

Agenda #4: SMART Briefing/Overview



March 22, 2023

SMART Briefing Outline

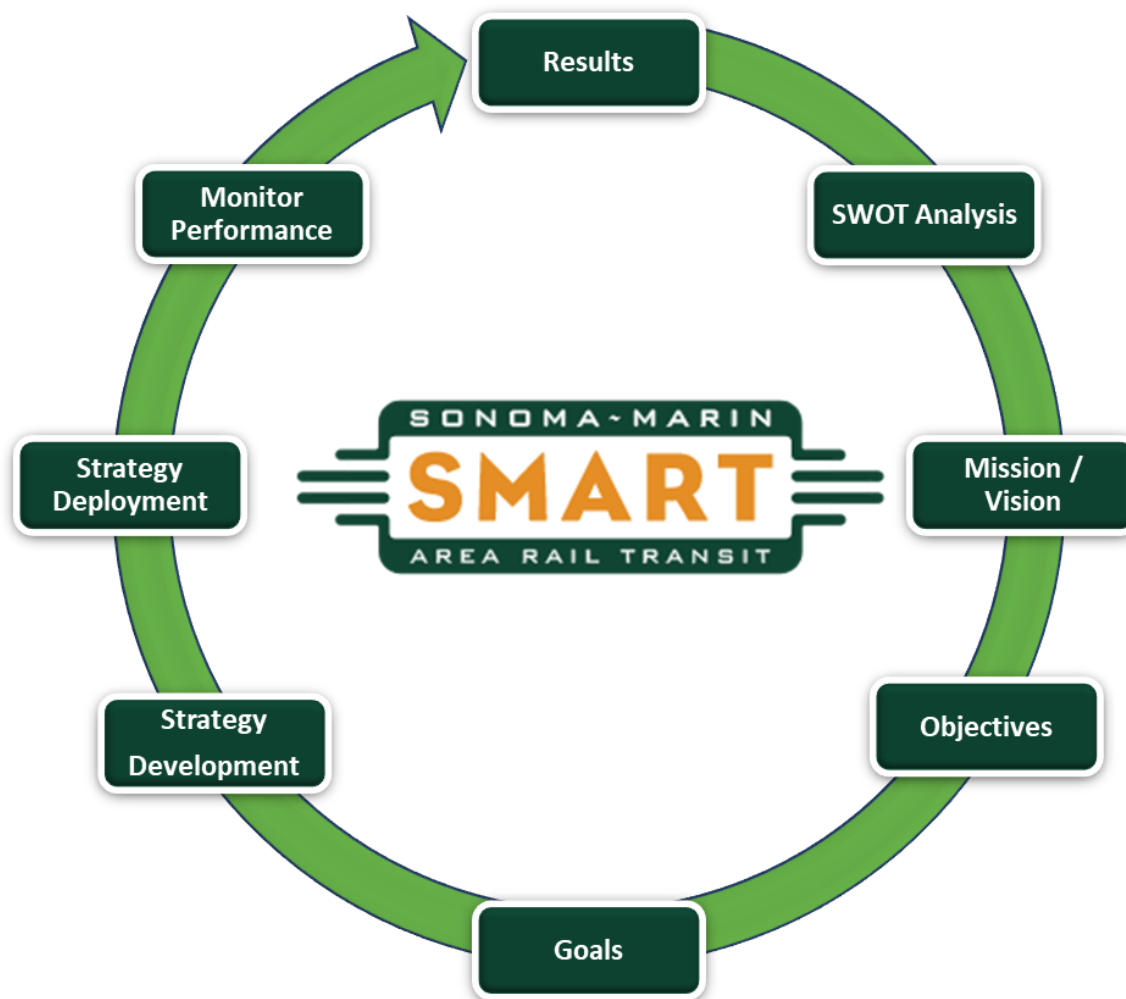
- Citizens Oversight Committee
 - Duties
- Planning For the Future Model
- SMART House
- Listening Session
- Goals /Strategies
- 2019 Strategic Plan
- Short-Range Transit Plan Fiscal Year 2022-2029
- Fiscal Year 2022-23 Budget
- Brown Act Information

COC Bylaws – Committee Duties

SECTION 2.1 COMMITTEE DUTIES

- Provide input and review the Strategic Plan and subsequent plans; receive periodic updates on significant financial matters not previously identified in the Strategic Plan or annual budget that may materially impact the previously adopted Strategic Plan.
- Hold meetings Quarterly and issue reports, on at least an annual basis, to inform and update the SMART Board and the Sonoma and Marin County residents on any developments related to the implementation, planning and advancements of the Strategic Plan. Copies of this document should be made widely available to the public.
- Receive briefings on financial, budgetary, capital plans and other strategic planning matters that may have a material impact on the District and provide updates to the SMART Board of Directors at least bi-annually.

Planning for the Future



SMART House

Vision:

Smarter Transportation for a Smarter Future

SMART envisions an innovative transportation system that provides integrated mobility solutions, promotes sustainable growth, and enhances quality of life.

Mission: We Connect Communities

SMART provides safe, reliable, and environmentally responsible transportation options.

