

**AGENDA
SPECIAL MEETING
PARADISE IRRIGATION DISTRICT
BOARD OF DIRECTORS
6332 CLARK ROAD, PARADISE, CA 95969**

MONDAY, SEPTEMBER 27, 2021 – 4:30 PM

- ❖ *The Board of Directors is committed to making its meetings accessible to all citizens. Any persons requiring a special accommodation to participate, is requested to contact the District Secretary at 530-877-4971, extension 2039 at least 48 hours in advance of the meeting.*

- ❖ *The following options are available for members of the public interested in participating in the meeting remotely:*

Via Zoom Meeting: <https://us02web.zoom.us/j/88192841237>

Telephone: +1 669 900 6833 US (San Jose)

Meeting ID: 881 9284 1237

To improve participation during the meeting, we will be accepting public comments from Zoom Meeting participants during the meeting. The Board cannot take action on any matter not on the agenda. Public comments specific to an agenda item will be read directly after the agenda item and before the Board votes on an item.

Via Email or Telephone: Public comment will be accepted by email with the subject line PUBLIC COMMENT ITEM NO. ____ to gborrayo@paradiseirrigation.com or telephone (530) 876-2039 prior to 3:00 p.m. on the day of the meeting.

1. OPENING:

- a. Call to Order
- b. Pledge of Allegiance
- c. Roll Call

- 2. PUBLIC COMMENT:** Individuals will be given an opportunity to address the Board regarding matters not scheduled on the agenda, although the Board cannot take action on any matter not on the agenda. Comments will be limited to 3 minutes per speaker. Opportunity for public comment on agenda items will be provided at the time they are discussed by the Board with comments limited to 3 minutes per agenda item.

- (Page 2-5) **3. Utility Locator Classification – Long-Term Temporary** (Tom Lando / Mickey Rich): Approval of the proposed Utility Locator classification and authorize the District Manager to finalize the job description and pay range with IBEW, and recruit for two Utility Locators. *Action may be taken.*

- (Page 6-8) **4. Approval of Purchase – Service Trucks** (Mickey Rich): Authorize approval to purchase two extended cab service trucks for an amount not to exceed \$75,000. *Action may be taken.*

- (Page 9-35) **5. Discussion regarding Board Member Roles and Responsibilities and Brown Act requirements and possible consideration to set a special meeting date for further review.** *Action may be taken.*

6. DIRECTORS' COMMENTS

7. ADJOURNMENT OF MEETING



PARADISE IRRIGATION DISTRICT

"Paradise Irrigation District (PID) is dedicated to the business of producing and delivering a safe, dependable supply of quality water in an efficient, cost effective manner with service that meets or exceeds the expectation of our customers."

DATE: September 27, 2021
TO: PID Board of Directors
FROM: Mickey Rich, Assistant District Manager
RE: Approval of New Classification: Utility Locator

Is this a Budgeted item? **No. This item comes with its own funding.**

Recommendation:

Approve the attached job description for Utility Locator and authorize District Manager to finalize job description and pay range with IBEW, and recruit for two positions.

Background:

On average, PID receives 1500 underground service alerts (USAs) which require manpower to go out to the location and mark the location with paint. Currently, we cannot keep up with the demand for USA marking. PG&E has agreed to pay PID for one employee, plus overhead, at a rate of \$16,500.00 per month to mark their projects. Additional funding is available through FEMA for a 2nd utility locator who will be responsible for completing USAs for PID projects.

The Utility Locator classification is long-term temporary and anticipated to be needed until the end of 2024.

The recommended form of motion would be: *"I move to approve the Utility Locator classification and authorize the District Manager to finalize the job description and pay range with IBEW, and recruit for two Utility Locators."*

UTILITY LOCATOR
(\$3154 - \$4519 monthly)

Definition

Under general direction, the Utility Locator classification is responsible for identifying and labeling water mains that are underground. The locator's efforts protect underground utilities from damage during projects involving excavation activities. This is a full-time, short-term position in the General Unit that reports to the Distribution Superintendent.

Essential Functions

The duties listed below are illustrative only and are not meant to be a complete and exhaustive listing of all duties and responsibilities of this classification.

- Responds to locate tickets from USA North.
- Organizes daily locate assignments into a route designed to minimize backtracking and increase efficiency in covering an assigned area.
- Conducts research and analyzes data regarding location of PID water mains and meters and confirms that the locations marked on the maps are accurate.
- Uses locate device designed to assist in locating of water mains.
- Locates and marks PID water lines and meters.
- Operates company vehicle to complete locating assignments.
- Distinguishes color coding of marked utilities and uses paint and flagging material to mark water lines.
- May use an assortment of hand and power tools on cross country mains.
- Performs work on rural and or busy streets.
- Interacts with customers, coworkers, and contractors to establish and maintain cooperative working relationships with those contacted in the course of work.
- Prepares various clear and concise reports and forms including vehicle mileage reports, daily time sheets, work completed documents, etc.
- Strong attention to detail and accuracy.
- Regular attendance and adherence to prescribed work schedule to conduct job responsibilities.
- Other duties as assigned.

Job Standards/Specifications

Knowledge of:

- Geographical locations and names of streets in the area.
- Operation and use of a variety of tools and methods of utility locating.
- General knowledge of utility identification.
- Basic computer and software applications.
- Proper work safety standards.

Ability to:

- Deal courteously and tactfully with the public.
- Understand and follow oral and written directions.
- Exercise independent judgment and initiative in moving efficiently through the day's work assignments without close supervision.

- Work in inclement weather.
- Operate electronic device computer, tablet, phone, etc. to document site and utility information.
- Maintain safe operation of motor vehicle and safety related equipment and procedures.

Typical Physical Activities

- Operates District vehicle and equipment.
- Must be able to carry, push, pull, reach, grasp and lift equipment, parts and material weighing up to 60 lbs. daily, and occasionally 100 lbs.
- Stoops, kneels, crouches, crawls, climbs.
- Works in an environment with exposure to dust, dirt, mud and water and significant temperature changes between heat and cold.
- Stands and walks for extended time periods.
- Ride in a vehicle to and from job sites and enter and exit vehicle at each job location.
- Hearing and vision within normal range

Environmental Factors

1. Exposure to the sun: 50% to 100% work time spent outside a building and exposed to the sun.
2. High temperatures: Considerable work time in temperatures between 80-90 degrees.
3. Humidity: Work in areas with unusually high humidity.
4. Wetness: More than 10% of the work time getting part or all of the body and/or clothing wet.
5. Noise: Occasionally, there are unusually loud sounds.
6. Slippery and Uneven Surfaces: Occasional work on slippery and uneven areas of job site.
7. Oil: Some parts of the body in contact with oil or grease occasionally.
8. Dust: Works in and around areas with minor amounts of dust.
9. Irregular or extended work hours: Occasionally required to change working hours or work overtime.

