Workshop Plan

1. Context: Roles and responsibilities
2. Traditional Brown Act training (~15 minutes)
3. Interactive discussion on current and past points of concern, plans for resolution (~15 minutes)
4. Questions (~15 minutes)
Who's Who and Why

• Committee membership
  - Appointed to represent communities by county
  - Not appointed to represent sub-groups of communities
  - Advisory role to the JPB Board on policy impacts felt by customers
  - Express views of passengers – good and bad

• Staff
  - Whose staff are they?
  - Role vis a vis the CAC, generally
  - Role as related to Brown Act

• Counsel

Brown Act Overview

• State law (Cal. Gov. Code §§54950, et seq.)
• Applies to “local legislative bodies” and their “meetings”
• Requires meetings to be open, public and accessible
• Requires notice, published agenda, availability of materials, opportunity for public comment before actions taken
• Provides for limited “closed sessions”
Why Another Brown Act Training??

1. Typically done every ~2 years
2. Responding to CAC request
3. Members of CAC with various backgrounds
4. Some new members
5. Some disagreements regarding Brown Act application in past few years
6. All of us play a role in compliance, but on-the-spot analysis can be hard and views can vary

Who Is Subject to the Brown Act?

- “Legislative bodies”
- Boards of Directors, City Councils, etc.
- Any Committees created by Boards of Directors (and City Councils, etc.)
**What IS a “Meeting”?**

- Majority of members of legislative body
- Typically: same place and time
- Hear, discuss, deliberate or take action
- Any item/issue within subject matter jurisdiction of legislative body

**What is NOT a “Meeting”?**

- Contact between less than a majority
- Contact between member and non-member
- Ad hoc advisory committee discussions
- Conferences, other agencies’ meetings that are open to the public
  - no caucusing or discussion among members about business within the body’s subject matter jurisdiction
  - Exceptions for scheduled/agendized sessions/discussions
DANGER ZONE: Quorums outside of noticed meetings

§ 54952.2 (b) (1): Majority of 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.

- Serial conversations
- E-mail, social media sites, blogs, other technology
- Social engagements
- Parking lot / hallway discussions

Penalties/Enforcement

- Civil action: depending on context/allegation, judge can void action, require recording of closed sessions
- Criminal action: misdemeanor for official to attend a meeting where action is taken in violation of Brown Act with intent to deprive public of information
- Criminal or civil: litigation can be filed to force agency to halt violations after agency gets opportunity to cure
- Media, public opinion
Observations from the Outside

- Sources: Conversations with several members of staff and the Chair, review of minutes, observation in February (plus ~12 years of experiences with other boardscommittees)
- Some level of disagreement is inherent and expected
  - Different perspectives and approaches in different environments
  - Different levels of experience, risk-tolerance, commitment to Brown Act ideals
  - Law doesn’t look so hard, but application requires nuance
- JPB CAC: Disagreement appears to be broader, more transparent, more frequently approached in public realm over longer period of time

Three Main Areas of Concern

- Interpretation of notice provided on agenda
  - Subject matter
  - Ability to take action
  - Form of discussion, involvement of public speakers
  - Committee Comments, Chairperson’s Report
- Questions regarding basis of limitations
  - No, the PCJPB has NOT adopted heightened rules
  - However: we do not meet when we have no quorum
- Results in concern over time lag before next meeting and lack of trust/confidence
  - Return to the purpose of the CAC and of the Brown Act
Room to work on establishing unified approach

- Common goals
  - What do you want to accomplish?
  - How can we get there?
- Respectful discourse
  - Engenders cooperation
  - Let the Chair do his/her job: lead meeting, set agenda
- Minimize time lost to Brown Act debates
  - Fact: public governance structures are not the most nimble around
  - Lengthy/repetitive process debates exacerbate the downsides of this reality
  - Options for addressing them when they arise?

Action: Use your words!

Discussion, informal consensus clearly indicated
- Update
- Report
- Discuss
- Presentation
- Consider

Grey space
- Seek input from CAC...
- Receive

Clear action words
- Approve
- Receive and File
- Accept
- Recommend
- Support
- Oppose
- Vote
- Whether
Example: May 2012 JPB CAC Agenda

1. Pledge of Allegiance:
   - Pledge itself, not decision on whether to say it

2. Roll Call
   - Take roll – no other action contemplated, not the time to take up topics like change to the quorum rule

3. Approval of Meeting Minutes of April 18, 2012
   - Clear action: revise, adopt

4. Public Comment
   - Public testimony by each individual speaker shall be limited to three minutes.
   - Brief response, ask for staff to respond or agendize for future meeting; NOT place for discussion or action

5. Chairperson’s Report (P. Bendix):
   - 1-sided report, ask for staff to respond; NOT room for discussion
   A. Certificate of Appreciation to Brian Wilfley
      - If Board, it’s a resolution, therefore seeking action (which can be amended or reversed)

*** All items on this agenda are subject to action

6. Support of JPB Resolution of High Speed Rail Early Investment Strategy for a Blended System Memorandum of Understanding (S. Murphy)
   - Staff seeking action which can be amended or reversed

7. Fiscal Year 2013 Preliminary Operating and Capital Budgets (A. Chan)
   - Not clearly action item, but see below “all items”

8. Staff Report (M. Bouchard)
   - No way to take action on subjects of report because no indication of what will be discussed so impossible to have provided sufficient notice

9. Committee Comments
   - Brief response, ask for staff to respond or agendize for future meeting; NOT place for discussion or action
   - Treated just like public comment

10. Date, Time and Place of Next Meeting:
    June 20, 2012 at 5:40 p.m.,
    San Mateo County Transit District Administrative Building,
    2nd Floor Bacciocco Auditorium
    1250 San Carlos Avenue, San Carlos, CA

11. Adjournment

*** All items on this agenda are subject to action
March 16, 2016 – Wednesday
5:40 p.m.
Times noted are estimated.

Items in bold are CAC member-requested presentations.

CAC MEMBERS: San Francisco City & County: Jonathan Berk, Brian Shaw (Vice Chair)
San Mateo County: Chris Cobey (Chair), Annie Lee, Adina Levin
Santa Clara County: Yvonne Mills, Greg Scharff, Cat Tucker

1. Pledge of Allegiance: (Pledge itself or decision on whether to say it?)

2. Roll Call: (Take roll – no other action contemplate; not time to take up change to quorum rule – even though “subject to action” is stated)
   Approval of Meeting Minutes of February 17, 2016 (5:45 p.m.) MOTION
   (clear action: revise, adopt)
   Public Comment (5:50 p.m.)
   Public testimony by each individual speaker shall be limited to three minutes
   Committee Comments (6:00 p.m.)
   Committee members may make brief statements regarding CAC-related areas of concern, ideas for improvement, or other items that will benefit or impact Caltrain service or the CAC, or request future agenda topics
   Chairperson’s Report (6:10 p.m.)
   Brown Act Workshop (Shayna van Hoften) (6:15 p.m.) INFORMATIONAL