Ridership

Pathways

Extensions

Freight

Values: * Safety * Integrity * Stewardship * Continuous Improvement

Listening Sessions

Completed

- Ridership (April 6th)
 - 45 participants (excluding SMART Staff)
 - 553 survey responses
 - 35 emails
- Pathways (April 13th)
 - 60 participants (excluding SMART Staff)
 - 183 survey responses
 - 11 emails
- Extensions (April 20th)
 - 54 participants (excluding SMART Staff)
 - 203 surveys
 - 13 emails
- Freight (April 27th)
 - 34 participants (excluding SMART Staff)
 - 65 survey responses
 - 1 email

Goals / Strategies

Ridership:

- Facilitate bike share at 10 of 12 stations
- Implement Micro-transit pilot program at the Airport Station
- Consider additional late-night service
 - Friday and Saturday nights
 - Additional event service based on anticipated demand
 - Micro-transit expansion
- Work with transit providers to improve bus/ferry connections
- Model rail system to determine requirements to maintain 30/60 headways
- Look for innovative methods to restore snack bar
- Allow overnight parking at SMART P-n-R lots
- Closely monitor system/ridership and adjust as necessary
- Implement aggressive marketing plan

Goals / Strategies

Pathways:

- Construct funded segments of the Pathway
- Continue to design and permit pathways
- Publish updated Pathway maps
- Develop and implement wayfinding program

Goals / Strategies

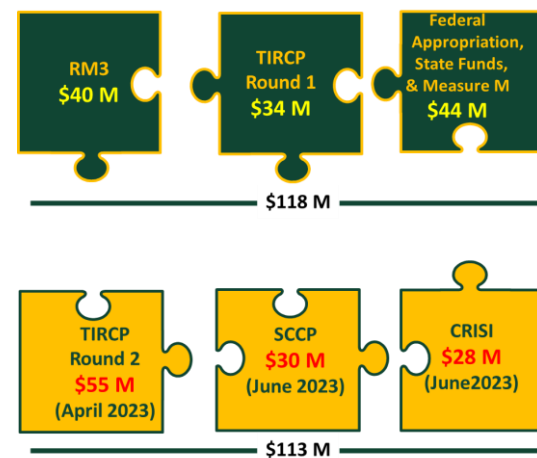
Extensions (East/West):

- Continue participation in Highway 37 corridor activities
- Work with partners to incorporate rail into the project
- Complete Caltrans rail service plan analysis
- Partner with Caltrans and FRA Corridor ID Program through SMART East-West project development and subsequent phases

Goals / Strategies

Extensions (North Extension):

- Secure funding to extend rail line to Healdsburg
 - TIRCP Round 2 (\$55M), SCCP (\$30M), and CRISI (\$28M)
- Conduct updated market and ridership analysis
- Conduct updated freight market analysis
- Identify/ clarify community and system benefits associated with Cloverdale extension
- Continue to seek federal and state capital grant funding

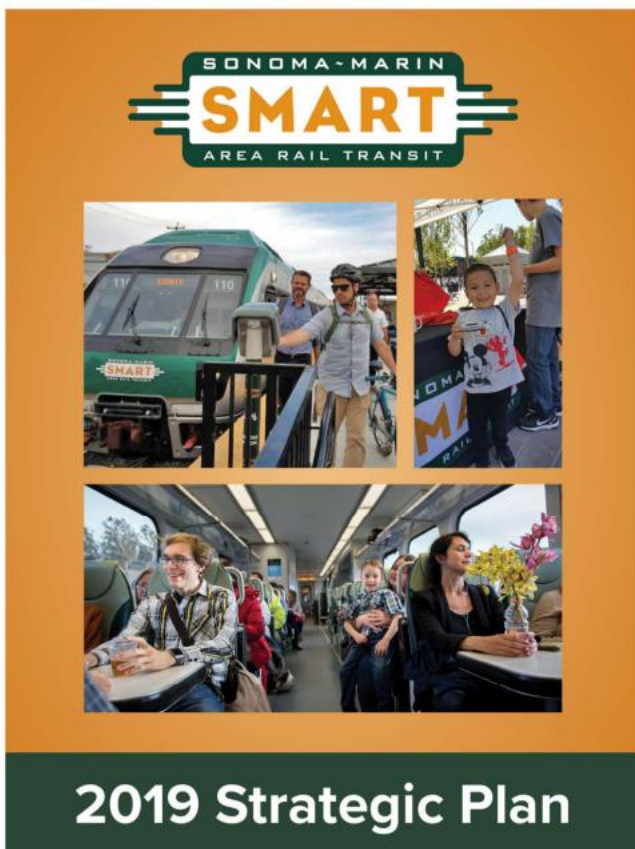


Goals/Strategies

Freight:

- Increase annual revenue by \$500K+
- Decrease expenditures by \$100K
- Secure funding for capital/SGR improvements (\$8.2M)
- Market freight and storage opportunities at SMART
- Leverage storage track at Schellville and Burdell
- Promote transload opportunities at Victory Station (Schellville)
- Acquire new business
 - Expand service to existing customers
 - Currently in discussion with potential customer (\$250K/year)
 - New potential customers north of Airport Station
- Examine freight tariffs and consider increasing fees
- Reduce car hire fees
- Manage maintenance requirements
 - Bridges, tracks, crossings, equipment, etc.