Desirable Qualifications

Experience:

- One year experience in work requiring mechanical aptitude and public contact
- Experience with underground utilities
- Using locating device

Education: High school diploma or the equivalency thereof sufficient to assure the ability to read and write at the level required for successful job performance.

License Certificate Registration Requirement

Driver License: Possession of a valid California driver's license issued by the state Department of Motor Vehicles.

PARADISE IRRIGATION DISTRICT

UTILITY LOCATOR

I have reviewed the Job Description for the Utility Locator classification with a District representative and agree with its contents.

Employee Signature

Date

Supervisor Signature

Date

The specific statements shown in each section of this description are not intended to be all-inclusive. They represent typical elements and criteria necessary to successfully perform the job.



PARADISE IRRIGATION DISTRICT

"Paradise Irrigation District (PID) is dedicated to the business of producing and delivering a safe, dependable supply of quality water in an efficient, cost effective manner with service that meets or exceeds the expectation of our customers."

DATE: September 27, 2021
TO: PID Board of Directors
FROM: Mickey Rich, Assistant District Manager
RE: Approval of Purchase: Service Trucks

Is this a Budgeted item? YES, and we have new funding for this purchase.

Recommendation:

Authorize District Manager to purchase two service trucks; equipment needed as a result of the two utility locator positions.

Background:

The utility locator position will need a crew cab to safely transport utility marking equipment.

Our mechanic contacted the two State pricing vehicle vendors and has provided the following quotes good for up to a year.

2022 Ford F150 = \$32,079.92
2022 Chevy Silverado = \$35,193.89

Neither vehicle can be ordered until November and then the delivery time is 18-weeks out. We will manage with the vehicles we have until the trucks are received, but the Distribution department would prefer approval to purchase the trucks as soon as they are able to order. The mechanic's preference is the 2022 Chevy Silverado.

The funding for this purchase will come from both the sale of surplus vehicles in 2022 and the overhead provided through PG&E agreement for Utility Locator.

The recommended form of motion would be: *"I move to approve the purchase of two extended cab service trucks for an amount not to exceed \$75,000.00."*

THIS IS YOUR QUOTE

DOWNTOWN FORD SALES
525 N16th Street, Sacramento, CA. 95811
916-442-6931 fax 916-491-3138

RJM062920211433

QUOTATION

Customer

Name PARADISE IRRIGATION SYSTEM
Address FORD F150 EXTENDED CAB 4X4 PICKUP
City
Phone ATTN: JASON COOPER

Date 6/29/2021
REP MILLOY
Phone RJM
FOB SACRAMENTO

Qty	Description	Unit Price	TOTAL
	STATE OF CALIFORNIA CONTRACT #1-18-23-20A CLIN 13		
1	NEW FORD F-150 EXTENDED CAB PICKUP, 145" WB 4WD, 6 1/2FT BED, A/C, 3.3L V6, MANUAL WINDOWS AM/FM, VINYL SEATS, BLACK FRONT & REAR BLACK BUMPER, RUBBER FLOORING, 6 SPEED AUTO TRANS	\$25,234.00	\$25,234.00
1	ANTICIPATED PRICE INCREASE 2022 MOD YEAR-3%	\$757.00	\$757.00
1	5.0 V-8 ENGINE	\$2,020.00	\$2,020.00
1	POWER WINDOWS AND LOCKS	\$1,185.00	\$1,185.00
1	CLASS IV TRAILER HITCH	\$205.00	\$205.00
	TRAILER BRAKE CONTROLLER NOT INCLUDED		
1	Document Fee	\$85.00	\$85.00
Subtotal			\$29,486.00
DELIVERY			\$300.00
Sales Tax			\$2,285.17
CA Tire Tax			\$8.75
TOTAL DUE			\$32,079.92

\$500 DISCOUNT FOR PROMPT
PAYMENT IN 20 DAYS

Elk Grove Auto / Winner Chevrolet

8575 Laguna Grove Drive
Elk Grove, CA 95757
916-426-5752

To:
Jason Cooper
Paradise Irrigation
6332 Clark Rd
Paradise, CA 95969
(530) 876-2049

DATE June 30, 2021
Quotation # 21779

Prepared by: Jerry Powers

Comments or special instructions: Vehicle build and options are in additional pages.
State Contract # 1-18-23-20D

Description	AMOUNT
Line 13 Silverado	\$ 27,546.00
Options (Refer to Window Sticker):	\$ 4,745.00
**** Please review, sign, and return a copy of the quote and **** **** specs with the PO or the vehicle will not be ordered. **** ****Shipping charge added for deliveries beyond Sacramento. No charge for will call.****	
	Subtotal \$ 32,291.00
	DOC Fee \$ 85.00
(Order Acknowledgment Signature) (Date)	Taxable Subtotal: \$ 32,376.00
	Tax Rate(Subject to change): 7.750% \$ 2,509.14
CA Tire Fee: \$1.75 / Per Tire	Tire Fee: \$8.75
	Delivery Charge: \$ 300.00
	Total: \$ 35,193.89

If you have any questions concerning this quotation, contact Jerry Powers at 916-426-5752 or
email at JPowers@LasherAuto.com

THANK YOU FOR YOUR BUSINESS!

CHAPTER 1 INTRODUCTION

INTRODUCTION

TO THE LANDOWNERS AND WATER USERS OF THE PARADISE IRRIGATION DISTRICT:

These policies and procedures have been adopted by the Board of Directors under the authority of the California Water Code and are part of the law governing the Paradise Irrigation District comparable to county or municipal ordinances.

These Rules and Regulations are intended and should be viewed as an attempt to outline general procedures and requirements. In general, the requirements may be established more fully by statute or regulation of the State of California or by the United States of America in the case of federal requirements. A party should not view these Rules and Regulations nor use these Rules and Regulations as a promise by the District that if the Rules and Regulations are complied with, that all legal requirements will be met. The user is encouraged to employ the Regulations as a general guideline and to seek further advice and legal determination in regard to detailed compliance with statute or Regulations.

