjourned at 6:43 p.m.

Stephanie Abba, Planning Commission Secretary



AGENDA SUMMARY REPORT

SUBJECT: Receive Community Development Director's Report

DEPARTMENT: Community Development

PREPARED BY: Craig Schlatter, Community Development Director

PRESENTER: Craig Schlatter, Community Development Director

ATTACHMENTS:

1. Planning Division Projects Report - 10-1-23

Summary: Planning Commission will receive the Community Development Director's report.

Background: Director's Reports are bi-monthly oral reports given by the Community Development Director on the status of projects of the Planning Division of the Community Development Department. Updates may include, but are not limited to, application status of major and minor discretionary permits, the implementation status of advanced planning and related 2040 General Plan programs and projects, and updates related to the activities of other divisions of the Department.

Discussion: This report is expected to provide updates in the following areas:

- October 2023 Planning Division Projects report (Attachment 1).
 - This is a monthly report produced on the first of each month. Updates that have occurred since the first of the month are provided to the Commission verbally during the report. The October 2023 report and previous monthly reports are also located on the Planning Division Services webpage, under "Current Planning Reports":
<https://cityofukiah.com/communitydevelopment/planning-services/>

Recommended Action: Receive Community Development Director's Report.



COMMUNITY DEVELOPMENT DEPARTMENT

**City of Ukiah
Submitted Planning Applications**

As of 10/1/2023

Permit #	Site Address	Date of Submittal/ Resubmittal	Summary of Project	Status	Assigned Planner
22-7956	162 Talmage Rd.	6/28/23	Major Site Development Permit for the Splash Express Car Wash #5 (dBA LUV Car Wash) facility. Includes demolition of the existing structures and redevelopment of a new 2,433 sf car wash facility, located within the Heavy Commercial (C2) zoning district.	Airport Land Use Commission Referral: 3/23/23 (ALUC Staff - Deemed Consistent) Design Review Board Hearing: 5/25/23 Item Approved by PC on 6/28/23; PC Decision Appealed by Eric Crane on 7/5/23; City Council Appeal Hearing: 10/18/23	Craig Schlatter
N/A	600 Live Oak Ave.	2/27/23; 7/21/23	Todd Grove Public Art Mural Permit within the Public Facilities (PF).	Design Review Board Meeting: 5/25/23 (DRB recommended to PC with modifications); Planning Commission Hearing: 10/11/23	Jesse Davis
17-3069	1294 N. State St.	9/13/17; 9/14/21; 9/28/22; 5/12/23; 7/11/23	Resubmitted Major Use Permit and Site Development Permit to allow for construction of two retail suites (including one drive-through), located in the C-1 (Community Commercial) zoning district.	Incomplete 6/2/22; 9/29/22; 5/27/23; Design Review Board Meeting: TBD; Awaiting response from Applicant.	Michelle Irace
23-8774	1104 S. State St.	8/24/2023	Green Advt 101/Cookies Cannabis Use Permit Annual Renewal	Submitted: 8/24/23. Referred out on 8/29/23. ZA Hearing scheduled for 10/11/23	Michelle Irace
23-8753	104 Echo Way	8/4/2023	104 Echo Way Minor Subdivision Modification	Submitted: 8/4/23; Referred out on 8/15/23; CE Hearing scheduled for 10/19/23	Michelle Irace



City of Ukiah
Recently (Within Previous 90 Days) Approved Projects

As of 10/1/2023

Permit #	Site Address	Approval Date	Summary of Project	Comments	Assigned Planner
23-8481	1076 Cunningham Rd.	9/27/2023	Major Use Permit to include outdoor consumption lounge at the existing Heritage Mendocino cannabis dispensary	Submitted: 7/31/23; Planning Commission Hearing: Approved by PC on 9/27/23	Jesse Davis
23-8069	218 Mason St.	9/13/23	Minor Use Permit for conversion of use from commercial to mixed-use within the Community Commercial (C1) zoning district.	Approved by the Zoning Administrator on 9/13/23	Michelle Irace
22-7977	101 S. Main St.	; 9/29/23	Major Site Development Permit for construction of a new 5,320 sf Redwood Credit Union bank facility, located within the Urban Center (UC) zoning district.	Design Review Board Meeting: 3/23/23 Planning Commission Hearing: 5/10/23. Item Denied on 6/14/23 by PC; PC Decision Appealed by Applicant 6/23/23. City Council Appeal Hearing: 7/19/23; Council recommended project modifications; Appeal from applicant approved by City Council at a Special Hearing on 9/29/2023.	Michelle Irace
A_2021-01	Citywide	9/11/2023	Annexation of City-Owned Parcels.	Submitted Annexation Application to LAFCo 2/23/22. Incomplete letter received 3/25/22. Updated application submitted in June 2022. Prezoning and application modifications to Planning Commission 3/22/23 City Council on 4/5/23. Application update submitted to LAFCo on 04/20/23. Application approved by LAFCo on 09/11/2023.	Jesse Davis

**City of Ukiah
Advanced Planning Projects**

As of 10/1/2023

Permit #	Site Address	Approved Date	Summary of Project	Comments	Assigned Planner
N/A	Citywide	N/A	Ordinance Amendment for modifications to Objective Design and Development Standards for New Residential Construction (UCC 9055)	Proposed amendments reviewed by Design Review Board 7/27/23. Planning Commission Hearing: 9/13/23; First Reading by City Council on 10/4/23; Second Reading and Adoption by City Council on 10/18/23.	Jesse Davis
N/A	Citywide	N/A	Ordinance Amendment for modifications to UCC 3016 for Demolition Permit procedures	Working with Rincon Consultants, Inc. to update/streamline Demolition Permit procedures. Funded by Local Early Action Planning (LEAP) Grant. Anticipate bringing proposed amendments forward Fall, 2023.	Michelle Irace
N/A	Citywide	N/A	2040 General Plan Implementation Programs	2040 General Plan adopted by City Council 12/7/22. Implementation efforts began January, 2023	Michelle Irace, Jesse Davis
A_2022-02	Unincorporated Western Hills	N/A	Western Hills Open Land Acquisition and Limited Development Agreement Project - Annexation Application.	Annexation application submitted to LAFCo: 6/8/22. Incomplete letter from LAFCo received 6/29/22. Rezoning and application modifications to PC/CC anticipated Fall, 2023	Michelle Irace, Jesse Davis
N/A	Citywide	N/A	Ordinance Amendment for modifications to Lot Line Adjustment Requirements.	Proposed amendments to CC in Winter, 2023.	Craig Schlatter



DATE: October 4, 2023
TO: Planning Commission
FROM: Jesse Davis, Chief Planning Manager

SUBJECT: Consideration of an offer of public artwork in Todd Grove Park that would formalize existing mural components on a public structure and approve a proposal for the remaining portion consistent with the City's Public Art Policy.

SUMMARY

OWNER(S):	City of Ukiah
APPLICANT:	Ukiah Valley Youth Leadership Coalition/Redwood Community Services
LOCATION:	Todd Grove Park, (APN 001-090-02)
TOTAL ACREAGE:	±7.19 acres (±313,196 sq ft)
GENERAL PLAN:	Public (P)
ZONING DISTRICT:	Public Facilities (PF)
AIRPORT COMPATABILITY:	N/A
ENVIRONMENTAL DETERMINATION:	Categorical Exemption, pursuant to CEQA Guidelines Section 15301, Existing Facilities (a)
RECOMMENDATION:	Approval with Conditions, based on the Findings contained in Attachment 1, and the Conditions of Approval in Attachment 2.

PROJECT DESCRIPTION AND BACKGROUND

In October 2021, an offer of public artwork was received and approved by the City of Ukiah Department of Community Services. At that time, a 'Mural Permit' was not requested, nor was the work undertaken in compliance with the City's Public Art Policy. The offer for public artwork was submitted by the Ukiah Valley Youth Leadership Coalition (UVYLC), a program of the Arbor Center, sponsored by Redwood Community Services.

The UVYLC identified a lead artist, Josue Rojas, to design a large-scale mural on the theme of immigration, and then commenced painting on the exterior walls of the park's restroom near the

playground at Todd Grove Park. While the mural was partially completed, the work was paused, until such time that a 'Mural Permit' could be reviewed and approved.

Beginning in November of 2021, Community Development Staff intermittently consulted with the UVYLC to find a design that met the City's Public Art Policy and that was considered acceptable by various Departments within the City of Ukiah.

On May 25, 2023, as required by the City's Public Art Policy, the request was reviewed by the City's Design Review Board. While the DRB was supportive of the request, they recommended that the proposed slogan "No human is illegal on stolen land" be relocated to a less prominent location, or that an alternative slogan be identified.

On September 20, 2023, Redwood Community Services confirmed a final design for the mural that met the recommendation of the Design Review Board and was found acceptable to the City of Ukiah. As conveyed in Attachment 3, the banner is now proposed to read "We are all guests on this earth."

At present, most of the mural has been completed, as the western, northern, and eastern sides of the subject structure were finished in 2021. The south side of the subject structure, however, remains incomplete, and requires review and approval from the Planning Commission before it can be completed. At this stage, the request is to formalize approval of the existing mural components and approve the proposal for the remaining portion consistent with the City's Public Art Policy. As proposed, the banner will now read "We are all guests on this earth." Additionally, the UVYLC intends to add details to finalize the mural, such as hands, facial features, background striping, minor touch-ups and other items that remain incomplete from 2021. No further changes are identified for the west, north, and east sides of the public structure.

DISCUSSION

Finalization of this proposal required numerous discussions between Staff and the Applicant, as it involved the sensitive intersection between public art, community spaces, and artistic expression. It's important to note that the appropriateness of public art depends highly on situational context and its suitability for the site. In this instance, the proposed mural is adjacent to the primary playground area of Todd Grove Park, which is oriented towards children (ages 2-10). In general, public art near a playground should be designed with the goal of creating a fun, engaging, and safe environment for children. While murals that celebrate Ukiah's culture, history, or diversity could instill a sense of pride and identity among children and their families, more complicated messages may not be appropriate to that immediate context, as required by the City's Public Art Policy. As conveyed by Design Review Board Member Tom Liden during the Design Review Board hearing on May 25, 2023:

"Public art is really different than art...art is provocative...but when you're dealing with public space, you have to approach it differently. There is a separation between art for the artist that is a private canvas, and art that is being produced for public property for everybody to reflect upon."