2019 Strategic Plan



The 2020 Expenditure Plan states that a Citizens Oversight Committee, established by the SMART Board, will provide input and review the Strategic Plan and subsequent updates.

The Strategic Plan which identifies planned investments in capital implementation, operations and maintenance for the extension and duration of the tax. The Strategic Plan should be updated every five years.

Next Update: September 2024



Short-Range Transit Plan



Short-Range Transit Plan

Fiscal Year 2022 – Fiscal Year 2029

Sonoma-Marin Area Rail Transit District

Approved November 17, 2021

Federal transportation statutes require that the Metropolitan Transportation Commission (MTC), in partnership with state and local agencies, develop and periodically update a long-range Regional Transportation Plan (RTP), also known as Plan Bay Area, and a Transportation Improvement Plan (TIP) which implements the RTP by programming federal funds to transportation projects contained in the RTP. To effectively execute these planning and programming responsibilities, MTC requires that each transit operator in its region which received federal funding through the TIP, prepare, adopt, and submit to MTC a Short-Range Transit Plan (S RTP).

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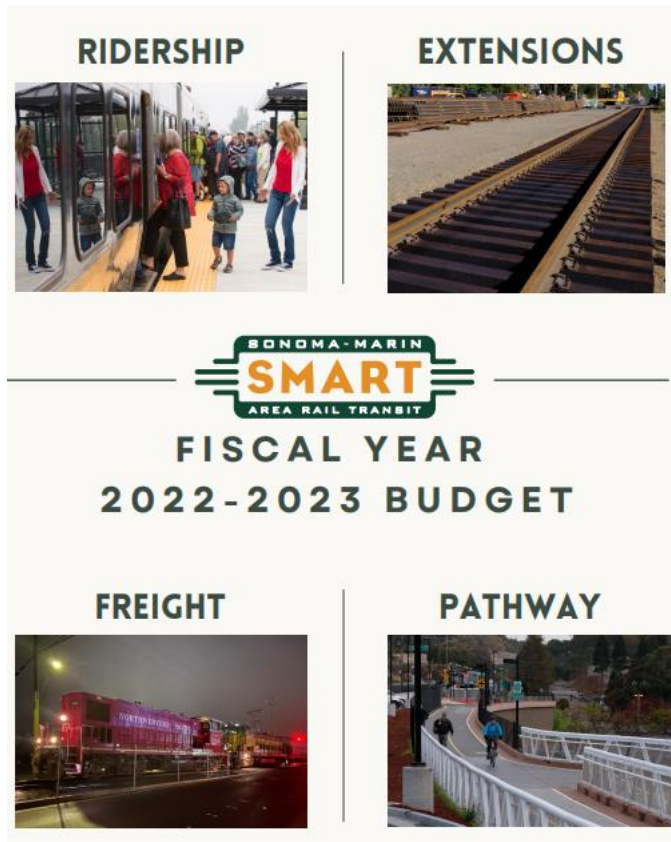
Federal statutes require MTC in partnership with state and local agencies develop and update a Regional Transportation Plan (RTP) and Transportation Improvement Plan (TIP)

The planning horizon for the S RTP is 10 years and the plan is supposed to be updated at least once every four years. The scope of the S RTP is prescribed by MTC.

MTC required an update to the plan due to the pandemic. SMART update was approved by the BOD on January 4, 2023.



Fiscal Year 2022-23 Budget



- Budget adopted by Board on June 15, 2022
- Amended by Board on February 1, 2023
- Available on SMART's website