WHO WE ARE:

Paradise Irrigation District (District) is an irrigation district of the State of California formed March 20, 1916 pursuant to the provisions of Division 11 of the California Water Code for the purposes of delivering municipal, industrial, and irrigation water to the lands within its boundaries. The District was originally formed for the purposes of providing irrigation water for the farming operations in what was then primarily an agricultural community. However, since its formation the District's service area has changed from predominantly an agricultural community to predominantly a residential community.

The District makes no profit and is operated for the sole benefit of the lands and people within its boundaries. The benefits that are derived will be measured by the extent to which the people within the District cooperate to make it a success. Day-to-day management of the District's administrative practices and procedures is delegated to the District Manager (Manager).

Policies and procedures are subject to amendment at any time by majority vote of the Board of Directors.

1.1 MISSION STATEMENT

Paradise Irrigation District is dedicated to the business of producing and delivering a safe, dependable supply of quality water in an efficient, cost effective manner with service that meets or exceeds the expectation of our community.

A. Vision Statement

The **Paradise Irrigation District** will be the Gold Star Standard of business models. We will provide exceptional service to our customers and a quality product. Our financial independence will be the result of our innovative approach to the development of new products and or lines of service in tandem with precision financial and operational management.

We will prioritize our team members by investing in their work environment and providing opportunities for their future development and advancement. We will be dedicated and productive community partners, and as the regional People's Water District we will be leaders in sustainability, maintaining a net-neutral to net-positive impact on the environment.

B. 3 – 5 Year Objectives by Key Areas

Finance	Improve financial sustainability.
Organization	Transform business to be the model all businesses want to replicate.
Operations	Enhance operation efficiencies.
People	Maximize our investment in people.
Customer	Provide exceptional customer service.

1.2 PRIMARY SERVICE OBJECTIVE

The primary purpose of the District is to provide water service in an equitable manner for domestic, commercial, industrial, and irrigation purposes to the lands within the boundaries of the District. Whatever other service the District may elect from time to time to render is subordinate to this primary obligation.

1.3 BOARD OF DIRECTORS

The District is governed by a five-member Board of Directors, (Board of Directors), which manages and conducts the business and affairs of the District and determines all questions of District policy. All powers of the District are exercised through the Board. Board members are elected by the people to staggered four-year terms. Each director represents one of the five divisions located geographically within the District. The Board

communicates the wishes of the electorate to the District's professional staff and communicates the recommendations of the staff to the electorate by adopting District policy. The Board delegates to the District Manager the authority for implementing its decisions.

1.4 DUTIES OF DIRECTORS

The requirements for actions or non-action of Directors is dispersed so widely through the statutes of the State of California that these guidelines are intended to attempt to address problems that are commonly encountered. Individuals utilizing these Regulations are encouraged to ask detailed questions of the District staff or attorneys in regard to these general principles, since often they touch upon issues of how a Board of Directors documents actions, Directors' and staffs' economic conflict of interest, the necessity of agendaizing particular actions and directions that are sought to be given, and the implementation of closed session actions.

1.5 FUNCTIONS OF THE BOARD

- A. The Board shall exercise and control or authorize the exercise and control of all business and affairs of the District, subject to the limitations of this manual, state and federal law. The Board adopts resolutions and policies, appropriates funds, and performs such other duties and responsibilities as are required of it or otherwise allowed by law. The Board establishes policy through broad general policy directives and general task assignments of a goal-oriented nature.
- B. The Board reviews the District Manager's (Manager) performance and establishes his or her (the male pronouns "he", "him", "his", and "himself" when used in this document include the corresponding female pronouns) compensation level annually.
- C. In every case, the will of the Board shall be expressed by a majority of the Board. No statement or act of any individual member of the Board shall be viewed as the will of the Board.
- D. The Board will review this document annually to ensure that it is pertinent and current.

1.6 DISTRICT GOVERNMENT VESTED IN THE BOARD OF DIRECTORS AND DISTRICT MANAGER

- A. District government is vested in the Board, and the Manager appointed by the Board. The Board delegates day-to-day management of the District's administrative practices and procedures to the Manager.
- B. The Board constitutes the policy-making body of the District.

- C. The Manager and the subordinate managers and/or officers and employees will execute the will of the Board as expressed by Board policy and direction. The position of Manager under Board direction has complete responsibility for all operations of the District and for the efficient performance of all District departments and personnel.

1.7 POLICY AND PROCEDURE STATEMENT

It is the duty of the Board to establish policy. All District Board approved policies will be contained in this or other District manuals. Working documents and proposals for new policies, or changes in policies, shall not, themselves, be considered policy unless and until formally approved by the Board.

The Manager and staff are charged with implementing District policies, and may adopt reasonable administrative practices and procedures for doing so. Anyone who feels that they have been aggrieved by staff's interpretation of policy may appeal to the Board.

1.8 LIMITATIONS OF ACTIONS AND AUTHORITY OF THE BOARD

- A. Individual Board members shall not give orders or direction to any staff member or the Manager, either publicly or privately, but may make suggestions and recommendations to the Manager.
- B. Directors individually shall refrain from interfering with District operations.
- C. Directors, in their capacity as a Board member may speak with District staff and seek information pertinent to District operations. Such inquiries from and contact with District staff shall most often be made through the Manager. The Manager shall arrange for the time and place for staff members to meet with the Director. Any staff member may bring a staff member of their choice as a neutral observer. The Manager shall be advised of this ahead of the meeting. If an employee wishes to contact a Director about District business, they may do so without contacting the Manager; however the Director should request that a second Director attend any such meeting. Conversely, if a Director wishes to make an inquiry of staff without the Manager's knowledge, they may do so only if two Directors are present at all times during the inquiry and the contacted staff member shall have the right to have a District observer of their choice present during the inquiry. Such contact will only be during normal working hours of the District and when the employee is present at work. A Director acting in his capacity as a citizen or customer shall be afforded the same rights and courtesies as other citizens and customers.
- D. To facilitate integration and effective interpersonal relationships with the Board, Manager, and employees, the Board recognizes the importance of limiting its contact with the Manager, staff or employees. Directors shall not cause the Manager or staff to generate any special work without Board approval.

- E. Nothing in this section shall prevent a majority of a quorum of the board from appointing committees of its own members to conduct investigations into the conduct of any officer or department, of District government, or any matter relating to the welfare of the District, and delegating to these committees such powers of inquiry, as the Board may deem necessary.

1.9 BOARD RESOLUTIONS

From time to time, the Board will approve and adopt Board resolutions. Resolutions may contain District policy.

