



**REGULAR MEETING**  
**Larkspur Parks and Recreation Commission**  
**Thursday, March 21, 2019, 6:30 p.m.**  
**Larkspur City Hall Council Chambers**  
**400 Magnolia Avenue, Larkspur, CA**

*Mike Koeppel, Chair*  
*Victoria Harrison, Vice Chair*

*Sandy Blauvelt*  
*Jeanne Friedel*

*Lisbet Sunshine*

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The Recreation Director certifies that this agenda has been posted in accordance with the requirements of the Government Code.

**1. ROLL CALL**

**2. PUBLIC COMMENT:** The Parks and Recreation Commission will hear public comments only on matters over which they have jurisdiction. There will be no Commission discussion. The Chair will allot no more than five minutes to any individual. Unless the Chair determines otherwise, the total amount of time allocated to this agenda item will be 15 minutes

**3. APPROVAL OF THE CONSENT CALENDAR:** The purpose of the Consent Calendar is to group items that may be approved routinely. Anyone may request removal of an item for discussion.

3.1 Approval of Minutes of January 17, 2019

**4. BUSINESS ITEMS:**

4.1 REVIEW OF STATUS/FORECAST OF LARKSPUR'S PIPER PARK  
PICNIC AREA TABLES AND TREE INSTALLATION

4.2 PRESENTATION OF HALL MIDDLE SCHOOL GYM AND HALL MIDDLE  
SCHOOL SYNTHETIC FIELD OPERATIONS

4.3 REVIEW OF LARKSPUR MUNICIPAL CODE SECTION 9.32: PARK  
RULES AND REGULATIONS

4.4 REVIEW OF ROSENBERG'S RULES OF ORDER

4.5 REVIEW OF THE BROWN ACT AS RELATES TO PARKS AND  
RECREATION COMMISSIONERS

5. **DIRECTOR'S ORAL REPORT**
6. **COMMISSIONER'S REPORTS**
7. **ADJOURN MEETING**

**NOTICE IS HEREBY GIVEN:** If you challenge any item on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing herein described, or in written correspondence delivered to the Recreation Director at, or prior to, the public hearing. [G.C. § 65009 (b) (2)]

In the interest of time, the Parks and Recreation Commission has established time limits. Public Hearings: applicants and /or appellants shall make their presentations within 10 minutes, and will be allowed a 3-minute summation period. Public participation shall be limited to 3 minutes per speaker per topic. These time limits may be waived by a majority vote of the Commission. [G.C. § 54954.3].

Any writings or documents provided to a majority of the City Council regarding an item on this agenda will be made available for public inspection at the Customer Service Counter at City Hall located at 400 Magnolia Avenue, Larkspur, CA and at the main counter of the Library located at the same address during normal business hours. (SB 343, amending G.C. Section 54957.5)

**ACCESS TO MEETINGS:** Meeting facilities are accessible to persons with disabilities. If you require special assistance, please contact any staff member five business days prior to the meeting. An interpreter for the deaf will be made available upon request to the staff five business days or more prior to the meeting.

# Brown Act Primer: Access to Meetings



## I. Introduction

The Ralph M. Brown Act (Government Code sections 54950-54963, referred to as the “Brown Act”) is intended to provide public access to meetings of California local government agencies. Its purpose is described in the Act:

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” Gov’t Code § 54950.

In order to achieve this objective, governmental bodies subject to the requirements of the Brown Act must provide public notice of their meetings, post agendas of the subjects to be discussed at those meetings, and provide public access to those meetings. Public notice of every meeting subject to the Brown Act is required, and access is mandatory unless the meeting is held in closed session under a specific exception contained in the Act.

However, the Brown Act is complex, and problems often arise in application. The following issues come up consistently: (1) What kinds of public bodies are subject to the Act? (2) Has the public body properly given notice of the matters it intends to address in the agenda for the meeting? (3) What constitutes a “meeting,” and what kinds of communications among members of a legislative body are permitted outside of meetings? (4) Are the exceptions permitting closed sessions are being properly applied?