Ideally, public art should reflect the interests and needs of the local community while promoting dialogue, as exemplified by public art installations, like the Mayor's Monarch Mural located in Alex Thoms Plaza. That request sought to raise awareness and encourage preservation of the monarch butterfly and was undertaken with efforts to increase native gardens and local pollinators.

Furthermore, for art on public property, community input and consultation with relevant stakeholders needs to be prioritized. The dialogue should seek to ensure that the proposed public art aligns with the values and goals of nearby residents, as well as visitors to the park. The original

message proposed in this mural could be seen as controversial and was undertaken without the benefit of public review.

As this mural was undertaken without the benefit of review by the Community Development Department, Design Review Board, and Planning Commission, input from stakeholders was limited and ultimately resulted in the work being paused for approximately two years while City Staff sought to reconcile the desires of the Applicant with the City's Public Art Policy.

After numerous Staff consultations, the mural, as presently conveyed, is more responsive to its immediate social and physical environment. It can be supported by Staff, given that it now meets all criteria identified in the City's Public Art Policy. The Public Art Policy, included below, lists the following factors that may be considered by the Planning Commission when considering the selection of artwork for installation in public places:

- **Qualifications of the Artist:** Artists may be selected based on their qualifications as demonstrated by past work, and the appropriateness of their concepts to the project.
- **Quality of the Artwork:** Of highest priority are the design capabilities of the Artist and the inherent quality of the Artwork.
- **Artistic Value:** Public Artwork shall have a recognized aesthetic value.
- **Media:** All forms of visual arts should be considered.
- **Appropriateness to Site:** Artwork designs shall be appropriate in scale, material, form and content to their immediate social and physical environments.
- **Size and Weight for Outdoor Artwork:** Public Artwork located in an outdoor Public Place shall be of appropriate and suitable weight to sustain interaction with the public.
- **Appropriateness to City's Public Art Purpose:** Artworks should address a commitment to enhancing Public Places, creating a sense of place and giving character to neighborhoods.
- **Permanence:** Consideration shall be given to structural and surface integrity, permanence and protection of the proposed artwork against theft, vandalism, weather, and excessive maintenance and repair costs.
- **Public Liability:** Safety conditions or factors that may bear on public liability must be considered in selecting an Artist or Public Artwork.
- **Diversity:** Public Artwork shall strive for diversity of style, scale, media and artists, including ethnicity and gender of Artists selected.
- **Communication:** The ability of the Public Artwork to effectively communicate should be taken into consideration.
- **Maintenance:** Consideration shall be given to the type and scope of maintenance necessary to preserve the Public Artwork in a Public Place.

AGENCY COMMENTS

This project was not distributed for agency review and comment, but Staff coordinated and involved the Department of Community Services in the evaluation of this offer of public art to ensure that ongoing considerations, such as maintenance were addressed. Pursuant to the Public Art Policy, the proposed mural was reviewed by the Design Review Board with the recommendation that the proposed slogan "No human is illegal on stolen land" be relocated to a less prominent location, or that an alternative slogan be identified.

ENVIRONMENTAL DOCUMENTATION

The proposed Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15301, Existing Facilities (a) interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances with no expansion of use. This project involves exterior improvements to a developed public facility

structure that involves no construction. There are no unusual circumstances that would result in a reasonable possibility of a significant effect, and the project is determined to be consistent with the applicable general plan designation and policies, including applicable public art regulations. As such, the Project qualifies for the aforementioned CEQA exemption.

RECOMMENDATION

Staff recommends that the Planning Commission accept the offer of public artwork, as presented based on the Findings in Attachment 1 and the Conditions of Approval in Attachment 2.

ATTACHMENTS

1. Draft Findings
2. Draft Conditions of Approval
3. Application Materials

**DRAFT FINDINGS
MURAL PERMIT - TODD GROVE PARK
APN (001-090-02)**

The Community Development Department's recommendation for conditional approval of a Mural Permit at Todd Grove Park, as described in the application materials and Staff Report dated October 4, 2023 is based in part on the following findings, in accordance with UCC §3225(g).

1. *The mural would not be incompatible with the building, site or surrounding environment.*

The proposed mural would be located on the exterior walls of the Todd Grove Park restroom, near the primary playground facility. The mural would not be incompatible with the site or surrounding environment, as the Applicant has worked to refine the message and theme of the mural to the satisfaction of the City's Community Development Department, as well as the Design Review Board. The mural is located within a public park that features similar art installations on nearby public structures, such as the adjacent pool and swimming area. Reflecting on the theme of community diversity, the mural's location within Todd Grove Park, which often serves as a gathering place reflects the community's diversity and celebrates the contributions of its many constituencies. By enhancing the aesthetic appeal of an undistinguished structure, Todd Grove Park is made more attractive and engaging for visitors.

2. *The mural would have a negligible impact on motorists and traffic hazards.*

No aspect of the mural could be construed as impacting the ability of motorists to navigate a public or private street, as it is centered in Todd Grove Park, disconnected from any public or private right of ways.

3. *The mural does not contain written messages or additional advertising signage.*

No aspect of the mural could be construed as advertising signage. While there is written text, it is incorporated into the mural as a component of the design.

4. The proposed Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15301, Existing Facilities (a) interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances with no expansion of use.

5. The Notice of the Public Hearing was provided in the following manner, in accordance with UCC §9262 and 3225(g): published in the Ukiah Daily Journal on October 1, 2023; posted on the Project site on *September 29, 2023*; posted at the Civic Center (glass case) 72 hours prior to the public hearing; and provided to property owners within 300 feet of the project parcels on September 29, 2023.

**DRAFT CONDITIONS OF APPROVAL
MURAL PERMIT - TODD GROVE PARK
APN (001-090-02)**

The following Conditions of Approval shall be made a permanent part of the Mural Permit; shall remain in force regardless of property ownership and shall be implemented for this entitlement to remain valid.

Approved Project Description: Consideration of an offer of public artwork in Todd Grove Park that would formalize existing mural components on a public structure and approve a proposal for the remaining portion consistent with the City's Public Art Policy

CITY OF UKIAH SPECIAL CONDITIONS

1. Approval is granted to allow a mural as described in the project application and subsequent documents submitted to the Community Development Department.
2. This approval is not effective until the 10-day appeal period has expired without the filing of a timely appeal. If a timely appeal is filed, the project is subject to the outcome of the appeal and shall be revised as necessary to comply with any modifications, conditions, or requirements that were imposed as part of the appeal.
3. All use, construction and the location thereof shall conform to the application and to any supporting documents submitted therewith, including any maps or sketches accompanying the application or submitted by applicant in support thereof.
4. If any condition is violated or if any required approval is not obtained, then the approval granted shall be null and void; otherwise to continue in full force and effect indefinitely until otherwise terminated.
5. The approved Project may be revoked through the City's revocation process if the approved project is not being conducted in compliance with the stipulations and conditions of approval; or, if the project is not established within two (2) years of the effective date of approval; or, if the established Project for which approval was granted has ceased or has been suspended for twenty-four (24) consecutive months.
6. Except as otherwise specifically noted, any Project approval shall be granted only for the specific purposes stated in the action approving such Project and shall not be construed as eliminating or modifying any building, use, or zone requirements except as to such specific purposes. Nor shall the mural deviate from the project conveyed within the Application materials and approved by the Planning Commission.
7. The applicant shall obtain and maintain any permit or approval required by law, regulation, specification or ordinance of the City of Ukiah and other Local, State, or Federal agencies as applicable.
8. Graffiti shall be removed from the mural within a timely manner and the mural shall be maintained for aesthetic quality.

9. The Applicant shall not conduct work or prohibit access to any pedestrian or vehicular right of way.

DRAFT



City of Ukiah

Community Development Department
 Planning Division
 300 Seminary Ave., Ukiah CA 95482
 Email: planning@cityofukiah.com
 Web: www.cityofukiah.com
 Phone: (707) 463-6268
 Fax: (707) 463-6204

Planning Permit Application

PROJECT NAME:																				
PROJECT ADDRESS/CROSS STREETS:				AP NUMBER(S):																
APPLICANT/AUTHORIZED AGENT:		PHONE NO:	FAX NO:	E-MAIL ADDRESS:																
APPLICANT/AUTHORIZED AGENT ADDRESS:			CITY:	STATE/ZIP:																
PROPERTY OWNER IF OTHER THAN APPLICANT/AGENT:		PHONE NO:	FAX NO:	E-MAIL ADDRESS:																
PROPERTY OWNER ADDRESS IF OTHER THAN APPLICANT			CITY:	STATE/ZIP:																
HAS YOUR PROJECT RECEIVED A PRELIMINARY REVIEW? ☐ YES ☐ NO																				
☐ AIRPORT LAND USE COMM. DETERMINATION REFERRAL 100.0800.611.003	\$	☐ REZONING – PLANNED DISTRICT 100.0800.611.001	\$	☐ USE PERMIT – AMENDMENT 100.0400.449.001	\$															
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☐ MURAL PERMIT 100.0400.449.001	\$ N/A	☐ SPECIFIC/MASTER PLAN 100.0800.611.003	\$	☐ VARIANCE – MINOR 100.0400.449.001	\$															
☐ PRE-DEVELOPMENT MEETING 100.0800.611.003	\$	☐ MINOR SUBDIVISION/TENTATIVE PARCEL MAP (4 OR FEWER LOTS) 100.0800.610.001	\$	☐ ZONING AMENDMENT MAP OR TEXT 100.0800.611.001	\$															
☐ STAFF RESEARCH (MORE THAN 1 HOUR) 10023100.41153	\$	☐ MAJOR SUBDIVISION/TENTATIVE SUBDIVISION MAP (5 OR MORE LOTS) 100.0800.610.001	\$	☐ REZONING 100.0800.611.001	\$															
☐ LOT LINE ADJUSTMENT OR MERGER 100.0800.610.001	\$	☐ OTHER	\$	☐ OTHER	\$															
<table border="1"> <tr> <td>COUNTY CEQA FILING FEE: CHECK PAYABLE TO MENDOCINO CO.</td> <td>\$</td> <td>MAJOR PERMIT DEPOSIT:</td> <td>\$</td> <td>FILING DATE:</td> </tr> <tr> <td>COUNTY CEQA (NEG DEC) FEE: CHECK PAYABLE TO MENDOCINO CO.</td> <td>\$</td> <td>MINOR PERMIT FEE:</td> <td>\$</td> <td>TOTAL AMOUNT PAID: \$</td> </tr> <tr> <td>COUNTY CEQA (EIR) FEE: CHECK PAYABLE TO MENDOCINO CO.</td> <td>\$</td> <td>TOTAL FEE:</td> <td>\$</td> <td>RECEIPT NUMBER:</td> </tr> </table>						COUNTY CEQA FILING FEE: CHECK PAYABLE TO MENDOCINO CO.	\$	MAJOR PERMIT DEPOSIT:	\$	FILING DATE:	COUNTY CEQA (NEG DEC) FEE: CHECK PAYABLE TO MENDOCINO CO.	\$	MINOR PERMIT FEE:	\$	TOTAL AMOUNT PAID: \$	COUNTY CEQA (EIR) FEE: CHECK PAYABLE TO MENDOCINO CO.	\$	TOTAL FEE:	\$	RECEIPT NUMBER:
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APPLICATION NUMBER(S):																				