1.10 RELIANCE ON DISTRICT POLICY

It is the responsibility of those who deal with the District to ascertain District policy. If District policy is important in the conduct of your affairs you are advised to confirm your understanding of District policy with the Board.

CHAPTER 2 DIRECTORS AND OFFICERS

2.1 QUALIFICATIONS FOR ELECTED DIRECTORS

A. Residence –

Each Director shall be a voter and a resident in the District, and a resident of the division that he represents at the time of his nomination or appointment and through his entire term. Section 1770 of the California Government Code describes events causing vacancy in a Director's residency as:

1. His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county or city for which the officer was chosen or appointed, or within which the duties of his or her office are required.
2. His or her absence from the state without the permission required by law beyond the period allowed by law.
3. His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.

B. Oath of Office –

Before entering upon the duties of office, each Board member shall take and subscribe to the statutory Oath of Office.

C. Code of Ethics –

The Board of Directors is committed to providing excellence in leadership that result in the provision of the highest quality of services to its constituents. The Board intends to fully comply with the provisions of the State's open meeting law for public agencies (The Ralph M. Brown Act), adhere to federal and state government codes, comply with the Fair Political Practices Commission guidelines, and uphold the Constitutions of the United States and the State of California. In order to assist Directors to fulfill their obligations, and keeping in mind that new or revised statutes may add further regulations, the following rules shall be observed:

1. The dignity, style, and opinions of each Director shall be respected.
2. Responsiveness and attentive listening in communication is encouraged.

Amendment Adopted 11/18/15: Section 2.22 & 2.27.B.

Amendment Adopted 03/15/17: Sections 2.22.A, 2.25, 2.26, 2.27.C.3.

Amendment Adopted 04/19/17: Sections 2.22.A & B

Amendment Adopted 05/17/17: Section 2.19.B.

Amendment Adopted 12/06/17: Section 2.22.A-2. (Dir. Health Benefits)

Amendment Adopted 12/20/17: Section 2.21

Amendment Adopted 02/21/18: Section 2.27

Amendment Adopted 02/19/20: Section 2.21.D & E

Amendment 10/21/20: Section 2.22

3. The primary responsibility of the Board is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are to be delegated to the professional staff members of the District.
4. Directors should commit themselves to emphasizing the positive and avoiding when possible, negative forms of interaction.
5. Directors should commit themselves to focusing on issues and not personalities. The presentation of the opinions of others should be encouraged.
6. Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Board takes action, Directors should commit to supporting said action and not to creating barriers to the implementation of said action.
7. Directors should practice the following procedures:
 - a. In seeking clarification on informational items, Directors may directly approach professional staff members to obtain information needed to supplement, upgrade, or enhance their knowledge to improve legislative decision-making.
 - b. In handling complaints from residents and property owners of the District, said complaints should be referred directly to the Manager.
 - c. In handling items related to safety, concerns for safety or hazards should be reported to the Manager or to the District office. Emergency situations should be dealt with immediately by seeking appropriate assistance.
 - d. In seeking clarification for policy-related concern, especially those involving personnel, legal action, annexation, property acquisition and development, finances, and programming, said concerns could be referred directly to the Manager.
8. When approached by District personnel concerning specific District policy, Directors should direct inquires to the appropriate professional staff supervisor. The chain of command should be followed.
9. The work of the District is a team effort. All individuals should work together in a collaborative process, assisting each other in conducting the affairs of the District.

Amendment Adopted 11/18/15: Section 2.22 & 2.27.B.

Amendment Adopted 03/15/17: Sections 2.22.A, 2.25, 2.26, 2.27.C.3.

Amendment Adopted 04/19/17: Sections 2.22.A & B

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Amendment Adopted 02/21/18: Section 2.27

Amendment Adopted 02/19/20: Section 2.21.D & E

Amendment 10/21/20: Section 2.22

10. When responding to constituent requests and concerns, Directors should be courteous, responding to individuals in a positive and timely manner and routing their questions through appropriate channels and to responsible management personnel.
11. Directors should develop a working relationship with the Manager wherein current issues, concerns, and District projects can be discussed comfortably and openly.
12. The Brown Act contemplates that Directors should function as a part of the whole Board. Issues should be brought to the attention of the Board as a whole, rather than to individual members selectively. When a Director is speaking for himself or in his capacity as an individual member of the Board, he should clearly identify that limited capacity.
13. Directors are responsible for monitoring the District's progress in attaining its goals and objectives, while pursuing its mission.
14. A perceived violation of the Code of Ethics policy by a Board member should be referred to the President of the Board or the full Board for investigation, and consideration of any appropriate action warranted. A violation of this policy may be addressed by the use of such remedies as are available by law to the District, including, but not limited to:
 - a. Adoption of a resolution expressing disapproval of the conduct of the Board member who has violated this policy.
 - b. Injunctive relief
 - c. Referral of the violation to the District Attorney and/or the Grand Jury.

2.2 NUMBER AND ACTION

- A. Pursuant to the provisions of the California Water Code, the Board shall consist of five persons.
- B. Action can be taken only by vote of the majority of the Board of Directors. Three (3) Directors represent a quorum for the conduct of business.

2.3 TERM OF OFFICE

- A. The term of each member of the Board shall begin at noon on the first Friday of December following the Director's election.

Amendment Adopted 11/18/15: Section 2.22 & 2.27.B.

Amendment Adopted 03/15/17: Sections 2.22.A, 2.25, 2.26, 2.27.C.3.

Amendment Adopted 04/19/17: Sections 2.22.A & B

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Amendment Adopted 02/19/20: Section 2.21.D & E

Amendment 10/21/20: Section 2.22

- B. The term of each member of the Board shall be four years, with the term of approximately half the Board expiring every two years.
- C. Each Board member shall serve until a successor is duly elected and is qualified, unless the member earlier is removed from the office or resigns or otherwise leaves office.
- D. A Board member is not limited in the number of terms the member may serve.

2.4 VACANCIES IN BOARD OF DIRECTORS

A. Events Creating Vacancies –

A list of events causing vacancy in office is set forth in Government Code section 1770. In general, an office becomes vacant in the case of the death of the incumbent, a court adjudication declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident, the resignation of the incumbent, his or her removal from office, his or her ceasing to be a resident of the District, or if a director has been convicted of a felony.

B. Filling of Vacancies –

Vacancies shall be filled in accordance with the described procedures of the Government Code.