# Brown Act Primer: Public bodies subject to the Act



## II. What public bodies are subject to the Act?

Public bodies subject to the Act include:

- B.** A commission, committee, board, or other body of a local agency created by charter, ordinance, resolution, or formal action of a legislative body.<sup>2</sup>
- Advisory committees composed solely of the members of the legislative body that constitute less than a quorum and that have neither a continuing scope of business nor a schedule set by the legislative body are not covered by the Act.
  - Standing committees are included if they have schedules fixed by official action irrespective of their composition.

For example, a standing committee of a city council, such as a budget committee or a rules committee, would be subject to the Brown Act. However, an ad hoc committee consisting of three out of seven council members appointed to investigate a claim of fraud would not be.

(The Brown Act would apply if a citizen or someone else who was not a member of the council was appointed to the committee.)

In addition, while a standing committee that meets pursuant to a regular schedule is always subject to the Brown Act, even standing committees that meet infrequently or sporadically are subject to the Brown Act if they consist of more than a quorum, or if they have ongoing authority to address issues with the subject matter jurisdiction of parent body.<sup>3</sup>

## Brown Act Primer: Notice of a Meeting



### III. What notice must be given of a public meeting?

#### A. Advance notice of meetings must be provided:

**Regular meetings** must be noticed through the posting of an agenda at least 72 hours before the meeting. <sup>7</sup> (You may request that a copy of the agenda and “all documents constituting the agenda packet” be mailed to you. They will be mailed when the agenda is posted or when it is distributed to a majority of the legislative body, whichever is first. The agency may charge a fee for mailing the materials, not to exceed the cost of providing the mailing service.)<sup>8</sup>

**B. The agenda must contain a brief description of each item of business to be transacted** (generally not to exceed 20 words).

#### C. No action can be taken on items not on the agenda, except:

1. Brief responses to public testimony.
2. Requests for clarification from or references of matters to staff.
3. Brief reports on personal activities.
4. When there is an emergency (see above).
5. When two-thirds of the legislative body agree there is a need to take immediate action on a matter about which the body could not have been aware earlier (see above).

## Brown Act Primer: What is a Meeting?



### III. What is a meeting?

**A.** A meeting as defined by the Act includes any “congregation by a majority” of a legislative body at the same time and place to “hear, discuss, or deliberate” on any matter within the jurisdiction of the body.

1. As the Attorney General explains: “This definition makes it clear that the body need not take any action in order for a gathering to be defined as a meeting. A gathering is a meeting if a majority of the members of the body merely receive

information or discuss their views on an issue. A meeting also covers a body's deliberations, including the consideration, analysis or debate of an issue, and any vote which may ultimately be taken." 16

2. A meeting does not have to be formally announced, agendized, or convened in order to be subject to the Act. 17

**B. Serial meetings**, either in person or by telephone or fax or go-betweens, constitute a meeting if done to "**develop a collective concurrence as to action.**" 18

1. For example, a series of individual telephone calls between the attorney for the redevelopment agency and the members of the agency's governing board was held to constitute a meeting. The agency attorney had individually polled the members of the body to get their approval for a real estate transaction. The court concluded that even though the members never met together, their communications constituted a meeting for the purposes of the Act . 19
2. Similarly, when the San Diego City Council directed staff to take certain action in a eminent domain proceeding in a letter signed by a quorum of the council, the court held that it had violated the Brown Act.20
3. Addressing e-mail communications, the Attorney General has opined as follows: "This office [has] concluded that a majority of a body would violate the Act if they e-mailed each other regarding current issues under the body's jurisdiction, even if the e-mails were also sent to the secretary and chairperson of the agency, the e-mails were posted on the agency's Internet Web site, and a printed version of each e-mail was reported at the next public meeting of the body. The opinion concluded that these safeguards were not sufficient to satisfy either the express wording of the Act or some of its purposes. Specifically, such e-mail communications would not be available to persons who do not have Internet access. Even if a person had Internet access, the deliberations on a particular issue could be completed before an interested person had an opportunity to become involved."21
4. On the other hand, the California Supreme Court has held that a memorandum from a public body's attorney to the members of the body did not constitute a meeting under the Act.22
5. Note that it has been held that the public body need not actually take formal action through the serial meeting in order to have conducted a "meeting" in violation of the Act. One court has concluded that the Act applies equally to the deliberations of a body and its decision to take action. The court reasoned that if a collective commitment were a necessary element, the body could conduct most or all of its deliberation behind closed doors, as long as the body did not actually reach agreement prior to consideration in public session.