Recommendation: Prior to submitting an application, discuss your project with Staff to discover what fees (sewer, water, in-lieu park fees, traffic impact fees, etc.) may be required for your project. Also, ask about street tree requirements, required sidewalk repairs, drainage issues, storm water mitigation requirements, frontage improvements, etc.

Project Description

Please attach a written project description including summary of work (both interior and exterior for construction and operation) and/or business proposed. The purpose of the project description is to assist Staff in understanding the project. The project description will also be included in the Staff Report required to review (and ultimately approve or deny) the planning permit. Providing complete information will help expedite the project review process and in determining what additional information, if any, related to the project and required environmental review is required.

Environmental Review and Reports

Please be aware that projects are required to comply with the California Environmental Quality Act (CEQA). Projects will be reviewed by Staff for compliance with CEQA and Staff will determine the appropriate CEQA document to prepare for the project (exemption, negative declaration, etc.). In order to make this determination, specific reports (traffic, arborist, soils, etc.) and or additional information may be required.

Use Information

Please provide the following information related to the use of the site and building:

Description of Building & Site			
Parcel Size:	Building Size:	Number of Floors:	
Use of Building (check all that apply)	Description	Square Footage	Number of Units/Suites
☐ Office (business/professional)			
☐ Office (medical/dental)			
☐ Retail			
☐ Light Industrial			
☐ Residential			
☒ Other:			
Operating Characteristics			
Days and Hours of Operation:			
Number of Shifts:	Days and Hours of Shifts:		
Number of Employees/Shift:			
Loading Facilities: ☐ Yes ☐ No	Type/Vehicle Size:		
Deliveries: ☐ Yes ☐ No	Type:	Number (day/week/month):	Time(s) of Day:
Outdoor areas associated with use? (check all that apply) ☐ Yes ☐ No	Sales area: ☐ Yes ☐ No Square Footage:	Unloading of deliveries: ☐ Yes ☐ No Square Footage:	Storage: ☐ Yes ☐ No Square Footage:
Noise Generating Use? ☐ Yes ☐ No	Description:		

To Be Completed by Staff

General Plan Designation:	Zoning District:	Airport Land Use Designation:
City's Architectural & Historic Inventory: ☐ YES ☐ NO	Age of Building:	Demolition Policy:
Hillside: ☐ YES ☐ NO	Flood Designation FIRM Map:	Flood Designation Floodway Map:
Tree Policies		
General Plan Open Space Conservation ☐ NO ☐ YES GOAL/POLICY #:	Community Forest Management Plan ☐ NO ☐ YES GOAL/POLICY #:	
Landscaping and Streetscape Design Guidelines ☐ NO ☐ YES GUIDELINE #:	Commercial Development Design Guidelines ☐ NO ☐ YES GUIDELINE #:	
Tree Protection and Enhancement Policy ☐ NO ☐ YES NOTES:	Tree Planting and Maintenance Policy ☐ NO ☐ YES NOTES:	
UCC: Street Tree Policy, Purpose and Intent ☐ NO ☐ YES NOTES:	Other:	
Notes		

I, _____, owner authorize _____
to act on my behalf for this project and I have read and agree with all of the above. (Application must be signed by owner).

PROPERTY OWNER SIGNATURE

DATE

I, _____, am the ☐ owner / ☐ authorized agent of the property for which the development is proposed. The above information and attached documents are true and accurate to the best of my knowledge.

I have read and agree with all of the above.

I hereby authorize employees of the City of Ukiah, the City's authorized agents, and persons with review or decision making authority for the project to enter upon the subject property, as necessary, to inspect the premises, post notices, and process this application.

I understand that conditions of approval may be placed on my project by the city of Ukiah and it is my responsibility to fully understand the conditions and ask questions about them before action is taken on my planning permit.

Victoria Kelly 12/9/2022
☐ OWNER / ☒ AUTHORIZED AGENT **DATE**

INDEMNIFICATION AGREEMENT

As part of this application, the applicant agrees to defend, indemnify, and hold harmless the City of Ukiah, its agents, officers, council members, employees, boards, commissions or Council from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void, or annul any approval of the application or related decision, or the adoption or certification of any environmental documents or negative declaration which relates to its approval. This indemnification shall include, but is not limited to, all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of it or in connection with the approval of the application or related decision, whether or not there is concurrent, passive, or active negligence on the part of the City, its agents, officers, council members, employees, boards, commissions of Council. If for any reason, any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

The City of Ukiah shall have the right to appear and defend its interests in any action through its City Attorney or outside counsel. The applicant shall not be required to reimburse the City for attorney's fees incurred by the City Attorney of the City's outside counsel if the City chooses to appear and defend itself in the litigation.

I have read and agree to all of the above.

Victoria Kelly
☐ PROPERTY OWNER / ☒ AUTHORIZED AGENT
(PLEASE PRINT NAME)
Victoria Kelly 12/9/2022
☐ PROPERTY OWNER / ☒ AUTHORIZED AGENT **DATE**
(SIGNATURE)

Revised 08/19/2019



We are all guests
on this earth



Proposed Mural

Mural Permit Application

Over the past year, the Ukiah Valley Leadership Coalition has worked towards creating a truthful social justice mural on the topic of community diversity. It felt important to the coalition to acknowledge the richness of our multi-diverse community and thereby bringing everyone together.

The mural was made with paint and was painted in 2021. The painting process began in January 2021 and the paint has withstood the elements for 22 months and has not noticeably faded. It is therefore fit for prolonged public exposure. It is painted big enough to be easily seen by the majority of the park goers, if they were to pass within sight of the mural. Mural side A on appendix A is 21 feet wide and 11 feet tall; mural side B on appendix B is 12 feet wide and 11 feet tall; mural side C is 21 feet wide and 11 feet tall; and mural side D is 12 feet wide and 11 feet tall. The anticipated life of the Artwork: Community Diversity Celebration will be on permanent display and its estimated value is from \$10,000 to priceless. The proposed site for the mural is located Todd Grove Park 600 Live Oak Ave, Ukiah, CA 95482. The mural can be found on the exterior of the bathroom walls. There is no signage for the mural.

See appendices for pictures of the mural.

See attached file and links for the artist biography.

<http://www.josuerojasart.com/>

Appendix A

Mural Side A



Appendix B

Mural Side B

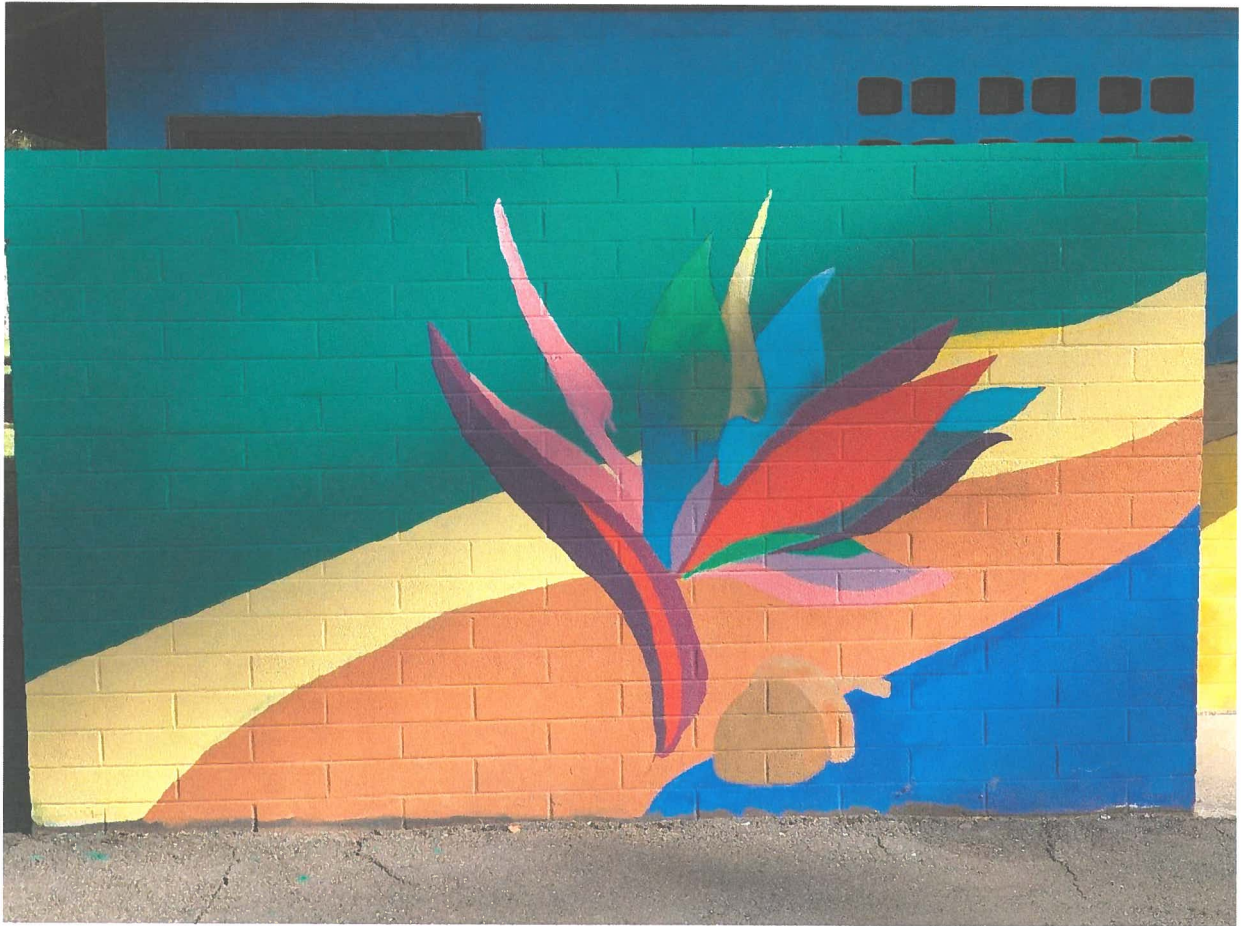


Mural Side C



Appendix C

Mural Side D





Artist Biography

Josué Rojas

Josue.g.rojas@gmail.com

www.josuerojasart.com

(415) 756-7454

Artist Biography

My name is Josué Rojas, local artist, activist and educator.