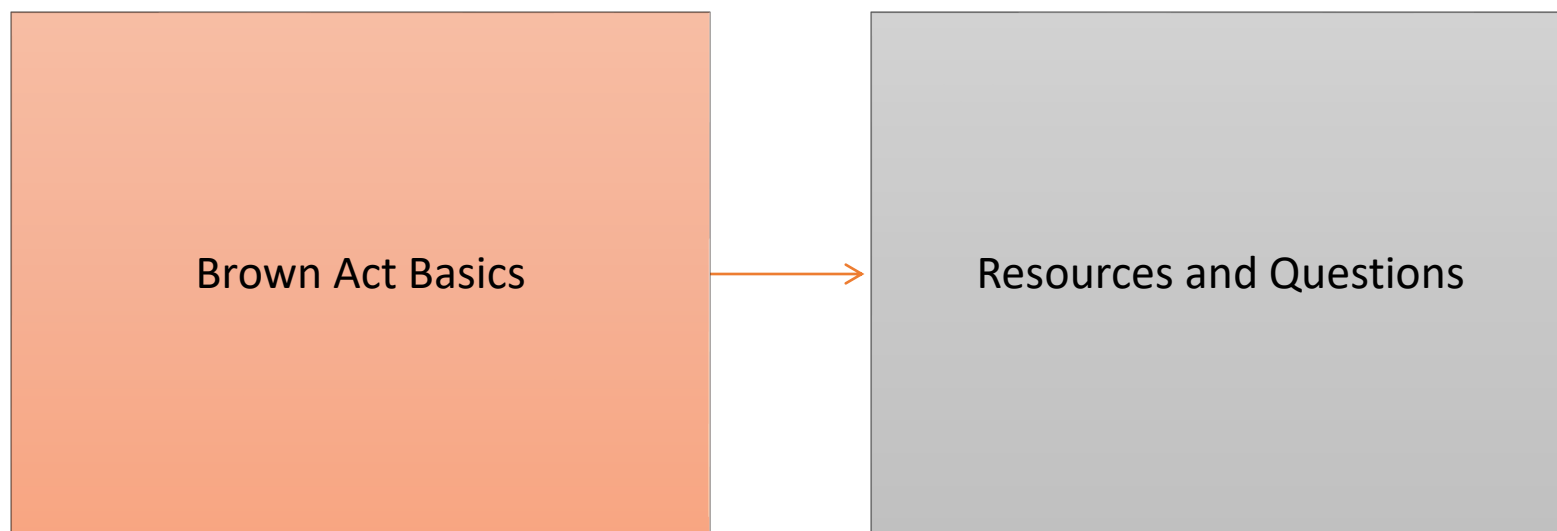
Fiscal Year 2023-24 Budget

- Currently being developed
 - Utilizing goals and strategies as guidance
- Budget Workshop Scheduled for May 3, 2023
- Draft Budget Presented to the Board on May 17, 2023
- Final Budget Scheduled for Approval on June 21, 2023

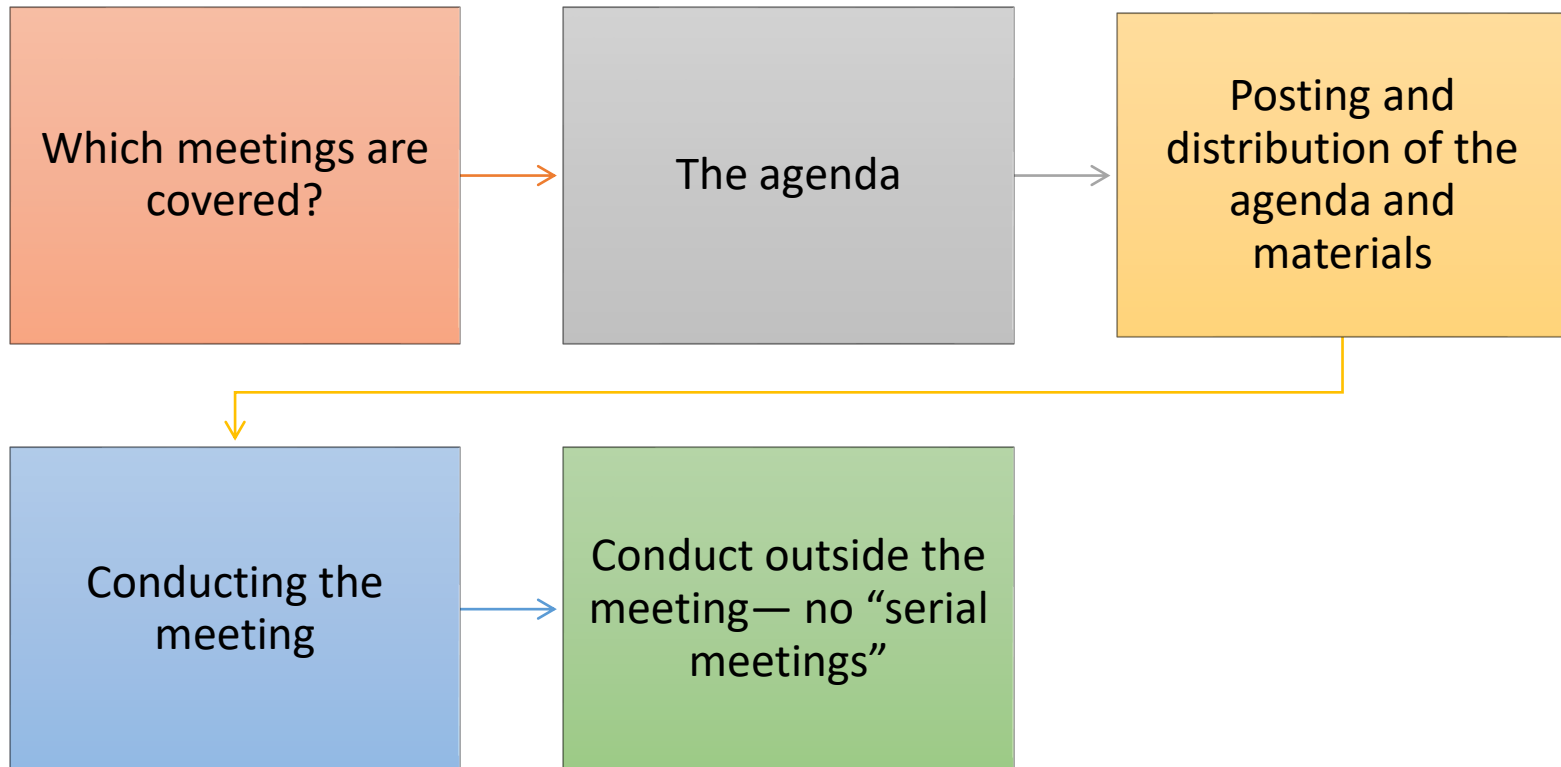
Meetings under Brown Act: New Rules Effective March 1, 2023



MEETINGS UNDER THE BROWN ACT: AGENDA FOR PRESENTATION



BROWN ACT BASICS: Topics to be Covered



What Meetings are Subject to the Act?