2.5 FIDELITY BONDS FOR ELECTED DIRECTORS

Each member of the Board shall be covered by liability and errors and omissions insurance at the expense of the District, in an amount prescribed by the Board, conditioned upon the faithful performance of his respective duties. Surety bonds will also be in effect for individuals designated as check signers.

2.6 PRINCIPAL OFFICERS

The principal officers of the District shall consist of a Board President, a Board Vice-President, a Secretary, a Treasurer, and such other offices as the Board shall from time to time establish.

2.7 QUALIFICATIONS; OFFICER ELECTION AND TERM OF OFFICE

A. Election –

At the first meeting after noon on the first Friday of December the Board shall choose one of its members as President and shall choose another of its members as Vice-President. Nominations shall come from the Board members. The Board shall also appoint a Secretary of the Board and a Treasurer of the District.

Amendment Adopted 11/18/15: Section 2.22 & 2.27.B.

Amendment Adopted 03/15/17: Sections 2.22.A, 2.25, 2.26, 2.27.C.3.

Amendment Adopted 04/19/17: Sections 2.22.A & B

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Amendment Adopted 02/19/20: Section 2.21.D & E

Amendment 10/21/20: Section 2.22

B. Term –

The officers shall serve until the next Annual Meeting. The President and Vice-President shall not serve in their respective positions for more than two consecutive one-year terms.

2.8 RESIGNATION

A Director and an officer may resign at any time by giving written notice to the Board or to the District Secretary. Any resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, acceptance of the resignation shall not be necessary to make it effective.

2.9 REMOVAL

Any officer elected by the Board may be removed by a majority vote of the Board whenever in its judgment the best interests of the District would be served.

2.10 VACANCIES IN OFFICES

A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the officer's term. In the case of the Secretary or Treasurer, the President may appoint a new Secretary or Treasurer to serve until such time as the Board shall elect a successor and the person or persons so elected have qualified.

2.11 DUTIES OF THE PRESIDENT OF THE BOARD

The President of the Board shall:

A. Serve as President of the Board and preside at all meetings of the Board.

B. Execute on behalf of the District:

1. All bonds and instruments creating debt against the District.
2. Board resolutions.
3. Water sales agreements authorized by the California Water Code.
4. All agreements, which sell, lease, convey, transfer or otherwise dispose of water works, water systems, and sources of water supply for any beneficial use within or without the District.

Amendment Adopted 11/18/15: Section 2.22 & 2.27.B.

Amendment Adopted 03/15/17: Sections 2.22.A, 2.25, 2.26, 2.27.C.3.

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Amendment 10/21/20: Section 2.22

5. Agreements with the State of California, United States, or any other governmental entity, department or political subdivision, unless delegated to the Manager by the Board, or allowed the Manager by other sections of this manual.
 6. The countersigning of disbursement checks in excess of \$150,000.00.
 7. Agreements specifically authorized by the Board.
 8. Real estate leases, and all deeds and conveyance documents in which the District is a grantor of any interest.
 9. Contracts and agreements authorized by the Board, which cause the District to incur extraordinary expenditures not described within the District's annual budget.
 10. All other contracts and agreements specifically required of the President by the Water Code or other applicable law.
- C. Attend and, if appropriate, preside at ceremonial activities (including, but not limited to open houses, receptions, ribbon-cuttings) in which ceremonial representation is needed or sought.
- D. Be a spokesperson for the Board, unless the Board directs otherwise. When the President acts as spokesperson for the District, he should speak for the majority of the Board. When the President is speaking for himself or in his capacity as an individual member of the Board, he should clearly identify that limited capacity.
- E. Represent the policy of the Board.

2.12 VICE-PRESIDENT

- A. The Vice-President shall act only in cases of the inability or refusal of the President to act or in the absence of the President and shall assume those powers and duties granted the President. The determination as to the inability or refusal to act shall be made by a vote of the Board.
- B. The President may request that any member of the Board represent the District outside of the Board meetings. When the President does not appoint a particular designee in his absence, the Vice-President shall represent the District.
- C. If no member of the Board is able to represent the President (other than in official Board meetings), the Manager or his designated staff member shall do so.

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Amendment 10/21/20: Section 2.22

2.13 SUCCESSION OF AUTHORITY

In the event that the offices of the President and Vice-President are vacant or the individuals occupying these offices are absent or otherwise unavailable, the majority of the Board may elect a president pro tempore from its members, who shall serve as Acting President of the Board, with all the power and authority of the President until the President returns to the performance of his duties.

2.14 APPOINTMENT OF DISTRICT SECRETARY

At the District's annual organization meeting when the Board elects a President and Vice-President from its members, a District Secretary shall be appointed by the Board to serve at its pleasure.

2.15 DUTIES OF THE SECRETARY

Under general supervision of the Manager, this individual (who could also be the Manager) shall serve as District Secretary, perform secretarial and office duties for the Manager and other personnel, and do related work as required.

- A. The Secretary shall be custodian of the records of the District and its seal; shall cause minutes of all meetings of the Board to be kept; shall assist the Board in such particulars as it may direct in the performance of its duties; and shall perform those duties authorized by the California Water Code, or by this manual.
- B. The Secretary shall sign legal documents as directed by the Board; and shall attest, under the seal of the District, all certified copies of the official records and files of the District pursuant to the authority conferred by Resolution of the Board of Directors of the District on March 2, 1960, and recorded March 7, 1960, in book 1046 of the Official Records of Butte County at page 110.
- C. The Secretary shall perform as an alternate signer of general fund and payroll checks.
- D. The Secretary shall be responsible or cause others to be responsible for maintaining this manual.
- E. The Secretary shall or cause others to prepare letters and reports for the Manager and other various department managers; open and distribute mail; maintain the District's insurance programs not handled by the Office Manager; place all advertising for the District; and other related work as may be required by either the Manager or the Board.
- F. The Board may appoint an Assistant Secretary to function in the absence of the Secretary with all the power and authority of the Secretary.

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Amendment 10/21/20: Section 2.22

2.16 APPOINTMENT OF DISTRICT TREASURER

At the District's annual organization meeting when the Board elects a President and Vice-President from its members, a District Treasurer shall be appointed by the Board to serve at its pleasure.