I have more than 20 years of experience in fine arts, muralism, community arts, and arts leadership in the San Francisco Bay Area. My work and vision have been characterized by a commitment to San Francisco's cherished values of community arts, civic engagement, social justice and empowerment for migrant communities and marginalized communities at large.

My work is informed by a bicultural and bilingual experience. Public art uplifts our communities — it is a powerful vehicle to bear witness to the real experiences — the joys, struggles and triumphs we face on a daily basis. It is to this end that I create community-centered works. San Francisco, and particularly the Mission District that raised me — has taught me this much.

I hold a BFA in painting from the California College of Arts and Crafts (now CCA) and a masters in painting from Boston University. I am a product of the local public arts, it has been my initiation into the practice. I was raised in District 9 and have been a muralist since 1995.

I have since created dozens of projects locally and abroad, including leading Acción Latina, proud publisher of the Mission District's own El Tecolote Newspaper -- California's longest-running bilingual newspaper. As such, an intimate and sensitive knowledge of this community centers my work. A deep love for San Francisco keeps me

here, contributing to its thriving creative culture via public works. I center my work around the community process, often interviewing residents, gathering investigations, feedback and real-life--narratives that tell the intersectional story of the place. Public artists hold a responsibility to the residents of the communities their works are made in. This is our mandate. Since embarking as a full time independent artist in early 2021, I have made some of the most ambitious, dynamic and large public works in my career. I seek to continue to make and create as an independent creative professional.

The intention behind my work is to bring critical consciousness and bring beauty to the same conversation, while delivering beauty, subtlety and mastery of the craft of painting — paying respects to decades of muralists that have come before me. It is a continuum, a tradition we have here in San Francisco.

A handwritten signature in blue ink, reading "Rojas". The signature is stylized, with a large, looping initial "R" and the name "Rojas" written in a cursive script.

Josué Rojas, Artist

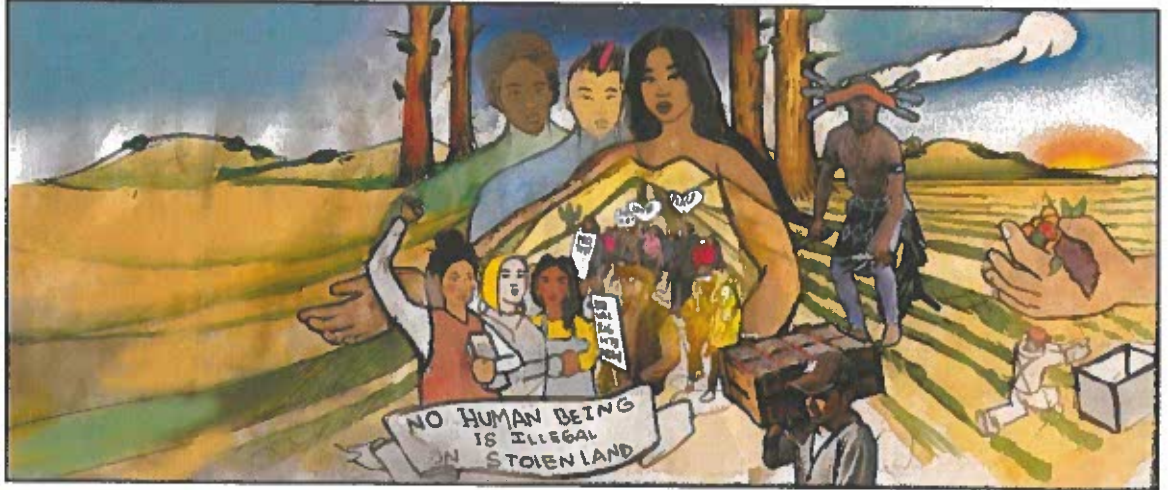
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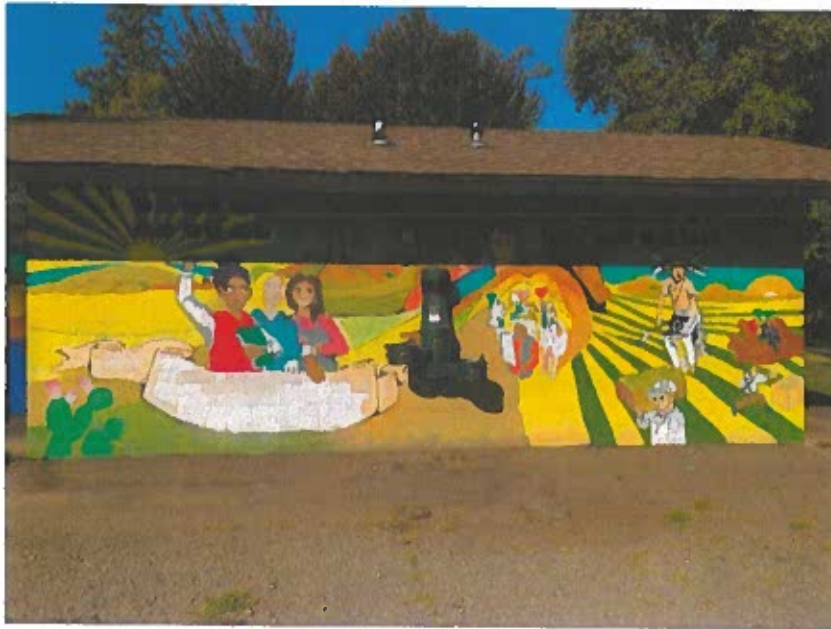
Youth Coalition Narrative

CITY OF UKIAH
COMMUNITY DEVELOPMENT

A. This is what the mural will look like upon completion.



This is the mural at its current state.



The mural was made with paint and was painted in 2021. The painting process began in January 2021 and the paint has withstood the elements for 22 months and has not noticeably faded. It is therefore fit for prolonged public exposure. It is painted big enough to be easily seen by the majority of the park goers, if they were to pass within sight of the mural. Mural side A on appendix A is 21 feet wide and 11 feet tall; mural side B on appendix B is 12 feet wide and 11 feet tall; mural side C is 21 feet wide and 11 feet tall; and mural side D is 12 feet wide and 11 feet tall. The anticipated life of the Artwork: Community Diversity Celebration will be on

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CITY OF UKIAH
COMMUNITY DEVELOPMENT

permanent display and its estimated value is from \$10,000 to priceless. The proposed site for the mural is located Todd Grove Park 600 Live Oak Ave, Ukiah, CA 95482. The mural can be found on the exterior of the bathroom walls. There is no signage for the mural.

The sun on the left rising and on the right setting conveys the new bright future ahead and the pass coming to an end. The mountains and landscape are meant to show the diversity to Californias geography and its strong roots in agriculture seen with the lines of green crops on the right, the vast desert on the left, and the redwoods in the back all working together with nature. The cactus plant is flowering to further show blooming and change. The Girls behind the banner are holding each other up. The banner means no natural part of the world including individuals should be bound by institutions withholding land made for them. The girl in the red on the left is holding a book showing importance of education she is raising her fist to show her persistence to positive social change in her community including the women she is holding up beside her. It is meant to show her speaking up for the betterment of her community. The others next to her are standing with her showing solidarity and unification between young women and the overall community. They all are looking forward towards their future. The people holding signs and hearts are to show with peaceful community organizing progress is possible and these demonstrations open good discussions. Behind the mountains three people are situated one depicting reaching over the land and caring for it similarly to mother earth. The two to the left of her are to show solidarity within the community for these gifts from the land. The man carrying the box is meant to further show the importance of agricultural workers in California. The process is shown more by the man behind him preparing the crops in a field to be distributed all throughout the community. The big hand holding the fruit is to show the aspects of mother earth blessing us with fruits and bountifulness. To the left there is a man in traditional cultural clothing meant to illustrate the diverse cultural ties to Mendocino County. All of these people together make up a vast consciousness that prioritizes each other and unity within the community.

E. Appropriateness to site: Why is the proposed artwork appropriate for Todd Grove Park?

This artwork is appropriate for Todd Grove Park because it celebrates unity and serves as an example for the community to look up to. This artwork represents standing for equality and facing tough problems head on with bringing awareness to the community around you. It is supposed to bring a sense of care for these issues and communicate peace to people alike at the park.

The mural, No Human is Illegal on Stolen Land is important because it is a powerful form of public art that can be used to celebrate, honor, and reflect the history and culture of Ukiah and its people. This mural can also be used to bring attention to social issues and can be used as a tool for creating social change. It can also be used to beautify Todd Grove Park, create a sense of pride, and bring communities together. By using art to communicate issues of social justice, No Human is Illegal on Stolen Land helps to bring awareness to topics such as racism, sexism, poverty, and inequality in Ukiah. Most important, it provides a sense of empowerment and hope to those who see it and can serve as form of resistance against oppressive systems of structure.