Meetings Defined

- Meeting = “any congregation of a majority of the members of a legislative body at the same time and location . . . to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” (Gov’t Code §54952.2(a).)
- Meetings with only deliberation – even if no action will occur – are subject to the Brown Act.
- Includes “workshops,” “study sessions,” and retreats.

Meetings Defined – Con’t



- Exceptions (Section 54952.2(c):
 - Individual conversations (but see “serial” discussion below)
 - Certain public conferences
 - Community meetings open to the public
 - Attendance at other entities’ public meetings
 - Certain social events

Regular Meetings



Practice Tip:

Set the time and place of regular meetings in the organizational rules (such as by-laws)

Special Meetings

Meetings held at a time or location different than regular meetings. *Examples:*

- COC s regular meeting time is 9:00 a.m. The commission calls a meeting for 8:00 a.m. Different start time makes it a “special meeting.”
- Site visit/”field trip” attended by a majority of the members of a committee

Special Meeting Limitations

- The notice must specify the time and place of the special meeting and the business to be transacted.
- Agendas for special meetings must be posted at least 24 hours in advance.
- No other business may be conducted at the special meeting.

The Agenda



Role of the Agenda

- In general, the body is limited to considering the items listed on the posted agenda.
- “No action or discussion shall be undertaken on any item not appearing on the posted agenda” (Gov’t Code §54954.2(a)(2).)
- Agenda provides notice to the public of the items under consideration and actions that may be taken.

Agenda Preparation

- Agenda must provide “a brief general description of each item of business to be transacted or discussed at the meeting.” (Gov’t Code §54954.2(a)(1).)
- The description must provide enough information to inform the public, but the description need not exceed 20 words.
- Practice tip: Pay attention to the wording of the agenda because it defines what can be discussed and what actions can be taken.

Examples: “Discussion Only” limits the board/commission from taking action.

Other Agenda Requirements



- Agenda must specify time and location of the meeting.
- Agenda must list the location (with address) where the public is able to inspect public documents related to an agenda item when such documents were distributed to the public less than 72 hours prior to the meeting. (Gov't Code §54957.5)

Exceptions to Agenda Rule

Board Members may speak to items **not** on the agenda to:

- Make a brief response to public testimony;
- Ask a question for clarification;
- Make brief announcement or report on his/her activities;
- Make a referral to staff to report back at a subsequent meeting; or
- Direct staff to place a matter on a future agenda.

Agenda Additions after Posting



Rare!!! The body may take action on an item not appearing on the posted agenda if it is added as “urgency” item.

Urgency add-on requires:

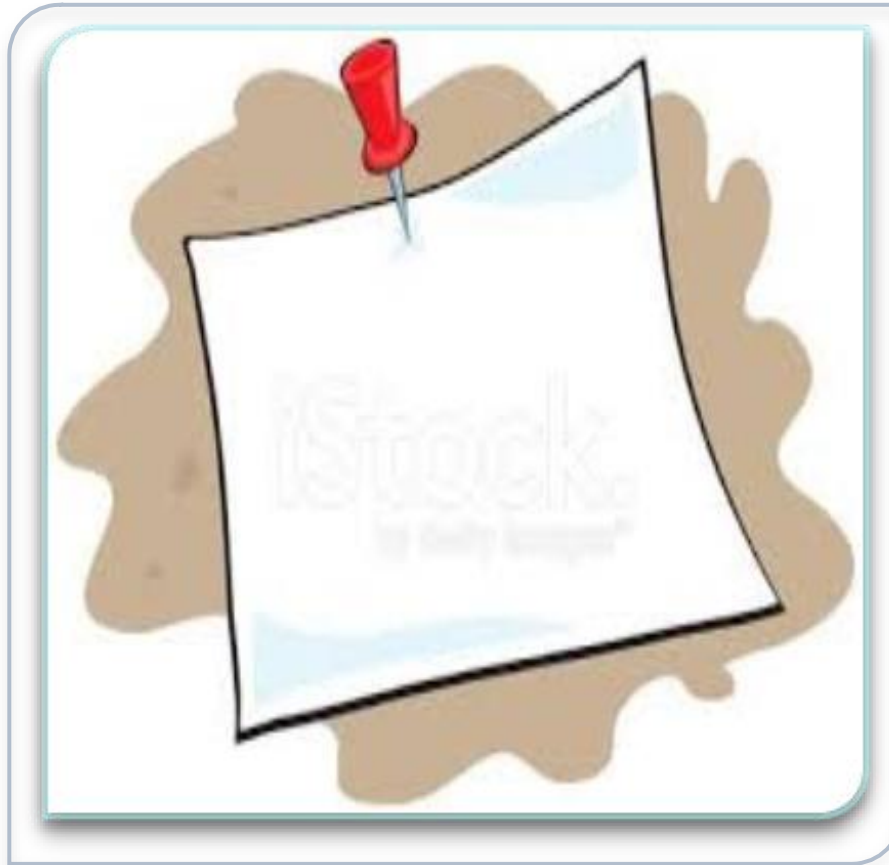
- There is a need to take immediate action; (Unlikely to occur with COC)
- The need to take action came to the attention of the body, subsequent to the posting of the agenda.