2.17 DUTIES OF DISTRICT TREASURER

- A. The Treasurer shall be custodian of all money, bonds, or other securities of the District.
- B. The Treasurer shall determine or cause to be determined the cash requirements of the District and provide for the deposit and investment of all money.
- C. The Treasurer shall receive or cause to be received all funds and money payable to the District, including all water sales revenue, taxes, licenses, fines, and public funds, and keep an accurate, detailed account of those monies as required by law and as directed by the Board.
- D. The Treasurer shall collect or cause to be collected all special taxes and assessments as provided by law and ordinance.
- E. The Treasurer shall give or cause to be given to every person paying money to the District proper credit or receipt evidencing payment, specifying, as appropriate, the date of the payment and upon which account paid.
- F. The Treasurer shall sign checks in accordance with **other sections of this manual**. The Treasurer shall determine or cause to be determined that a sufficient amount is on deposit in the appropriate bank account of the District to honor the check.
- G. The Treasurer shall promptly deposit or cause to be deposited all District funds in the appropriate bank accounts of the District and be responsible for monitoring expenditures during the fiscal year.
- H. The Treasurer shall prepare, on an accrual basis, monthly financial reports and quarterly investment reports for Board approval.
- I. The Board may appoint an Assistant Treasurer to function in the absence of the Treasurer with all the power and authority of the Treasurer.
- J. The Treasurer shall coordinate the District's annual certified audit with an independent CPA firm and monitor the District's compliance with all appropriate accounting practices.

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Amendment Adopted 02/19/20: Section 2.21.D & E

Amendment 10/21/20: Section 2.22

2.18 BONDS

The Secretary and Treasurer, authorized check signers, and any other employee of the District as deemed necessary, may be furnished corporate surety bonds, at the expense of the District, in an amount and form fixed and approved by the Board and the California Water Code, conditioned upon the faithful performance of their respective duties.

2.19 FORMATION OF COMMITTEES

- A. The Board may form committees composed of its own members and the public for such purposes as it deems appropriate. By official resolution or verbal vote appointment, the Board may form standing committees to serve at its pleasure.
- B. The President of the Board may form Ad Hoc Committees composed of Board members for such purposes as they deem appropriate, except that Ad Hoc Committees shall not be created to address issues that would normally be addressed in the appropriate standing committee. An Ad Hoc Committee shall only be comprised of less than a quorum of Directors, will be of limited duration, and will have no continuing jurisdiction.

2.20 COMMITTEES OF THE DISTRICT

A. Appointment of Standing Committees –

In accordance with the Water Code and other applicable law, the Board may assign the committees such tasks as the Board may determine; and delegate to any committee certain powers and authority of the Board to transact any of the business and affairs of the Board subject to the Board's final approval.

B. Appointment of Committee Members –

- 1. At the District's first regular meeting in January, the President of the Board shall appoint the Board members of the various Standing Committees.
- 2. Committee assignments shall only be changed during the calendar year by a majority vote of the Board.
- 3. The President of the Board shall appoint members of Ad Hoc Committees.
- 4. The President of the Board may appoint a replacement committee member if a committee member is unable to fulfill their duties and no meeting of the committee has taken place without the Board of Directors being updated by the committee in a meeting.

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5. Public members on committees shall be appointed by a majority vote of the Board.

C. Meetings of Committees –

Generally, meetings of committees shall be held at such time and place, as a majority of the members of the individual committees shall determine. Meetings shall be called by the District Manager or by the Committee Chairperson as necessary for District business. Notice of committee meetings shall be given to all members in a timely fashion and the meetings shall be noticed as required by law.

D. Committee Reports –

Committee reports shall be made to the Board at the next scheduled Board meeting. Business discussed at the committee meeting that is a subject of an agenda item need not be discussed as part of the committee report.

E. Committee Recommendations –

Committees comprised of public members and staff shall make recommendation to the Board members representing the committee. Board member recommendations to the full board should report public and staff opinions.

2.21 STANDING COMMITTEES

Meetings of standing committees shall be noticed and conducted in accordance with the requirements of the Brown Act. The standing committees shall include the following:

A. Finance Committee –

This committee shall be comprised of two Board members who shall oversee and safeguard the District's assets by reviewing investment policies and strategies, banking relationships, the annual budget, the annual audit, risk management practices, borrowing, debt and debt structure, and other significant financial and accounting related issues.

B. Administrative and Personnel Committee –

This committee shall be comprised of two Board members who shall review and recommend changes to the Board regarding the District's policies, rules and regulations, participate in discussions with employee representatives, hold employee grievance hearings as provided in the rules and regulations, and other similar or related matters.

C. Paradise Lake Committee –

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This committee shall be comprised of two Board members and approved members of the public, who shall review recreation programs and events at Paradise Lake and make recommendations to the Board regarding rules, fees, permits, facility improvements and other related items. Members shall continually review the District's present and future water supply demands and proposals and projects to meet those demands. Recognized committee members shall receive an annual combination boating and parking pass for so long as they are committee members for the purpose of visiting and inspecting the facilities.

D. Community Relations Committee –

This committee shall be comprised of two Board members who along with staff, shall develop a Community Relations Plan (CRP) to provide information and results-based guidelines to District Directors and staff to promote understanding, support shared goals, and build goodwill between the District and community. Committee members will continually review key issues as outlined in the CRP to ensure positive and interactive communications for District projects and issues. Members shall review District actions to enhance water education and conservation efforts.

E. Paradise Irrigation District / Town of Paradise Liaison Committee –

This committee shall be comprised of two Board members who shall periodically meet with two members of the Paradise Town Council and designated staff from each agency to discuss common issues and items of mutual concern to the Paradise Irrigation District and the Town of Paradise.

2.22 DIRECTORS FEES AND EXPENSE REIMBURSEMENTS

Keeping in mind that new statutes may add further regulations, the following fees and expense reimbursements shall apply:

A. Fees –

Director fees are regulated by law (see, for example, California Water Code §21166; Government Code section 53232 et seq.). Directors shall receive compensation not to exceed \$100 per day. Compensation taken may be less than \$100; down to a minimum amount of one cent for either:

1. Up to \$100.00 per day for attending a regular or special Board meeting, or acting under its orders; and
2. Up to \$100.00 per day for attending a Board approved standing committee meeting, an established Ad Hoc committee, or an outside Board approved

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meeting requiring a Board member in attendance (examples provided below), when there is no regular or special Board meeting that day.

Regardless of either per day event, the per day amount(s) shall not exceed a total of six (6) meeting days in any calendar month. No fees are to be paid for attending seminars or conferences, but the out-of-pocket costs associated with attending those meetings, on a Board pre-approval basis, can be reimbursed through the use of a District claim form.

Examples for qualifying for the fee pursuant to Section 2.22.A. above:

Standing Committees - Finance, Administration and Personnel, Paradise Lake, and Community Relations.