**C. Exempted** from the definition of a meeting are:

1. Individual contacts or conversations.24
2. Attendance of a majority of members at a conference open to the public that involves a discussion of general interest to the public or "to the public agencies of the type" attending the conference provided the members do not discuss legislative business among themselves. Fees may be charged to members of the public.25
3. Attendance by a majority of the members at an open and publicized meeting called by someone other than the legislative body to discuss topics of community interest.26

4. Attendance by a majority of members at an open and publicized meeting of another body of the local agency, provided the members do not discuss among themselves matters within their jurisdiction that is not the subject of the meeting.
5. Attendance at a ceremonial or social event by a majority of members provided they do not discuss among themselves matters within their jurisdiction.<sup>28</sup>
6. 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, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

**D.** The meeting must be held within the boundaries of the agency's jurisdiction, except:<sup>30</sup>

- When necessary to comply with state or federal law, or court order.
- To inspect real or personal property over which the agency has control, provided it is the topic of the meeting is related to the property.
- To participate in multi-agency meetings, provided that the meeting is properly noticed by all the agencies and that the meeting takes place in the jurisdiction of one of the agencies involved.
- To meet with federal or state officials when a local meeting would be impractical, solely to discuss matters of relevance with such officials.
- To meet at the closest meeting facility or the principal office of the body if there exists no meeting facility within the jurisdiction of the body.
- To meet at a facility outside of the jurisdiction if the facility is owned by the body, provided the discussion at the meeting is limited to items directly related to the facility.
- To visit legal counsel to discuss pending litigation, when to do so would reduce fees.
- School boards may meet outside of the District on a variety of labor and employment matters.
- Statewide joint powers authorities may meet within the territories of anyone in their organization.

**E.** Regular meetings must be held at a time, place, and location fixed by official action (e.g., bylaws, ordinance, resolution).<sup>31</sup> If it is unsafe to meet at the designated place due to an emergency, the new location must be publicized by a notice to the local media in the most rapid means of communication available at the time.<sup>32</sup>

1. The meeting place must be accessible to all members of the public.<sup>33</sup>
2. No fees may be charged for admission to meetings.
3. Registration of one's name or any other condition of admission is prohibited.<sup>34</sup>
4. Cameras, both still and video, and tape recorders are permitted, and any recording of a meeting subject to the Act made at the direction of the public body is a public record.<sup>35</sup>
5. Public bodies must permit broadcast of their meetings, unless they can demonstrate that doing so would cause a persistent disruption of their proceedings.

**F.** Records distributed at a public meeting are public records, unless otherwise exempted under the Public Records Act. <sup>37</sup> The public is entitled to obtain them at the meeting if they were prepared by the public agency, or after the meeting if prepared by someone else. (This does not mean that the agency does not have to provide them prior to the meeting if they are available, only that it must make them available by the time of the meeting at the latest.)

**G. Time must be provided for comment by the public.**<sup>39</sup>

1. Public bodies may impose time limitations on public comment.<sup>40</sup>
2. Public bodies may not prohibit criticism of “the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.”<sup>41</sup>
3. The ability to speak and offer criticism at the meetings of public bodies is also protected by the First Amendment. In particular, the First Amendment has been held to protect the right of citizens to criticize the conduct of particular government officials and employees at public meetings.<sup>42</sup>

## City of Larkspur Municipal Code Chapter 9.32 PARK RULES AND REGULATIONS

### Sections:

- [9.32.010](#) Application of rules and regulations.
- [9.32.020](#) Hours of use.
- [9.32.030](#) Care of public property.
- [9.32.040](#) Restrooms.
- [9.32.050](#) Care of Trees, Shrubbery, Lawns.
- [9.32.060](#) Climbing Trees or Other Objects.
- [9.32.070](#) Animals Prohibited.
- [9.32.080](#) Refuse, Trash, and Litter.
- [9.32.090](#) Loud or Boisterous Conduct.
- [9.32.100](#) Hazardous Games.
- [9.32.110](#) Vehicles Prohibited.
- [9.32.120](#) Use of Playground Equipment.
- [9.32.130](#) Other Regulations.
- [9.32.140](#) Enforcement of Rules.