The Agenda and Public Participation



- The public has a right to comment on every item on the agenda before action is taken.
- Every agenda for regular and special meetings must provide an opportunity for the public to comment on agenda items before or during consideration of the item.
- Regular meeting agenda must allow time for public testimony on matters not on the agenda that are under the body's jurisdiction.

Posting and Distribution of Agenda and Materials



Posting the Agenda

- The agenda must be posted “in a location that is freely accessible to the public.” (Gov’t Code §§ 54954.2(a)(1), 54956)
 - Example: post hard copy in protected bulletin board outside meeting location
- Regular meetings: post at least 72 hours ahead.
- Special meetings: post at least 24 hours ahead.
- If the agenda is posted in a building that is locked to the public over the weekend, that time does not count toward the required 72 or 24 hours.

Posting the Agenda on the Web

- A regular or special meeting agenda must be posted on the local agency's web site, if it has one, if either:
 - The agenda is for the agency's governing body; or
 - The agenda is for a committee, commission or board of the local agency, the members are compensated for their appearance, and one or more of the members are also members of the governing body.
- Practice tip: post agendas on the agency website if feasible, even if not required.
- Note: web posting is not a substitute for posting the hard copy.

Conducting the Meeting



Public Participation

- Must allow the public to comment on matters on the agenda before or during consideration of the item.
- Agency may adopt “reasonable regulations” on time allotted for public testimony, such as limiting the time per speaker or limiting the total time allotted to public testimony.
- Reasonable time regulation must, however, ensure intent of allowing public testimony on matters on agenda is carried out.

Loss of Quorum

- When there is no quorum, there is no meeting. No action can be taken.
- Do not prepare minutes if the meeting did not have a quorum.
- Practice tip: can we still have a discussion if less than a quorum show up? If less than a body elects to continue to have a discussion, they are doing so outside of a meeting of the board/commission.

Voting



- Secret ballots prohibited
- The body must publicly report any vote taken and the vote or abstention of each member present for that action.

Conducting Outside the Meeting



Prohibition on Serial Meetings



- Basic principle: Deliberations of public bodies should be conducted openly, and their actions should be taken openly
- “A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, 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.**” (Gov’t Code §54952.2 (b)(1), emphasis added.)

Examples of Serial Meeting

- “Daisy chain” (A to B, B to C, C to D)
- “Hub and spoke” (e.g. use of staff to communicate with members one by one for deliberation or a decision.)
- Avoid converting permitted communications into serial meeting.

Example: A member of the public meets individually with each member about an issue. The member should avoid making inquiries about what the other members thought or said.

Beware of e-mail



- Prohibited: use of e-mail among a majority of the members of a body to reach a shared view.
- E-mail may not be used among a majority of the members to discuss, deliberate, or take action.
- Practice tips:
 - “reply all” + substantive discussion = Brown Act violation. Beware of potential for serial meetings via “reply all” or email chains.
 - Use of email for scheduling is ok

E-mail example

Case study: e-mail among a majority of the members and sent to the chairperson and secretary of the agency. The emails were also posted on the agency website and a printed version reported at the next open meeting. Permissible?

- No. Per an Attorney General opinion, the emailing violates the Brown Act because the deliberations among a majority of the body are conducted outside the public view, and debate could be over before the public had the opportunity to participate. Safeguards insufficient.
(84 Ops. Cal. Atty. Gen. 30 (2001).)

Role of Staff



Staff of the agency may have separate communications with members in order to answer questions or provide information, if staff does not communicate to members of the body the comments or position of any other member of the body.

Bonus!! Effective Meetings

When a public meeting is well-conducted, it instills public confidence and encourages public engagement. A bit of formality and decorum can set the tone for an orderly and effective meeting. A few tips:

- Address remarks and debate to the chair or presiding officer of the meeting, rather than engaging in cross-talk with other members.
- Wait for recognition from the chair or presiding officer before speaking, and adhere to time limits for debate or comment.
- Keep the discourse civil and impersonal, even when there are negative comments toward the body from the public.