Ad Hoc/Other Committees - Water Rate Review, Security, Annexation, ACWA/ACWA-JPIA, Butte County Special Districts Association, Union Negotiations, and other similar types of committees.

Each Director shall receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years. (Govt. C. 53235.) The Manager shall maintain District records of ethics training. For purposes of Directors fees, the Directors shall be considered employees of the District as described in Internal Revenue Code §3401(c).

Effective January 1, 2021, and pursuant to Resolution Number 2020-14 duly adopted by the Board of Directors on October 21, 2020, directors are not eligible to participate in any benefit programs, including the Medical, Dental, Vision, Life, and Flexible Benefits Programs and retirement plans available to District employees.

Directors will be required to complete a monthly Director's Fees and Reimbursement Report itemizing any earned directors fees. These forms are to be submitted to the District Secretary within five (5) days after a month end. Payment of the fees shall be processed in a timely fashion through the District's payroll system with appropriate withholdings.

B. Waived Compensation –

Directors are eligible to receive compensation not to exceed \$100 per day; down to a minimum amount of one cent. Receipt of an Annual Boat pass may be considered as compensation in lieu of receiving a dollar amount. Any Director who waives their right to compensation amount of \$100 shall do so in writing and that waiver shall be maintained in the District's files. Such waiver may be withdrawn upon written notice of the Director.

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C. Reimbursements –

1. Keeping in mind that new statutes may add further regulations, the following applies to expense reimbursements: District claim forms are to be used for reimbursement of actual and necessary business expenses when acting under the orders of the Board. These claim forms are to be attached to the monthly Director's Fees and Reimbursement Report with appropriate supporting documentation. Pre-approved meals, lodging, and transportation expenses shall be normal and customary, and automobile mileage costs incurred for business purposes shall be the standard mileage rate for transportation expenses as prescribed by the Internal Revenue Service and further described in other sections of this manual.
2. Directors are allowed their actual expenses in going to, attendance upon, and returning from state association meetings and when traveling outside Butte county on official business. (Govt. C. 25008.) Reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses shall be in accordance with Internal Revenue Service rates as established in Publication 463 or successor publication.
 - a. Where lodging is in connection with a conference or organized educational activity, including ethics training, lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the Director at the time of booking. Otherwise, comparable lodging rates shall be used.
 - b. Directors shall use group transportation rates when available.
 - c. Where there is any question regarding the level of appropriate compensation, the Board shall approve the reimbursement rate at the Board meeting held before the expense is incurred.
3. Directors shall provide brief reports on meetings attended, at the expense of the District at the next regular meeting of the Board.

2.23 TRAINING

- A. Subject to annual limits provided in the budget, Directors are encouraged to attend educational conferences and professional meetings when the purpose of such activities is to improve District operation. Keeping in mind that new statutes may add further regulations, the expense reimbursements described in **Section 2.22** shall apply: Expenses incurred for tuition, travel, lodging and meals as they relate to training, educational courses, participation with professional organizations, and

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attendance at local, state, and national conferences associated with the interests of the District are reimbursable subject to **Section 2.22**.

- B. Unless otherwise approved by the Board, attendance at conferences, seminars, workshops, etc. shall be limited to two directors per event.
- C. A director shall not attend a conference or training event for which there is an expense to the District if it occurs after they have announced their pending resignation, or if it occurs after an election in which it has been determined they will not retain their seat on the Board.

2.24 STANDARDS OF CONDUCT

Statutes impose limits on a Director's ability to contract with the District he or she serves on as a Director. (See Government Code section 1090 et seq.) Moreover, the Political Reform Act requires, and establishes the procedure by which Directors, officers, and employees are required to disclose actual or potential conflicts of interest between their public duties and their personal financial interests.

2.25 DIRECTOR ACCESS TO CONSULTANTS

Consultants of the District may not respond to inquiries of any Board Member, unless

- A. A majority of the Board authorized a Board Member at a meeting convened under the Brown Act to contact the District's consultant.
- B. The inquiry is initiated with the consent of the District Manager.

2.26 DISTRICT MANAGER AND BOARD MEMBER ACCESS TO LEGAL COUNSEL

The District Manager and Board members shall have unfettered access to the District's legal counsel for assistance with District business.

2.27 PID PUBLIC COMMITTEE MEMBER POLICY

This policy will serve as a 'code of conduct' to help clarify PID's expectations of Public members appointed to various committees:

- A. Public Members of PID committees are not elected positions. The Board of Directors shall make public member committee appointments at a regularly scheduled board meeting. In making public member appointments, the Board of Directors will consider individuals that have submitted a letter or interest to the PID office or have been nominated by a director.

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1. When a vacancy occurs, PID will advertise the opportunity to serve on committees that have public members.
- B. Public Members of PID committees are expected to act in the best interest of PID. To that end, adherence to the following Code of Conduct is expected of each member:
1. Public Members shall strive to fulfill the purpose of the committee, which is making recommendations to the Board on policies and procedures related to the committee and representing the District at functions related to the committee.
 2. Public Members shall come prepared to fully participate in committee meetings.
 3. A Public Member is encouraged to focus their interactions with PID Board Members and PID staff that make up their committee's membership during scheduled committee meetings.
 4. A Public Member shall not direct PID staff or business consultants to perform any work, investigations, studies, or research on behalf of the committee. The Public Member should make these types of suggestions to the committee as a whole.
 5. PID Board Members serving on a committee, through the PID Board Member Chairperson, shall speak for that committee's actions and recommendations (if any) to the entire Board of Directors.
 6. Under no circumstances, public or private, shall a Public Member of a PID committee represent themselves as "speaking on behalf of the committee."
 7. Public Members shall not communicate with any media about PID committee business. Public Members shall not identify themselves as a PID committee member when sharing their own personal perspective on any issue and through any medium (including electronic social media). This prevents the appearance of speaking in an official capacity on behalf of PID.
- C. Public Members appointed to a PID committee serve at the pleasure of the Board of Directors. At any time the board may choose to remove a Public Member of a PID committee by majority vote.

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Open & Public V

A GUIDE TO THE RALPH M. BROWN ACT

REVISED APRIL 2016



Social or Ceremonial Events

The final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the legislative body.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attends the function, but whether business of a specific nature within the subject matter jurisdiction of the body is discussed. So long as no such business is discussed, there is no violation of the Brown Act.