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**CITY OF UKIAH
COMMUNITY DEVELOPMENT**

F. Anticipated date for completion:

The Youth Coalition anticipates that the mural will be completed by April 28, 2023.



AGENDA SUMMARY REPORT

SUBJECT: Receive Planning Commissioners Training from City Attorney's Office and Discuss and/or Ask Questions as Necessary.

DEPARTMENT: Community
Development

PREPARED BY: Craig Schlatter, Community Development Director

PRESENTER: David Rapport, City Attorney; Darcy Vaughn,
Assistant City Attorney

ATTACHMENTS:

1. AB 1234 Self-Study Outline
2. Brown Act Outline
3. Ethics training forms - sign in sheet certificate

Summary: Planning Commissioners will receive a training presentation from the City Attorney's Office.

Background: "AB 1234 requires elected officials (City Council) and appointed officials (Planning Commission) to take two hours of ethics training if they receive compensation for their service or are reimbursed for their expenses." Training on the Ralph M. Brown Act is also useful for Planning Commissioners.

Discussion: The City Attorney's Office will provide training on ethics (AB 1234) and the the Brown Act. A Self-Study Materials Outline for AB 1234 is provided in Attachment 1, and a Brown Act Outline is provided in Attachment 2.

Staff recommends Planning Commission receive the training presentation and discuss with the City Attorney's office any questions as necessary. At the conclusion of the training, Commissioners will sign the sign-in sheet and receive a certificate of completion (Attachment 3).

Recommended Action: Receive Planning Commissioners training presentation from City Attorney's Office and discuss and/or ask questions as necessary.

AB 1234 Self-Study Materials

Part I: Financial Interests and Perks

AB 1234 requires elected and appointed officials to take *two hours* of ethics training if they receive compensation for their service or are reimbursed for their expenses.¹ The ethics training requirement may also apply to agency employees designated by the agency's legislative body.²

There are many ways to satisfy this requirement, including in-person training and self-study activities. Moreover, like all ethics laws, AB 1234 is a floor, not a ceiling. Local officials can demonstrate their commitment to ethics in public service by going beyond AB 1234's minimum requirements.

This self-study exercise is eligible for *one hour* of AB 1234 self-study credit (or half of the minimum requirement). To claim self-study credit, log on to www.ca-ilg.org/AB1234selfstudy, print out and take the test, mail it to the address indicated with the \$37.50 processing fee. This fee covers grading the test, providing the correct answers (and explanations) and your proof of participation certificate.

Scope of This Self-Study Exercise

These materials cover the first two areas of ethics training required by AB 1234:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws); and
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources and prohibitions against gifts of public funds.³

It also covers ethics principles related to these laws and ethics in public service in general.

Self-study materials that cover governmental transparency and fair process laws may be found here: www.ca-ilg.org/post/ab-1234-self-study.

Note that public service ethics laws are extraordinarily complex. The learning objective of both self-study and in-person AB 1234 training courses is to familiarize local officials with when they need to consult agency counsel, the Attorney General or the Fair Political Practices Commission about a given situation or course of action.

Moreover, the ethics laws and training requirements of AB 1234 are both *minimum* standards. Just because a course of action is legal doesn't mean that it is ethical or that the public or media will perceive it to be so. Local officials are strongly encouraged to go beyond the minimum standards set forth in the law and participate in additional educational activities relating to their legal and ethical obligations as public servants.

Financial Gain

Key Concepts

The principle underlying the financial gain laws is that the possibility of personal financial gain or loss cannot be a factor in your decisions as a public official. The laws in this area are designed to promote the general

ethical values of *responsibility* and *trustworthiness*. Public servants have a responsibility to act always in the public's interest, and the public needs to be able to trust that they will.

Key Laws

The following laws are designed to avoid both the reality and the appearance of personal financial gain influencing public servants' actions.

- **Bribery.** Requesting, receiving or agreeing to receive money in exchange for an official action is a crime. Under the state's criminal laws, a "bribe" includes anything of value; it also includes receiving "advantages." ⁴The advantage can be a future one and need not involve the payment of money.⁵
- **Disqualification Based on Financial Interests.** A public official may not make, participate in or influence a governmental decision that will have a foreseeable and material financial effect on the official, the official's immediate family or any of the official's economic interests.⁶ Note the breadth of the prohibition: it does not just apply to voting, but the entire process leading up to voting.
- **Interests in Contracts Prohibited.** A public official may not have a financial interest in any contract made by the board or body of which the official is a member.⁷ The law is very strict on this point. Such contracts are void—meaning that the public agency will not have to pay the official for the benefits provided to the agency under the contract.⁸ Under most circumstances, the prohibition cannot be avoided by disqualifying oneself from participating in the decision on the contract.
- **Helping Prospective Employers.** A public official may not influence agency decisions when the interests of a prospective employer are at stake.⁹ This situation arises when someone is negotiating or has "any arrangement" concerning prospective employment with someone with business before the agency.
- **Revolving Door.** Elected officials and top-level managers cannot represent individuals or entities before their agencies for one-year after leaving office.¹⁰

Note that some local agencies have adopted even more restrictive prohibitions.

The “Leave the Room” Requirement

If you are disqualified from participating on a specific agenda item under the conflict of interest rules established by the Political Reform Act, you must:¹¹

- At the meeting, publicly identify the financial interest or potential conflict of interest in sufficient detail to be understood by the public.
- Not attempt to influence the decision in any way (this includes pre-meeting discussions with staff or colleagues).
- Refrain from discussing or voting on the matter (you should ask the item to be considered separately if it is on the consent calendar).
- Leave the room until after the discussion, vote and any other disposition of the matter, unless the matter is on the consent calendar.

There are limited exceptions that allow a disqualified official to remain in the room and participate in the discussion as a member of the public when one’s “personal interests” are at stake. Consult with your agency attorney about what kinds of personal interests qualify.

Consequences of Missteps

The consequences of violating these requirements can be severe. They include criminal felony or misdemeanor prosecutions. Conviction can involve substantial fines, jail time and loss of office. Civil fines can also add up. For example, the administrative penalty for violation of the Political Reform Act is a fine of up to \$5,000 per violation. In most instances, officials targeted for civil enforcement actions will pay tens of thousands of dollars in defense costs, significantly more in criminal cases.

There can also be other kinds of negative consequences. For example, if an official violates proscriptions against self-dealing relating to contracts, the official may have to refund amounts paid under the contract. If a decision is tainted by the participation of someone who should have disqualified him or herself, the decision is subject to invalidation.

Financial Interests Affected by an Agency Decision:

When to Seek an Attorney's Advice

Talk with your agency attorney when 1) an action by your public agency 2) may affect (positively or negatively 3) any of the following:

Income. Any source of income of \$500 or more (including promised income) during the prior 12 months for you or spouse/domestic partner.

Real Property. A direct or indirect interest in real property of \$2,000 or more that you or your immediate family (spouse/domestic partner and dependent children) have, including such interests as ownership, leaseholds (but not month-to-month tenancies) and options to purchase, especially when any of these are located within 500 feet of the subject of your decision.

Personal Finances. Your or your immediate family's (spouse/domestic partner and dependent children) personal expenses, income, assets, or liabilities.

Gift Giver. A giver of a gift of \$520 (for 2021-22) or more to you in the prior 12 months, including promised gifts.

Lender/Guarantor. A source of a loan (including a loan guarantor) to you.

Contract. You or a member of your family would have an interest (direct or indirect) in a contract with the agency.

Business Management or Employment. An entity for which you serve as a director, officer, partner, trustee, employee, or manager.

Business Investment. An interest in a business in which you or your immediate family (spouse/ domestic partner and dependent children) have a direct or indirect investment worth \$2,000 or more.

Related Business Entity. An interest a business that is the parent, subsidiary or is otherwise related to a business if you:

- Have a direct or indirect investment worth \$2,000 or more; or
- Are a director, officer, partner, trustee, employee, or manager.

Business Entity Owning Property. A direct or indirect ownership interest in a business entity or trust of yours that owns real property.

Campaign Contributor. A campaign contributor of yours (if you are sitting on an appointed decision-making body).

Other Personal Interests and Biases. You have important, but non-financial, personal interests or biases (positive or negative) about the facts or the parties that could prevent you from making a fair decision.

What Will Happen Next? Agency counsel will advise you whether 1) you can participate in the decision and, 2) if a contract is involved, whether the agency can enter into the contract at all. Counsel may suggest asking either the Fair Political Practices Commission or the State Attorney General to weigh in. Keep in mind the attorney's duty is to promote compliance with the ethics laws, not try to find ways around them.

Personal Advantages and Perks

Key Concepts

The principle underlying the “no perks” laws is that one’s status as a public servant and one’s access to public resources should not afford special privileges. There are two categories of “no perk” laws. One relates to perks that others provide public officials (for example, gifts). The other involves advantages that officeholders provide themselves (for example, use of public resources).

The laws in this area are designed to promote the general ethical values of *fairness*, *responsibility* and *trustworthiness*. For example, receipt of perks from others undermines the public’s trust that decision-makers are treating everyone who comes before them fairly and making decisions solely in the public’s interests.

When officeholders give themselves perks, the public’s trust that these officeholders are being careful and public-minded stewards of taxpayer resources is undermined. To the extent that some of these perks involve political advantages, they undermine the fairness of campaigns and elections.

Key Laws

Generally speaking, the “no perks” laws bar some transactions and require disclosure of others. The laws are complex and the following will help you “spot” the issue so you can consult agency counsel for further information about the rules in a given instance.

