City of Long Beach **Memorandum**
Working Together to Serve

Office of the City Attorney

DATE: October 23, 2024

TO: Ethics Commission

FROM: Dawn A. McIntosh, City Attorney

SUBJECT: Ad Hoc and Standing Committees under the Brown Act

You have asked how ad hoc committees are treated under the Brown Act. The purpose of this memo is to address this question.

Background

The Ralph M. Brown Act (California Government Code 54950 et seq.) establishes rules for open and public meetings of legislative bodies, including local government advisory commissions like the Ethics Commission. Agendas for regular meetings are required to be posted in advance, and meetings are required to be held in accessible facilities, among other requirements.

The Ethics Commission can form committees, made up of a subset of the full Commission, to handle more complex tasks that can't be accomplished during a single meeting of the Commission. Depending on the nature of the tasks and the way the committees are structured, they would either be an ad hoc committee or a standing committee, which are subject to different rules and requirements under the Brown Act.

As Hoc Committees and Standing Committees

An ad hoc committee is created for a limited time or to consider a particular issue, and consists of less than a quorum of the Commission. It is not subject to Brown Act notice and posting requirements. For example, if the seven member Ethics Commission forms an advisory committee comprised of two commissioners for the purpose of producing a report in six months on lobbying restrictions, and they meet when they can around their work schedules, this committee would be an ad hoc committee. It is not a standing committee because it is comprised solely of less than a quorum of the members of the body and it is charged with accomplishing a specific task in a short period of time. Since it is a limited term advisory ad hoc committee, the Brown Act notice and posting requirements would not apply. (*See* The Brown Act: Open Meetings for Local Legislative Bodies, prepared by the California Attorney General's Office (2003), p. 6.) This committee has no power to take any official action. Its work product

must be delivered to the full Commission for consideration. The Commission could then choose to make recommendations to the City Council based on the report produced by the ad hoc committee.

By contrast, standing committees of a legislative body, irrespective of their composition, have either: (1) a continuing subject matter jurisdiction, or (2) a meeting schedule fixed by City Charter, Ordinance, Resolution, or formal action of a legislative body. Even if comprised of less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates long-term committees on budget and finance or on public safety, those are standing committees subject to the Brown Act.

It can sometimes be difficult to determine whether a subcommittee of a body falls into the category of a standing committee or an exempt temporary (ad hoc) committee. If a committee is created to explore a topic of limited scope and duration, is it an exempt temporary committee or a non-exempt standing committee?

The answer may depend on factors such as how meeting schedules are determined, the scope of the committee's charge, or whether the committee exists long enough to have "continuing jurisdiction." If an ad hoc committee over time and practice has become a standing committee (i.e., ongoing jurisdiction over a subject matter rather than a limited task, a set meeting schedule established by the Commission, task is never "completed" but transforms into ongoing action), it then becomes subject to the Brown Act notice and other requirements.

Staffing

The Brown Act is silent on staffing of meetings. It is largely a function of budget, and availability of staff and facilities. For regular Commission meetings and standing committees, which require preparation of agendas and supporting documents, keeping of minutes and public comment, coordination of facilities and equipment, staff is generally needed. Long Beach Municipal Code Section 2.18.040 requires that "Within the limits dictated by fiscal constraints, the City will endeavor to provide reasonable staff support to advisory bodies in order to permit them to perform their functions in an effective manner." This would extend to standing committees if needed and staff and funding are available.

Ad hoc committee meetings are intended to be informal meetings to address specific issues, and to provide some flexibility for less than a quorum of Commission members to accomplish their task. Staff are generally not included in these informal meetings which don't involve keeping of minutes or public comment.

Conclusion

The express purpose of the Brown Act is to assure that local government agencies conduct the public's business openly and publicly. Courts and the California Attorney General broadly construe the Brown Act in favor of greater public access and narrowly

construe exemptions to its general rules. However, the Brown Act does not apply to every type of meeting in every situation. Standing committee meetings are subject to the Brown Act, while ad hoc committee meetings for specific topics over a limited period of time, are not subject to the Brown Act.

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