Grand Jury Testimony

In addition, members of a legislative body, either individually or collectively, may give testimony in private before a grand jury.¹⁰ This is the equivalent of a seventh exception to the Brown Act's definition of a "meeting."

Collective briefings

None of these exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements.

Retreats or workshops of legislative bodies

Gatherings by a majority of legislative body members at the legislative body's retreats, study sessions, or workshops are covered under the Brown Act. This is the case whether the retreat, study session, or workshop focuses on long-range agency planning, discussion of critical local issues, or team building and group dynamics.¹¹



Q. The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?

A. *No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.*

Serial meetings

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings involve only a portion of a legislative body, but eventually involve a majority. The Brown Act provides that "[a] majority of the members of a legislative body shall not, outside a meeting ... use a series of communications of any kind, 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."¹² The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful observation of and participation in legislative body decision-making.

The serial meeting may occur by either a “daisy chain” or a “hub and spoke” sequence. In the daisy chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated, or taken action on an item within the legislative body’s subject matter jurisdiction. The hub and spoke process involves at least two scenarios. In the first scenario, Member A (the hub) sequentially contacts Members B, C, and D and so on (the spokes), until a quorum has been contacted. In the second scenario, a staff member (the hub), functioning as an intermediary for the legislative body or one of its members,



communicates with a majority of members (the spokes) one-by-one for discussion, deliberation, or a decision on a proposed action.¹³ Another example of a serial meeting is when a chief executive officer (the hub) briefs a majority of members (the spokes) prior to a formal meeting and, in the process, information about the members’ respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague (but not with a majority of the body, counting the member) or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of

the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.”¹⁴

The Brown Act has been violated, however, if several one-on-one meetings or conferences leads to a discussion, deliberation, or action by a majority. In one case, a violation occurred when a quorum of a city council, by a letter that had been circulated among members outside of a formal meeting, directed staff to take action in an eminent domain proceeding.¹⁵

A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act.¹⁶ Such a memo, however, may be a public record.¹⁷

The phone call was from a lobbyist. “Say, I need your vote for that project in the south area. How about it?”

“Well, I don’t know,” replied Board Member Aletto. “That’s kind of a sticky proposition. You sure you need my vote?”

“Well, I’ve got Bradley and Cohen lined up and another vote leaning. With you I’d be over the top.”

Moments later, the phone rings again. “Hey, I’ve been hearing some rumbles on that south area project,” said the newspaper reporter. “I’m counting noses. How are you voting on it?”

Neither the lobbyist nor the reporter has violated the Brown Act, but they are facilitating

a violation. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members' positions by asking "You sure you need my vote?" The prudent course is to avoid such leading conversations and to caution lobbyists, staff, and news media against revealing such positions of others.

The mayor sat down across from the city manager. "From now on," he declared, "I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don't want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting."

Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."¹⁸ Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation or action taken among the majority of the legislative body.

"Thanks for the information," said Council Member Kim. "These zoning changes can be tricky, and now I think I'm better equipped to make the right decision."

"Glad to be of assistance," replied the planning director. "I'm sure Council Member Jones is OK with these changes. How are you leaning?"

"Well," said Council Member Kim, "I'm leaning toward approval. I know that two of my colleagues definitely favor approval."

The planning director should not disclose Jones' prospective vote, and Kim should not disclose the prospective votes of two of her colleagues. Under these facts, there likely has been a serial meeting in violation of the Brown Act.

- Q.** The agency's website includes a chat room where agency employees and officials participate anonymously and often discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?
- A.** Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate, or take action on matters of agency business.
- Q.** A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?
- A.** No, the Brown Act expressly allows a majority of a body to call a special meeting, though the members should avoid discussing the merits of what is to be taken up at the meeting.

PRACTICE TIP: When briefing legislative body members, staff must exercise care not to disclose other members' views and positions.

Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the “reply to all” button that may inadvertently result in a Brown Act violation.

Informal gatherings

Often members are tempted to mix business with pleasure — for example, by holding a post-meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act.¹⁹ A luncheon gathering in a crowded dining room violates the Brown Act if the public does not have an opportunity to attend, hear, or participate in the deliberations of members.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues — which might be difficult. This kind of situation should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive’s presence in no way lessens the potential for a violation of the Brown Act.

- Q.** The agency has won a major victory in the Supreme Court on an issue of importance. The presiding officer decides to hold an impromptu press conference in order to make a statement to the print and broadcast media. All the other members show up in order to make statements of their own and be seen by the media. Is this gathering illegal?
- A.** *Technically there is no exception for this sort of gathering, but as long as members do not state their intentions as to future action to be taken and the press conference is open to the public, it seems harmless.*



Technological conferencing

Except for certain nonsubstantive purposes, such as scheduling a special meeting, a conference call including a majority of the members of a legislative body is an unlawful meeting. But, in an effort to keep up with information age technologies, the Brown Act specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session.²⁰ While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary with the body. No person has a right under the Brown Act to have a meeting by teleconference.

“Teleconference” is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either

audio or video, or both.”²¹ In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following teleconferencing requirements:²²

- Teleconferencing may be used for all purposes during any meeting;
- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction;
- Additional teleconference locations may be made available for the public;
- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable;
- Agendas must be posted at each teleconference location, even if a hotel room or a residence;
- Each teleconference location, including a hotel room or residence, must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate;
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location; and
- All votes must be by roll call.

Q. A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C. to New York. May she?

A. *She may not participate or vote because she is not in a noticed and posted teleconference location.*

The use of teleconferencing to conduct a legislative body meeting presents a variety of issues beyond the scope of this guide to discuss in detail. Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.

Location of meetings

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.²³

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:²⁴

- Comply with state or federal law or a court order, or attend a judicial conference or administrative proceeding in which the local agency is a party;
- Inspect real or personal property that cannot be conveniently brought into the local agency’s territory, provided the meeting is limited to items relating to that real or personal property;

Q. The agency is considering approving a major retail mall. The developer has built other similar malls, and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?

A. *Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be allowed to attend.*

- Participate in multiagency meetings or discussions; however, such meetings must be held within the boundaries of one of the participating agencies, and all of those agencies must give proper notice;
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries, or meet at its principal office if that office is located outside the territory over which the agency has jurisdiction;
- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction;
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility; or
- Visit the office of its legal counsel for a closed session on pending litigation, when to do so would reduce legal fees or costs.²⁵

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential

employee from another district.²⁶ A school board may also interview members of the public residing in another district if the board is considering employing that district's superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.²⁷

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.²⁸