### **9.32.010 Application of rules and regulations.**

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The regulations hereinafter set forth shall apply to and be in full force and effect at all park and recreation areas and the observance of the regulations shall be a condition under which the public may use such recreation areas. (Ord. 373 § 1 (part), 1969)

### **9.32.020 Hours of use.**

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It is unlawful for any person to enter, loiter or remain in or on any city park facility at any time between the hours of ten p.m. and seven a.m. except as may be otherwise posted by order of the city manager at the entrance to the facility or with the written permission of the city manager or his authorized representative. (Ord. 494 § 1, 1974; Ord. 373 § 1 (part), 1969)

### **9.32.030 Care of public property.**

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It is unlawful for any person to mark, deface, disfigure, injure, tamper with, displace, or remove any building, bridges, tables, benches, fireplaces, railings, fencing, paving or paving material, water lines or other public utilities, or parts or appurtenances thereof, signs, notices, placards, whether temporary or permanent, monuments, stakes, post or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal. (Ord. 373 § 1 (part), 1969)

### **9.32.040 Restrooms.**

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It is unlawful for any person to fail to cooperate in maintaining restrooms in a neat and sanitary condition. Male persons shall not resort to any restroom facilities set apart for women, and female persons shall not resort to restroom facilities set apart for men, provided that this shall not apply to children accompanied by an adult person. (Ord. 373 § 1 (part), 1969)

### **9.32.050 Care of Trees, Shrubbery, Lawns.**

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It is unlawful for any person to damage, cut, carve, transplant, or remove any tree, plant, wood, turf, or grass, or pick the flowers or seeds of any tree or plant, or attach any rope, wire, or other object to any tree or plant. (Ord. 373 § 1 (part), 1969)

### **9.32.060 Climbing Trees or Other Objects.**

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It is unlawful for any person to climb any tree, or walk, stand or sit upon monuments, vases, fountains, railing, fences or upon any other property not designated or customarily used for such purposes. (Ord. 373 § 1 (part), 1969)

### **9.32.070 Animals Prohibited.**

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No person shall bring in, or cause or permit to be brought into any City park facility any animal, nor shall any person bring upon any park or recreational area any living thing that constitutes a safety hazard or detriment to the enjoyment of the area by the public; provided, however, that dogs are permitted, but only when fastened to and restrained by a leash of sufficient length to enable such person to maintain constant control of such dog. Exception: Canine Commons. (Ord. 853 § 7, 1993; Ord. 494 § 2, 1974; Ord. 373 § 1 (part), 1969)

### **9.32.080 Refuse, Trash, and Litter.**

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It is unlawful for any person to dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No refuse shall be left anywhere on the grounds but shall be placed in proper receptacles provided for such purpose. Where receptacles are not provided, all refuse or trash shall be carried away from the park or recreation area by the person responsible for its presence, and properly disposed of elsewhere. (Ord. 373 § 1 (part), 1969)

### **9.32.090 Loud or Boisterous Conduct.**

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It is unlawful for any person to use loud, boisterous, threatening, abusive, insulting or indecent language, or to engage in other loud or disturbing conduct, by the use of musical instruments, amplifiers, loudspeakers, or other noise making devices or to engage in any disorderly conduct or behavior tending to a breach of the public peace and enjoyment of park and recreation areas. (Ord. 373 § 1 (part), 1969)

### **9.32.100 Hazardous Games.**

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No person shall fly a model airplane, propel a rocket or missile of any type, drive a golf ball or participate in archery, hardball or any similar games of a hazardous nature in any area except as designated by the recreation director. (Ord. 373 § 1 (part), 1969)