- **Loans.** Officials cannot receive loans from those within the agency¹² or with whom the agency contracts (except for bank or credit card indebtedness made in the regular course of the company’s business).¹³ Personal loans over \$500 from others must meet certain requirements (for example, be in writing, clearly state the date, amounts and interest payable).¹⁴
- **Gifts.** With certain exceptions, a public official must disclose most gifts of \$50 or more on his or her Statement of Economic Interests and may not receive gifts from any one source that totals over \$520 in a single year (for 2021-22).¹⁵ Gifts include meals, certain kinds of travel payments, and rebates or discounts to public officials not offered to others in the usual course of business.¹⁶
- **Travel Expenses from Non-Transportation Companies.** Gifts of travel expenses (for example, airfare, lodging, meals and entertainment) from non-transportation companies are generally subject to the gift rules and must be reported on one’s Statement of Economic Interests as such.
- **Travel Passes from Transportation Companies.** State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies.¹⁷ The penalty for violating the prohibition against accepting travel passes from transportation companies is severe—an immediate forfeiture of office.¹⁸
- **Receiving Gratuities or Rewards.** It is a crime to receive any kind of gratuity or reward for performing one’s duties.¹⁹
- **Honoraria.** State law regulates the degree to which public officials may receive payments for giving a speech, writing an article or attending a public or private conference, convention, meeting, social event, meal or similar gathering.²⁰ Generally such payments—which are known as honoraria—are prohibited. The notion is such communications are part of a public official’s service.

- **Personal Use of Public Resources.** State law forbids public officials from using public resources for personal purposes.²¹ “Public resources” include such things as 1) staff time, 2) office equipment (telephones, fax machines, photocopiers, and computers), and 3) office supplies (stationery, stamps, and other items). “Personal” use of public resources includes activities that are for personal enjoyment, private gain or advantage.²² For example, asking a staff member to pick up your laundry or kids from daycare would be a violation. “Use” means the use of public resources that is substantial enough to result in a gain or advantage for the user and a loss to the local agency that can be estimated as a monetary value.²³
- **Expense Reimbursement.** The general rule is that local agency officials may only be reimbursed for actual and necessary expenses.²⁴ Cities, counties, and special districts that reimburse their elected and appointed officials must adopt expense reimbursement policies that specify the kinds of activities that will be reimbursable.²⁵ Local agencies must use expense report forms and all expenses must be documented with receipts.²⁶ These documents are public records subject to disclosure.²⁷
- **Limits on Public Official Compensation.** Typically, there is a legal limit on elected public official compensation levels, either in state or local law public officials, particularly elected ones, may only collect and retain such compensation that the law allows.²⁸ As protectors of the public purse, courts generally take a strict approach to public official compensation limits.²⁹

City and county officials typically receive a monthly salary for their service. Special district directors tend to be compensated by a daily stipend. With certain exceptions, this stipend compensates such directors for:

- A meeting of any “legislative body” as defined by the Brown Act
- A meeting of an advisory body
- Conference attendance or educational activities, including ethics training³⁰

Agencies may compensate officials for attendance at other events as specified in a written policy adopted in a public meeting.³¹

- **Use of Public Resources for Political Purposes.** The same statutes that prohibit the use of public resources for personal benefit also prohibit the use of such resources for campaign purposes.³² The prohibition applies to campaigns to elect candidates and campaigns in support of or opposition to ballot measures.
- **Mass Mailings at Public Expense.** State law forbids sending mass mailings at public expense.³³ State law defines “mass mailings” as including mailings that “feature an elected officer” by including their photograph or signature, or by singling out the officer by a manner in which their name appears in the document.³⁴
- **Gifts of Public Resources or Funds.** California’s constitution forbids gifts of public funds. This prohibits, for example, paying for spouses, partners or family members to accompany public officials.³⁵ It can also be an issue when a public agency contemplates charitable contributions.³⁶

- **Soliciting Political Support from Agency Employees.** Soliciting campaign funds from agency officers or employees is also unlawful,³⁷ as is conditioning employment decisions on support of a person's candidacy.³⁸ Compensation decisions may not be tied to political support.³⁹
- Speak with your agency counsel about the specifics of these requirements as they may apply to your situation.

Consequences of Missteps

The consequences of violating the “no-perk” laws can also be severe. For example, the prohibitions against the personal use of public resources are punishable by a \$1,000 per day fine plus three times the value of the resource used.⁴⁰ Criminal penalties include a two to four year prison term and disqualification from office.⁴¹ Prosecution under the federal income tax evasion laws is also a possibility.⁴² Again, this does not include the costs of hiring defense lawyers, which can add up to tens of thousands of dollars, if not more.

Beyond the Minimum in Understanding Public Service Ethics

Like all ethics laws, AB 1234 sets minimum standards. The enforcement mechanism for complying with AB 1234's requirements relies on public scrutiny and media attention. Records of officials' compliance with AB 1234 (proof of participation certificates) are public records and must be maintained for at least five years.⁴³

In addition to maintaining records on compliance with the minimum standards imposed by AB 1234, local agencies may also want to maintain records of any training and study local agency officials engaged in above and beyond AB 1234's minimum requirements. This will enable those inquiring to ascertain the agency's and individual's full scope of commitment to understanding the ethical and legal obligations associated with public service.

Beyond the Law

Understanding and complying with public service ethics laws is a challenge. But the public expects even more of its public servants. Rather than making decisions purely on the fly, how can public officials maximize the likelihood that they will meet or exceed the public's expectations for ethical conduct?

To be considered successful as a public servant, one is encouraged to think in terms of ethical values not minimum standards. Some key values relating to public service include responsibility, trustworthiness, respect and fairness. Assess decisions you have to make against these standards.

In addition, you can ask yourself these kinds of questions:

- What decision, behavior or course of action will best promote the public's trust in my leadership and that of my agency?

- Would I want to read about a certain course of action on the front page of my local newspaper?
- How do I want to be remembered as a public official? What would make my family and parents proud as a legacy?

For example, even if you are not legally required to disqualify yourself from participating in a decision, you may want to voluntarily abstain from participating if you believe the public could reasonably question whether you could put personal relationships and interests aside in making a given decision.

Conclusion

Former British Prime Minister Benjamin Disraeli once observed “...that all power is a trust; that we are accountable for its exercise.” As extensive and complicated as they are, the above rules relating to public service ethics are a reflection of that overarching quest for accountability and trust.

For more information on these rules, go to www.ca-ilg.org/ethicslaws. For more information on ethics principles, please visit www.ca-ilg.org/ethicsprinciples.

Disclaimer: Open meeting practices continue to evolve as the COVID-19 crisis continues and agencies use a wide range of technology to meet their needs. The information provided in this document is for general informational purposes only and is not intended to provide legal advice to any individual or entity. ILG urges you to consult with your own legal advisor before taking any action based on this information.

References

- ¹ Cal. Gov't Code § 53235(a), (b).
- ² Cal. Gov't Code § 53234(c).
- ³ Cal. Gov't Code § 53235(a), (b).
- ⁴ Cal. Penal Code § 7
- ⁵ Id. See also *People v. Anderson*, 75 Cal. App. 365 (1925).
- ⁶ See Cal. Gov't Code §§ 87100 and following.
- ⁷ Cal. Gov't Code § 1090.
- ⁸ Cal. Gov't Code § 1092. *Thomson v. Call*, 38 Cal. 3d 633, 646 (1985)
- ⁹ Cal. Gov't Code § 87407.
- ¹⁰ See Cal. Gov't Code § 87406.3.
- ¹¹ See Cal. Gov't Code § 87105.
- ¹² See Cal. Gov't Code § 87460(a), (b).
- ¹³ See Cal. Gov't Code § 87460(c), (d).
- ¹⁴ See Cal. Gov't Code § 87461.
- ¹⁵ Cal. Gov't Code §§ 87200, 87207, 89503; 2 Cal. Code Regs. § 18940.2 (The gift limit is modified every two years to reflect changes in the Consumer Price Index; the \$520 (2021-22)
- ¹⁶ Cal. Gov't Code § 82028(a).
- ¹⁷ See Cal. Const. art. XII, § 7 (“A transportation company may not grant free passes or discounts to anyone holding an office in this State . . .”).
- ¹⁸ See Cal. Const. art. XII, § 7 (“ . . . acceptance of a pass or discount by a public officer . . . shall work a forfeiture of that office . . .”).
- ¹⁹ Cal. Penal Code § 70.
- ²⁰ See Cal. Gov't Code § 89501 (definition of honoraria).
- ²¹ See Cal. Penal Code § 424; Cal. Gov't Code § 8314.
- ²² Cal. Gov't Code § 8314(b)(1).
- ²³ Cal. Gov't Code § 8314(b)(4).

²⁴ Cal. Gov't Code § 36514.5.

²⁵ Cal. Gov't Code § 53232.2(b).

²⁶ Cal. Gov't Code § 53232.3.

²⁷ Cal. Gov't Code § 53232.3(e).

²⁸ For example, the salary of council members of general law cities is controlled by Government Code section 36516(a), which permits a city council to establish by ordinance a salary up to a ceiling determined by the city's population. The electorate may approve a higher salary. Cal. Gov't Code § 36516(b). A council member appointed or elected to fill a vacancy is compensated in the same amount as his or her predecessor. A directly-elected mayor may receive additional compensation with the consent of the electorate or by ordinance of the city council. Cal. Gov't Code § 36516.1. See also Cal. Educ. Code §§ 1090 (county board of education compensation), 35120 (school board member compensation), 72425 (community college board member compensation).

²⁹ *Id.*

³⁰ Cal. Gov't Code § 53232.1(a).

³¹ Cal. Gov't Code § 53232.1(b).

³² Cal. Penal Code § 424; *People v. Battin*, 77 Cal. App. 3d 635 (1978) (successful criminal prosecution of county supervisor for misusing public funds for improper political purposes), superseded on other grounds by *People v. Conner*, 34 Cal. 3d 141 (1983). See also Cal. Gov't Code § 8314 ("Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. 'Campaign activity' does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls and visitors to private political entities.").

³³ See Cal. Gov't Code § 89001.

³⁴ See Cal. Gov't Code 89002

³⁵ 75 Cal. Op. Att'y Gen. 20 (1992) (finding paying a spouse's expenses to a conference violates both Government Code section 1090 and constitutional prohibitions against gifts of public funds). See also 65 Cal. Op. Att'y Gen. 517, 521 (1982) (finding Government Code section 36514.5 does not authorize reimbursement of the expenses of any person other than a member of the city council). See also *Albright v. City of South San Francisco*, 44 Cal. App. 3d 866, 869-870 (1975). (unauthorized reimbursement is illegal gift).

³⁶ See generally *McQuillin, Municipal Corporations*, § 39.25 (3d rev. ed. 1988) ("Appropriations to charitable or nonprofit associations, without consideration [something in return], cannot be made.")

