

Date: July 8, 2005

To: Neighborhood Council Leaders
From: Greg Nelson, General Manager
Subject: BROWN ACT & AB 1314

Assemblyman Mark Ridley-Thomas introduced AB 1314 in an attempt to amend the Brown Act to exempt Neighborhood Councils from a portion of it. The bill did not gain lots of traction in the state legislature, probably because the Neighborhood Councils were not given enough time to meet, take positions, and submit input. The bill addressed one part of the Brown Act that some Neighborhood Councils felt needed to be changed. The Assemblyman wants to hear from Neighborhood Councils regarding not just this specific amendment, but any other changes to the Brown Act that Neighborhood Councils feel are important. He will need to have your input by the Fall. You may address your comments for the Assemblyman to Pam Haynes at pam.haynes@asm.ca.gov. If you send them to us, we'll forward them to the Assemblyman's office. At least, we'd like to be copied on the comments you send him so that we can serve as a clearing house, and share your comments with other Neighborhood Councils. *It is important to remember that even if the Brown Act is amended to loosen some of the requirements, each Neighborhood Council may choose to maintain stricter requirements than the state law requires. For instance, a Neighborhood Council could decide that providing 72 hours notice is not adequate, so they may decide that they will provide 96 hours notice.*

Here are some of the other concerns that Neighborhood Councils have expressed about the Brown Act over the last few years.

Electronic Discussion Groups The Brown Act prohibits "serial meetings." So, electronic discussion groups that involve Neighborhood Council issues and that include a majority of the Neighborhood Council board in those discussions, particularly on matters coming before the board, could be deemed a serial meeting. The Brown Act does not expressly deal with electronic discussion groups, but the Act refers to the use of "technological devices " that are "employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an items by the members of the legislative body." Therefore, Neighborhood Council board members should exercise caution if they choose to participate in these discussion groups. You might feel that should be clarified in the Brown Act if it is to be amended.

Lobbying Because Neighborhood Councils are city entities, they are limited to having private communications (e-mails, personal meetings, etc.) with less than a majority of the City Council or its committees, and city commissions. In the case of the City Council, that's seven members. In the case of a standard three-member City Council committee, that's one member. This is because of the rule against serial meetings that prevents a legislative body

from developing a concurrence on items by the use of "intermediaries." The City Attorney has concluded that Neighborhood Council board members, because they are members of an official city advisory body, would each be treated as an "intermediary." (See City Attorney letter to the Department of Neighborhood Empowerment, dated May 5, 2003.) Of course, Neighborhood Councils may communicate with the City's decision-makers, including the entire City Council and its committees by sending written communications to them as a group, or by appearing in person. If you feel that the "playing field needs to be leveled" because lobbyists have unrestricted private access to decision-makers, the Brown Act would have to be amended.

Retreats Some Neighborhood Councils want to hold retreats for its board members outside their Neighborhood Council boundaries. The Brown Act says that meetings must be held within the "area of jurisdiction", and it defines retreats as meetings. There are exceptions. For example, if a Neighborhood Council doesn't have an adequate meeting place within its boundaries, it could hold its retreat elsewhere, but generally within the boundaries of the City of Los Angeles. You may feel that the Brown Act should be amended to permit retreats within the City of Los Angeles whether or not there is an adequate meeting place within your boundaries.

Ad Hoc Committees If there is an ad hoc committee that includes non-board members, the inclusion of the non-board members requires that the meeting be held under the rules of the Brown Act. If you disagree with this requirement, the Brown Act would have to be amended.

Committees "Meeting as Staff" This the issue that the first version of AB 1314 attempted to address. Most of the work in government is done by staff that meets without concern about the Brown Act. When their work is done, the facts gathered, the options identified, and the recommendations made, it is sent to the legislative body (City Council, committee, commission) where it is discussed and possibly voted upon under the rules of the Brown Act. Many feel that the problem is that Neighborhood Councils don't have staff, and therefore the board members must be their own staff. Creating an ad hoc committee is one way for the initial fact-gathering to be done outside the Brown Act. But if standing committees and other committees that are affected by the Brown Act wanted to do the same, the Act would have to be amended.

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