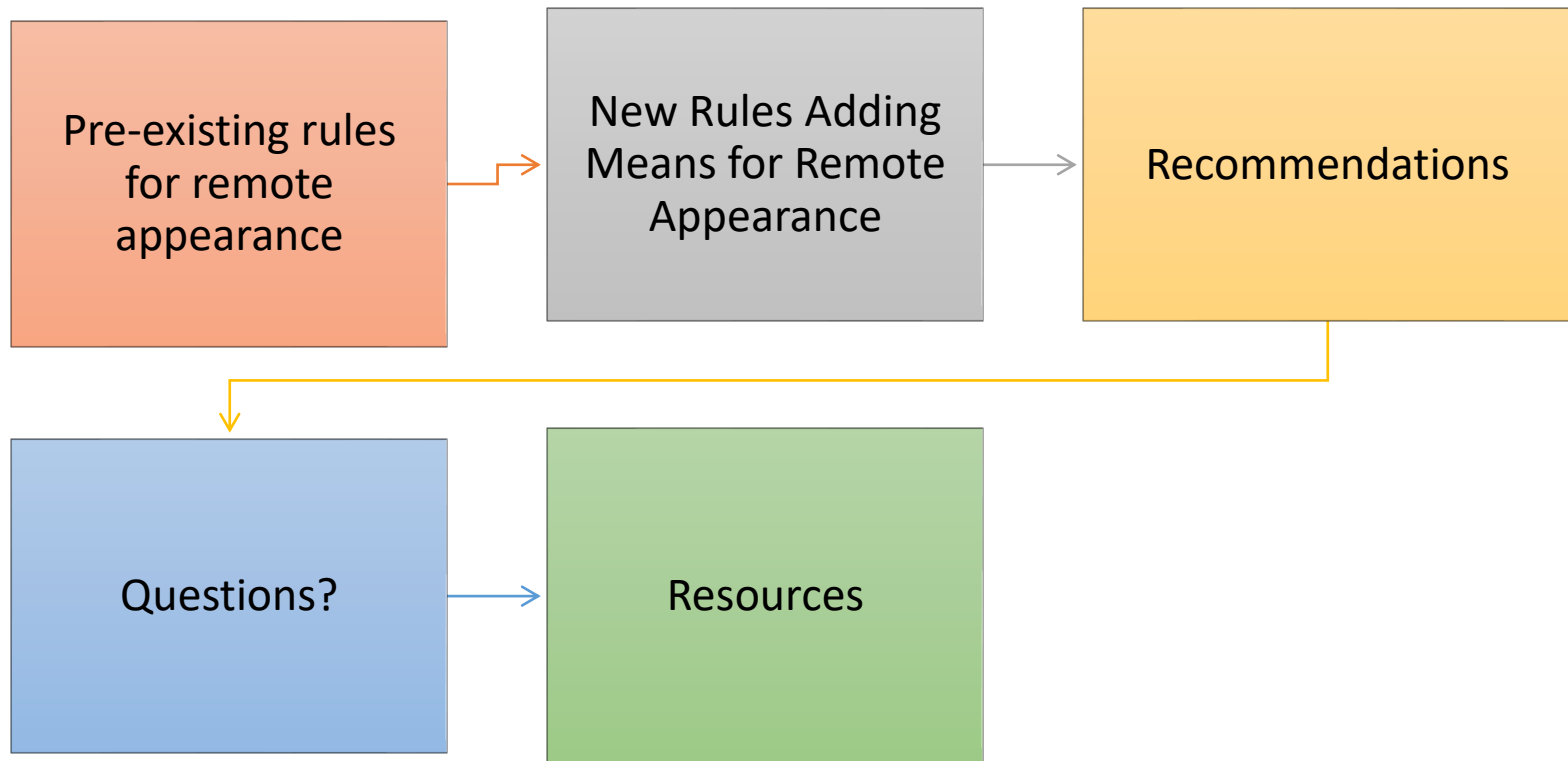
Bonus!! Effective Meetings

Follow common structures:

- Receive Staff Report
- Questions from the Board/Commission
- Receive Public Comment
- Discuss/deliberate
- Motions/action (if necessary)

Look for areas of agreement.
Enjoy!

DEVELOPMENTS TO THE BROWN ACT IN 2023: Topics to be Covered



The end of the Emergency: What Now?

- The COVID-19 state of emergency ended on February 28, 2023. When the official state of emergency ends, Brown Act boards will be required to adhere to state laws regarding remote meetings.
- **GENERAL RULE:** All Brown Act body members must resume meeting onsite in person.
- Rules permitting remote appearance will still exist, but they are significantly more restrictive than pandemic rules. Note that a Brown Act body is not required to facilitate remote proceedings.



Remote Appearances by Members Two Paths



TRADITIONAL TELECONFERENCING RULES

The pre-existing rules for teleconferencing under the Brown Act are still available.



REMOTE APPEARANCES AUTHORIZED BY AB2449

Authored during the pandemic, AB2449 provides several more options for remote appearance by individual members under specific circumstances.

Teleconferencing – “Traditional” Brown Act Rules

Teleconferencing allowed only if specific criteria are met, including:

- At least a quorum must participate from locations within the boundaries of the agency (exceptions in limited circumstances)
- Agenda must be posted at all teleconference locations;
- Teleconference locations must be provided in notice and agenda of meeting;
- Each teleconference location must be publicly accessible, and public must be able to comment at every teleconference locale.
- Votes must be by roll call.