### **9.32.110 Vehicles Prohibited.**

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It is unlawful for any person to operate or park any motor vehicle in any area excepting those areas especially provided or designated for such purpose. Nonmotorized vehicles such as bicycles, wagons or scooters are prohibited except in those areas so designated. (Ord. 373 § 1 (part), 1969)

### **9.32.120 Use of Playground Equipment.**

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It is unlawful for anyone over the age of twelve to use playground equipment such as swings, slides, playground apparatus, merry-go-rounds and others so designated. (Ord. 373 § 1 (part), 1969)

### **9.32.130 Other Regulations.**

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These rules and regulations may be supplemented from time to time upon resolution of the Park and Recreation Commission. (Ord. 786 § 2, 1989; Ord. 373 § 1 (part), 1969)

### **9.32.140 Enforcement of Rules.**

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It shall be the duty of the City Police and supervisory public works and/or recreation personnel to enforce these rules. Person violating any section or adopted resolution pursuant to Section [9.32.130](#) of this chapter are guilty of an infraction and, upon conviction thereof; shall be punished as specified in Section [1.01.110](#) of this code. (Ord. 786 § 3, 1989; Ord. 373 § 1 (part), 1969)

## **Rosenberg's Rules of Order**

The more familiar "Roberts' Rules" are designed for large, complex Parliamentary bodies and not necessarily for our modern governing groups.

The starting point for a meeting is establishing a quorum. The number of commissioners needed to conduct any business is "Majority plus 1", or three Parks and Recreation Commissioners to vote on matters before the Commission. The Commission may still meet with two commissioners in attendance, but no business may be conducted. If the lack of quorum is established before the meeting date, the meeting is usually cancelled.

**CHAIR:** All decisions by the chair are final unless overruled by all four other members of the Commission. The Chair has a full right to participate in debate, discussion and decision-making. What the Chair should strive to do is be the last to speak at the discussion and debate phases. The Chair should not make or second a motion UNLESS the Chair is convinced that no other Commissioner will do so at that point in time.

### **AGENDA:**

- 1) Chair clearly announces the Agenda Item number and states what that item is.
- 2) Chair invites the appropriate person(s) to report on the item, including any recommendation
- 3) Chair asks Commissioners if they have any technical and/or clarifying questions
- 4) Chair invites public comments. Chair may limit individuals to limited time. Announce the conclusion of public input and that the item is returning to the Commission for further discussion and action
- 5) Chair should invite a motion from Commissioners
- 6) Chair should invite a second from Commissioners
- 7) Chair should ensure everyone understands the motion. Chair can ask maker of motion to repeat or Chair can repeat
- 8) Chair should invite discussion of the motion. At conclusion of discussion, Chair should announce that Commission will vote on motion. If there is substantial discussion on the motion, it's normally best to repeat the motion
- 9) Chair takes vote by asking for "ayes" and then "nays". Simple majority wins.
- 10) Chair should announce result of vote

**3 SPECIAL RULES:** 1) Tell the public what the Commission is doing 2) Keep the public informed while the Commission is doing it, and 3) After Commission has acted, tell the public what the Commission did

### **MOTIONS:**

**The Basic Motion:** "I move..." Must be seconded.

**The Motion to Amend:** Amending the original motion. "I move that we amend the motion to read..." Must be seconded.

**The Substitute Motion:** To completely disregard the original/amended motion and introduce a new motion. Whether it's an amended motion or a substitute motion is up to the Chair to decide. Must be seconded.

**The "Friendly Amendment":** "I want to suggest a friendly amendment to the motion". If accepted by maker of the motion and the second, now becomes pending motion.

**TIE VOTE:** In the event of a tie vote, the motion fails. Requires an affirmative vote to pass any motion.

**COURTESY AND DECORUM:** Best for only one person at a time to have the floor and best for each speaker to be recognized by the chair. This goes for Commission and public. The Chair should always ensure that debate and discussion focus on the item in question, not the personalities of the Commission or members of the public.

Full PDF version is at [https://www.cacities.org/Resources/Open-Government/RosenbergText\\_2011.aspx](https://www.cacities.org/Resources/Open-Government/RosenbergText_2011.aspx)