³⁷ See Cal. Gov't Code § 3205 (except for those communications to a significant segment of the public that happens to include fellow public officials and employees).

³⁸ See Cal. Gov't Code § 3204, which reads as follows: No one who holds, or who is seeking election or appointment to, any office or employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the state or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action.

³⁹ ??

⁴⁰ Cal. Gov't Code § 8314(c)(1).

⁴¹ Cal. Penal Code § 424.

⁴² See 26 U.S.C. §§ 7201, 7203.

⁴³ Cal. Gov't Code § 53235.2.

Summary of the Ralph M. Brown Act

October 10, 2021¹

Introduction

The Ralph M. Brown Act (Brown Act) (codified at Govt C §54950 *et seq.*) requires meetings of “legislative bodies” of local agencies to be open and public.² The Brown Act also has a constitutional component. In 2004, the California Constitution was amended to recognize “[t]he people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”³ In 2014, the California Constitution was again amended to require all local agencies to comply with the Brown Act.⁴

What Is a Legislative Body?

The term “legislative body” under the Act includes the following:

- The governing body of a local agency (including those of charter and general law cities) or any other local body created by state or federal statute.
- Any permanent or temporary advisory or decision-making commission, committee, board, or other body created by charter, ordinance, resolution, or formal action of a legislative body.
- Standing committees, regardless of their composition, that have either
 - Continuing subject matter jurisdiction; or
 - A meeting schedule fixed by charter, ordinance, resolution, or other formal action of the legislative body.⁵

What is not a Legislative Body?

The term “legislative body” excludes less-than-a-quorum advisory committees composed solely of members of the legislative body, provided they are not standing committees that have continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.⁶ These types of committees are commonly referred to as “ad hoc” committees. To be an ad hoc committee exempt from the Brown Act, the body should have a defined task and be of limited duration.⁷

¹ This paper is a condensed version of Chapter II (Open Meeting Laws) of the California Municipal Law Handbook, 2021 Edition.

² Govt C §54953(a).

³ Cal Const art I, §3(b)(1).

⁴ Cal Const art I, §3(b)(7).

⁵ Govt C §54952(a), (b).

⁶ Govt C §54952(b).

⁷ 79 Ops Cal Atty Gen 69 (1996).

What Constitutes a Covered Meeting?

A meeting is any congregation of a majority of the members of a legislative body at the same time and location (including permitted teleconference locations) to hear, discuss, deliberate or take action on any item that is within the subject matter jurisdiction of the legislative body.⁸

Even though that definition has a physical focus—a congregation of a majority at the same time and place—the Brown Act also prohibits a majority of the members of a legislative body, outside an open and noticed meeting, from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take any action on any item of business within the subject matter jurisdiction of the legislative body.⁹

Are there Exemptions to the Brown Act?

1. “Individual Contacts”

Individual contacts or conversations between a member of a legislative body and any other person are permitted, as long as the communications do not result in a serial meeting.¹⁰ Thus, it is clear that a citizen may lobby, one by one, a majority of the members of a legislative body. Further, substantive staff briefings are permitted to answer questions and provide information to individual members of a legislative body if staff does not serve as an intermediary and communicate to members of the body the comments or positions of other members.¹¹

PRACTICE TIP The due-process-based restrictions on ex parte contacts during consideration of quasi-judicial matters exist independently of the Brown Act and may restrict individual contacts on such matters.¹² Many cities have policies or practices that require members of legislative bodies to either avoid ex parte contacts entirely or disclose ex parte contacts with applicants or members of the public before participating in quasi-judicial matters.

2. Conferences and Seminars

Attendance of a majority of the members of a legislative body at a conference or similar gathering is not a meeting subject to the Brown Act if the gathering

- Is open to the public;
- Involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body; and
- A majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the local agency.¹³

3. Open Community Meetings

The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization

⁸ Govt C §54952.2(a).

⁹ Govt C §54952.2(b)(1).

¹⁰ Govt C §54952.2(c)(1).

¹¹ Govt C §54952.2(b).

¹² See *Petrovich Dev. Co. v. City of Sacramento* (2020) 48 CA5th 963 (review denied).

¹³ Govt C §54952.2(c)(2).

other than the local agency is not a meeting governed by the Brown Act. The exemption applies as long as a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body.¹⁴

4. Meetings of Other Legislative Bodies

The attendance of a majority of the members of a legislative body at an open and noticed meeting of another legislative body of the local agency, or of another local agency, does not become a meeting of the first legislative body. This exemption allows, for example, a majority of a city council to attend a meeting of that city's (or another city's) planning commission. The exemption applies as long as a majority of members of the first legislative body do not discuss among themselves business of a specific nature that is within their subject matter jurisdiction, other than as part of the scheduled meeting of the second legislative body.¹⁵

5. Social or Ceremonial Gatherings

The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion (such as a wedding, holiday party, or swearing-in ceremony) is not a meeting governed by the Brown Act. The exemption applies as long as a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body.¹⁶

6. Meetings of Standing Committees

The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body is not a meeting of the legislative body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.¹⁷ The phrase "only as observers" means the attending members may be physically present at the committee meeting but may not ask questions, make statements, or sit in their usual places on the dais.¹⁸

Are "Serial" or "Seriatim" Meetings Covered by the Brown Act?

A congregation of a majority of the members of a legislative body outside a properly noticed and duly convened meeting during which they discuss, deliberate, or take action on a matter within their subject matter jurisdiction is prohibited.¹⁹

The Brown Act also prohibits use of a series of communications, of any kind, among a majority of members of a legislative body, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. These are commonly referred to as serial or seriatim meetings.²⁰ Unlawful seriatim meetings can occur through

¹⁴ Govt C §54952.2(c)(3).

¹⁵ See Govt C §54952.2(c)(4).

¹⁶ See Govt C §54952.2(c)(5).

¹⁷ Govt C §54952.2(c)(6).

¹⁸ 81 Ops Cal Atty Gen 156 (1998).

¹⁹ Govt C §54952.2; *Frazer v Dixon Unified Sch. Dist.* (1993) 18 CA4th 781, 795.

²⁰ Govt C §54952.2(b)(1); *Stockton Newspapers, Inc. v Redevelopment Agency* (1985) 171 CA3d 95.

- In-person contacts among a majority of members of a legislative body;
- Technological contacts (such as fax, email, text message, telephone, or social media) among a majority; or
- Contacts with a majority through staff members or others acting on behalf of the body or one of its members.²¹

However, the ban on seriatim meetings does not prevent a staff member from engaging in separate conversations or communications, outside of a meeting, with members of a legislative body to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if the staff member does not communicate to members of the legislative body the comments or position of any other member of the legislative body.²²

How Does the Brown Act Apply to Social Media?

Members of a legislative body may use certain internet-based social media platforms to answer questions from the public, provide information to the public, or solicit information from the public regarding a matter within the legislative body's subject matter jurisdiction.²³ The platform must be "open and accessible to the public," which means that "members of the general public have the ability to access and participate, free of charge, in the social media platform without the approval by the social media platform or a person or entity other than the social media platform, including any forum and chatroom, and cannot be blocked from doing so, except when the internet-based social media platform determines that an individual violated its protocols or rules."²⁴

However, a majority of the members of the legislative body may not use any social media platform to "discuss among themselves" official business.²⁵ In the context of social media, "discuss among themselves" means "communications made, posted, or shared on an internet-based platform between members of a legislative body, including comments or use of digital icons [*i.e.*, emojis] that express reactions to communications made by other members of the legislative body."²⁶

A single contact between two public officials (less than a quorum) normally would not constitute a prohibited serial meeting. However, on social media, a member of a legislative body may not "respond directly" to any communication relating to a matter within the subject matter jurisdiction of that agency that is made, posted, or shared by any other member of the legislative body.²⁷

PRACTICE TIP Members of the same legislative body should be advised not to comment on each other's posts.

What Are the Noticing Requirements for Meetings?

²¹ See *Stockton Newspapers*, 171 CA3d at 102; 84 Ops Cal Atty Gen 30 (1998).

²² Govt C §54952.2(b)(2).

²³ Govt C §54952.2(b)(3)(A).

²⁴ Govt C §54952.2(b)(3)(B)(iii).

²⁵ Govt C §54952.2(b)(3)(A).

²⁶ Govt C §54952.2(b)(3)(B)(i).

²⁷ Govt C §54952.2(b)(3)(A).

1. Regular Meetings

Each legislative body except advisory committees and standing committees must take formal action to establish a time and place for holding regular meetings. Meetings of advisory committees or standing committees for which an agenda is posted 72 hours in advance of the meeting are considered to be regular meetings for all purposes under the Brown Act, even if the committee does not have a regular meeting schedule.²⁸

Regular meeting agendas must be posted at least 72 hours before the meeting in a location that is freely accessible to the public. Agendas must also be posted on the local agency's website, if it has one, 72 hours before the meeting.²⁹

2. Special Meetings

A special meeting may be called by the presiding officer of the legislative body (in the case of a city council, the mayor or mayor pro tem) or by a majority of the members of the legislative body, by proper delivery of required written notice and, in certain circumstances, posting on the local agency's website.³⁰

At least 24 hours before a special meeting, a notice that contains the time and place for the meeting, with a statement of the business to be transacted and an opportunity for the public to address the legislative body on that item, must be posted in a location freely accessible to the public.³¹ The notice must be delivered personally or by any other means to all members of the legislative body (unless waived in writing before the meeting) and to any newspaper, radio, or television station that has requested notice in writing, and received at least 24 hours before the time of the meeting. In addition, the special meeting notice must be posted on the local agency's website, if one exists, at least 24 hours before the meeting.³²

3. Emergency Meetings

Emergency meetings may be called in "emergency situations." An "emergency situation" exists when a majority of the members of the legislative body determines a "work stoppage, crippling activity, or other activity" severely impairs the public health or safety, or a "crippling disaster, mass destruction, terrorist act, or threatened terrorist activity" poses imminent and significant peril, endangering the public health or safety.³³ Notice of an emergency meeting is required, but may be waived in certain instances.³⁴

4. Teleconference Meetings (Traditional)

Teleconferencing may be used in connection with meetings, but special agenda requirements apply. "Teleconference" is defined as "a meeting of the legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both."³⁵ The agenda must specify each teleconferencing location and must be posted at each

²⁸ Govt C §54954(a).