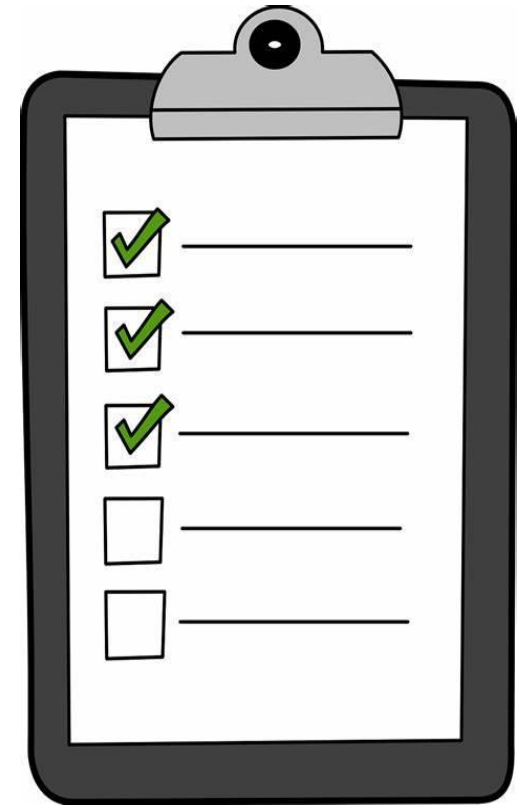
AB 2449: New Options for Remote Appearance by Individual Members

The new options for remote appearance are available ONLY if the following threshold conditions are met:

- 1) A majority of the legislative body is meeting on site at a single physical location within the body's jurisdiction identified on the agenda and open to the public;
- 2) The meeting provides a means by which the public may remotely hear and visually observe the meeting and remotely address the legislative body with opportunity to comment in real time; and
- 3) The agenda for the meeting identifies the audio/visual call-in option for the public by which the public may access the meeting and provide comment.

Assuming the threshold conditions are met, AB2449 permits individual board members to appear remotely under the following two circumstances:

- 1) “Just cause” provision
- 2) “Emergency circumstances” provision



“Just Cause” Provision

- Under the “just cause” provision members may attend up to two meetings remotely each year for “just cause.” The Act defines “just cause” as (1) a childcare or caregiving need for an immediate family member; (2) a contagious disease preventing attendance in person; (3) a need related to a physical or mental disability; or (4) travel while on official business for state or local government.
- The member participating remotely is required to notify the legislative body of the need to participate remotely “at the earliest opportunity,” but can invoke a “just cause” remote appearance as late as at the start of the applicable meeting
- Member may not appear remotely under just cause more than 2 times in a calendar year.

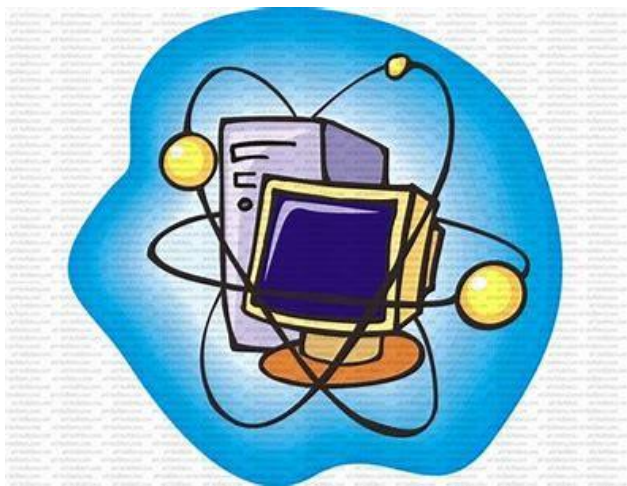
“Emergency Circumstances” Provision

- Members may also make a request to participate remotely due to “emergency circumstances,” which the Act defines as “a physical or family medical emergency that prevents a member from attending in person.”
- Under the emergency circumstances provision, the member’s request must be placed on the agenda and approved by the legislative body.
- The board member is not required to disclose personal medical conditions or disabilities and the description may be brief and general (20 words or less).
- If there is insufficient time to add an emergency circumstances request to the agenda, it can be added orally and should be handled at the beginning of the meeting.

Additional Requirements

- If a member is approved to appear remotely under the just cause or emergency circumstances provision, the member must appear through both audio and visual technology.
- The member must also state if any other persons age 18 or older are present with the member, and the member's relationship to those persons.

Disruption In Service



If a meeting is being conducted remotely under these provisions and a disruption in service prevents the broadcast of the meeting to the public and/or prevents public comment, no further action on agenda items may be taken until the remote service is restored.

Limitations on Remote Appearances



A member may not use either the “just cause” or “emergency circumstances” basis to appear remotely for a period exceeding three consecutive months or more than two meetings per calendar year.

A member must make a separate request to the COC for each meeting at which he/she seeks to appear remotely.

Sunset on New Provisions



- The provisions allowing remote appearance for just cause or emergency circumstances sunset on December 31, 2025.
- As of January 1, 2026, only traditional Brown Act teleconferencing rules will apply.

Recommendations

- Boards and Commissions should decide whether using remote participation options create a net benefit to the entity, balancing considerations such as time and resources needed for providing and documenting remote access, whether increased flexibility would be useful, and other considerations based on the entity's characteristics.
- AB 2449 is new legislation, and its provisions are significantly fact-dependent. You may contact your SMART's General Counsel for guidance.

Resources

- General Counsel (for the SMART board)
- For other agencies, consult your agency counsel
- *The Brown Act: Open Meetings for Local Legislative Bodies* (California Attorney General's Office, 2003) [does not include recent amendments to Brown Act]
- *Open & Public V: A Guide to the Ralph M. Brown Act* (2d ed. 2016) published by the League of California Cities
- *Understanding the Basics of Local Agency Decision-making* (2009) published by the Institute for Local Government (www.ca-ilg.org)

Questions?

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