²⁹ Govt C §54954.2(a)(1).

³⁰ Govt C §54956(a), (c).

³¹ Govt C §§54954.3(a); 54956(a).

³² Govt C §54956(a).

³³ Govt C §54956.5(a).

³⁴ Govt C §54956.5(b).

³⁵ Govt C §54953(b)(4).

teleconference location. Teleconference meetings must also comply with all of the following requirements:

- The meeting must comply in all other respects with the Brown Act and is in all respects the same as a meeting where the members are all physically present in one location;
- All votes taken during a teleconferenced meeting must be by roll call;
- At least a quorum of the members of the legislative body must participate from within the territory over which the local agency exercises jurisdiction; and
- Each teleconference location must be accessible to the public and the public (including the disabled) must have the same rights to address the body as if physically present.³⁶

5. AB 361 Remote Meeting Emergency Authorization

AB 361 is an urgency bill effective October 1, 2021 and expiring on January 1, 2024. The bill extends the teleconference procedures previously authorized by Executive Order N-29-20 to address the current COVID-19 pandemic and allows future teleconference procedures under limited circumstances defined in the bill. AB 361 applies to meetings during a proclaimed state of emergency and when state or local officials have imposed or recommended measures to promote social distancing. ("State of emergency" is defined as a state of emergency declared by the Governor under Government Code Section 8625.) It also applies to other states of emergency proclaimed by the Governor where holding in person meetings would "present imminent risks to the health or safety of attendees." The legislative body must make an initial finding that meeting in person would "present an imminent risk to the health or safety of attendees".

AB 361 requires several procedural safeguards, such as giving the public the ability to address the legislative body directly, providing information on how to address the body, providing either a call-in or internet-based service option, and requiring the agency to stop the meeting if call-in or internet-based option fails. Public members must be given a reasonable time to register to provide public comment, comments may not be required to be submitted in advance, pre-registrations (except as required by call-in or internet platform) are prohibited and agencies that provide a timed public comment period shall not close the public comment period until that timed period has expired. If the legislative body desires to continue using the teleconference exception, it must confirm the circumstances of the state of emergency 30 days after the first teleconference meeting and every 30 days thereafter.

What Is Required on the Agenda?

1. Agenda Descriptions

The agenda must specify the time and location of the meeting and provide a "brief general description" of each item of business to be transacted or discussed.³⁷ It must also provide an opportunity for the public to address the legislative body on any item of interest to the public within the subject matter jurisdiction of the legislative body, before or during the time the legislative body considers the item.³⁸ The agenda must designate and provide the address of a location where

³⁶ Govt C §54953(b).

³⁷ Govt C §54954.2(a)(1).

³⁸ Govt C §54954.3(a).

members of the public may inspect the agenda and any associated writings, such as staff reports, and where documents delivered after the posting of the agenda may be obtained.³⁹ The agenda must also contain information on how a person may request a disability accommodation to participate in a meeting.⁴⁰

Agenda item descriptions “generally” need not exceed 20 words in length.⁴¹ However, agenda descriptions should give enough information to permit a person to make an informed decision about whether they want to attend or participate in a discussion on an issue.⁴²

2. Items Not on the Agenda

Subject to certain exceptions, no action or discussion may occur on any item not appearing on the posted agenda.⁴³ Limited questions, requests, and responses on matters not appearing on the posted agenda are allowed as follows:

- Brief responses by members of the legislative body and staff to statements or questions posed by the public;
- Questions for clarification;
- References to staff or other resources for factual information;
- Requests to staff to report back on an issue at a subsequent meeting;
- Requests or actions to agendize a matter of business for some future meeting; and
- Brief announcements by members of the body or staff and brief reports on their activities.⁴⁴

3. Closed Session Items

The Brown Act permits legislative bodies to meet privately for very limited purposes such as litigation, labor negotiations, real property negotiations and performance evaluations of direct hires. These “closed sessions” must be agendized in the same manner as regular and special meetings.

After any closed session, the legislative body must reconvene in open session and make a public report of specified actions and the vote or abstention of every member present.⁴⁵

Disclosure of confidential information acquired at a closed session is prohibited, unless the legislative body authorizes disclosure.⁴⁶

³⁹ Govt C §54957.5.

⁴⁰ Govt C §54954.2(a)(1).

⁴¹ Govt C §54954.2(a)(1).

⁴² See *San Diegans for Open Gov't v City of Oceanside* (2016) 4 CA5th 637, 643.

⁴³ Govt C §54954.2(a)(3).

⁴⁴ Govt C §54954.2(a)(3).

⁴⁵ Govt C §54957.7(b).

⁴⁶ Govt C §54963(a).

Does the Public Have a Right to Comment?

Members of the public have a right to address the city council or other legislative body at regular and special meetings.⁴⁷ Agendas for regular meetings must provide an opportunity for the public to address the council on any item of interest to the public within the subject matter jurisdiction of the council, before or during the time the council considers the item.⁴⁸ Special meeting agendas must provide the public an opportunity to address the council concerning only those items addressed in the notice of special meeting before or during consideration of such item.⁴⁹

A legislative body may limit public comment to matters that serve the purpose for which the council holds meetings.⁵⁰

Members of the public cannot be required to provide their name, address, or other information as a condition to participating in a meeting.⁵¹

Any person may record a meeting by audio or videotape, or by still or motion picture camera, unless the legislative body makes a reasonable finding the recording cannot continue because noise, illumination, or disruption of a view constitutes or would constitute persistent disruption of the proceedings.⁵²

What Are the Remedies for Violating the Brown Act?

1. Criminal Prosecution of Member of the Legislative Body

A member who attends a meeting of their legislative body when a violation of the Brown Act occurs is guilty of a misdemeanor if the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under the Brown Act.⁵³

2. Civil Actions

Most actions taken in violation of the Brown Act are voidable. The district attorney or any interested person may commence an action by mandamus or injunction to obtain a judicial determination that an action taken in violation of specified sections is null and void.⁵⁴ The party who alleges a violation must make a written demand to the legislative body to cure or correct the violation within 90 days from the date the action was taken, unless the action was taken in an open session but in violation of §54954.2 (regular meeting agenda posting requirement), in which case the written demand must be made within 30 days from the date the action was taken.⁵⁵ The legislative body may still cure or correct the defect and have the action dismissed with prejudice.⁵⁶ One common approach to cure and correct a challenged action, is for a city council to consider the challenged action in a subsequent, duly agendized open-session meeting.

⁴⁷ Govt C §54954.3(a).

⁴⁸ Govt C §54954.3(a).

⁴⁹ Govt C §54954.3(a).

⁵⁰ 78 Ops Cal Atty Gen 224, 226 (1995).

⁵¹ Govt C §54953.3.

⁵² Govt C §54953.5.

⁵³ Govt C §54959.

⁵⁴ Govt C §54960.1.

⁵⁵ Govt C §54960.1(b), (c)(1).

⁵⁶ Govt C §54960.1(e).

The district attorney or any interested person may also bring a civil action to ascertain the applicability of the Brown Act to past, ongoing, or threatened actions of a legislative body and to obtain injunctive relief to enjoin future violations.⁵⁷

3. Costs and Attorney Fees Awarded Unless Unjust

A court may award a plaintiff court costs and reasonable attorney fees in an action brought under Govt C §54960, §54960.1, or §54960.2 when it finds a violation of the Brown Act.⁵⁸ The court has discretion to deny fees only if the defendant shows special circumstances exist that would make such an award unjust.

⁵⁷ Govt C §§54960, 54960.2.

⁵⁸ See Govt C §54960.5.



SAMPLE FORMS AND HANDOUTS

Trainers also have certain administrative responsibilities. This section provides sample materials to help with those responsibilities.

Sign-In Sheet. Despite the admonition on the certificate, people do tend to lose the certificates and having a sign-in log will help trainers deal with these requests for duplicate certificates.

Proof of Participation Certificates. AB 1234 requires providers to provide proof of participation certificates. A sample is attached.

Evaluation Forms. Trainers may also want to include an evaluation form to solicit feedback on their presentations. A sample is also included.

AB 1234 TRAINING SIGN-IN SHEET

[insert date and time]
[insert location]

2 Hours of Credit

	Name <i>(please print clearly)</i>	Signature	Agency
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
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11.			
12.			
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15.			
16.			

AB 1234 Ethics Education Proof of Participation Certificate

Participant Name:

Course Date & Time:

Location:

Eligible Credit: 2 Hours (Requires Attendance for Entire Session)

This course is an overview course on all public service ethics issues necessary to satisfy the requirements of Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, including the following:

- Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites (“perks”) of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members; and
- General ethical principles relating to public service.

The ***[insert provider name]*** affirms that this course satisfies the guidelines issued by the Fair Political Practices Commission and Attorney General for course sufficiency and accuracy.



To be completed by participant:

By signing below, I certify that I signed in at this session, participated in the activity described above and am entitled to claim _____ ethics education credit hour(s).

Participant Signature

NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the custodian for such records at your agency. In addition, we recommend you make a copy of this proof of participation for your own records to retain for at least five years. These certificates are only available at this program; duplicates will not be issued.

PROVIDER EVALUATION

[your identifying
information]

Your feedback is a vital part of our efforts to provide ethics education and continuously improve our coursework. Please take a minute and let us know what you think.

(Optional)

NAME: _____

OFFICE : _____

(Helpful)

ORGANIZATION: _____

(Optional)

		Excellent	Good	Fair	Poor	Don't Know
PLEASE RATE:	The quality of the program	5	4	3	2	0
	The quality of the written materials	5	4	3	2	0
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The session provided me with information I will use in analyzing ethical and legal issues I confront as a public official.		5	4	3	2	1
I have a clearer understanding of my <i>general ethical obligations as a public official</i> as a result of attending this session.		5	4	3	2	1
I have a clearer understanding of <i>public service ethics laws</i> as a result of attending this session.		5	4	3	2	1

Comments/Suggestions?

[insert date, time and location for your records]