



NATIONAL CITY PUBLIC LIBRARY

Regular Meeting of the Library Board of Trustees

Minutes

May 1, 2019

CALL TO ORDER

The regular meeting of the Library Board of Trustees of the National City Public Library was called to order by President Godshalk at 5:30 p.m. on May 1, 2019.

ROLL CALL

BOARD OF TRUSTEES PRESENT: Margaret Godshalk, President
Ray Juarez, Vice-President
Deborah Hernandez, Secretary
Sherry Gogue, Trustee

STAFF PRESENT: Minh Duong, City Librarian
Roberto Contreras, Deputy City Attorney

OTHER: Bradley Bang
Joan Rincon

CONSENT CALENDAR

1. Approval of Agenda

Motion to approve the meeting agenda of May 1, 2019.

Motion: Juarez / Second: Hernandez

Vote: Ayes: 4 Nays: 0

Motion carried.

2. Approval of the Minutes of April 3, 2019 Meeting

Motion to approve the approval of the minutes of April 3, 2019 meeting.

Motion: Gogue / Second: Juarez

Vote: Ayes: 4 Nays: 0

Motion carried.

3. Approval of Library Warrants

Motion to approve the Library and Literacy warrants.

Motion: Juarez / Second: Gogue

Vote: Ayes: 4 Nays: 0

Motion carried.

NEW AND UNFINISHED BUSINESS

- 1. Public Records Act Request Presentation** – Roberto Contreras, Deputy City Attorney.
See attached general guidelines.

2. **Brown Act Presentation** – Roberto Contreras, Deputy City Attorney
See attached.

CITY LIBRARIAN'S REPORT

1. **Reminder Annual Volunteer Appreciation Event.** Hawaiian theme. Invites mailed or hand delivered to all volunteers and Board Members.
Date: Thursday, May 30, 2019
Time: 5:30 p.m.
Location: Library Large Meeting Room
2. **Book Giveaway Event Update.** As endorsed by the Board and the Friends, the Library will be holding the May 13-19 Book Giveaway Event in honor of Ms. Gloria Bird. The Library is working on getting the Birds' family's approval to name the annual book giveaway event in perpetuity in Gloria's name as Gloria Bird Memorial Book Giveaway.
3. **Flag Retirement Event.** The County of San Diego will be holding a flag retirement event on June 14, 2019. As participant of the event, a flag retirement box will be available at the Library so the public can respectfully drop off their faded/tattered flags.

OTHER REPORTS – Friends of the Library – Margaret Godshalk

- Volunteers helping the bookstore have been doing a good job.
- Donation to the Friends proposed as funding to provide a brand new book to each elementary school student. Regrettably it is not enough to field a request of that magnitude with the National School District serving around 6,000 students.

PUBLIC COMMENTS AND COMMUNICATION

Bradley Bang – Naming the book giveaway event after Gloria Bird is a great idea however the Library may want to do something a little more significant in the future considering her 31-year service as board member.

Joan Rincon – concerns about transparency with regards to Board's formal votes versus Librarian's discussion/report.

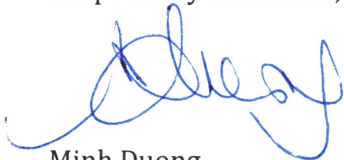
BOARD TRUSTEE COMMENTS/COMMUNICATION

ADJOURNMENT

Motion to adjourn meeting: Godshalk / Hernandez, 4-0.

Meeting adjourned at 7:15 p.m. The next Board Meeting is scheduled for Wednesday, June 5, 2019 at 5:30 p.m.

Respectfully submitted,



Minh Duong
City Librarian

Public Records Act (PRA) – General Guidelines

- The California Public Records Act (PRA) was enacted in 1968 to safeguard the accountability of government to the public and promote maximum disclosure of the conduct of government operations.
- The PRA defines “Public records” as any document in writing created and used in execution of duties. The California Supreme Court took a step further to include text messages, Snapchat, instant messaging, Facebook, personal emails, anything that relate to the role of or work as a library board member. If requested by the public, that communication may rise to a level of a public record. PRA only applies to communications that can be printed and seen. In-person conversations are not subject to PRA.
- A PRA request applies only to records existing at the time of the request. When a PRA came in, the City has a reasonable opportunity to search for, collect, and if necessary, redact exempt information (such as social security number, phone number, etc.) prior to releasing the record.
- Administrative Policy 02.102 - The City strongly encourages board members to use a City’s email address when communicating with the Library on library business to allow all communications to be stored on the City’s servers and avoid searches on personal devices. The City also requests board members not speak of the City in a disparaging light.



The Brown Act, Transparency, and Technology

COUNCIL, COMMISSIONS, COMMITTEES
AND BOARDS
PRESENTATION
2019

The Brown Act

- Purpose: facilitate public participation in local government decisions and curb misuse of the democratic process by secret legislation by public bodies.

Cohan v. City of Thousand Oaks (1994)
30 Cal.App.4th 547,555.

How to Meet the Purpose of the Act

- All meetings shall be open and public, and all persons shall be permitted to attend, except when Brown Act authorizes otherwise
- Open and public deliberations and actions of the local agency legislative bodies
 - no secret ballots
- Meaningful public access to decision making
 - no private discussion, unless specific section in the Act allows a closed session
- Meetings held on a regular schedule and adhere to the agenda available prior to the meeting

Who is subject to the Brown Act?

- Applies to all "legislative bodies" of all local agencies
- City Council
- Boards, commissions, and committees
 - Created by ordinance, resolution or formal action of a legislative body

What Qualifies as a Meeting?

- Any congregation of a majority of the members
 - at the same time and place
 - to hear, discuss or deliberate
 - on any issue under the subject matter jurisdiction of the body.
- No action is required, such as at a workshop, it is still a meeting.
- If a majority of members merely receive information or discuss their view on an issue, that is a meeting.

What Else Is a Meeting?

- E-mails: a majority of the body cannot e-mail each other regarding current issues under the body's jurisdiction because such discussions are not open to the public and are not accessible to the public.
- Serial Communications: a chain of communications from member A to member B, then member B to member C (until a quorum of members contacted) is prohibited.

Social Media Can that become a Meeting?

- City's Social Media Sites
 - City's Facebook
 - City's Twitter
 - Administrative Policy 1.13
- Tweeting
- Facebook
- Other issues – bias, impartiality?

Managing Social Media

- Brown Act applies to social media.
- Best Practices: conduct City business in public and on City systems.

Texting and E-communication: When is it a Meeting?

- Text messaging is not specifically addressed in the Brown Act
- Caution:
 - Serial meetings
 - Adjudicatory hearings – due process
 - Transparency
 - Inattentiveness
- Texts received during the meeting : how is decision based "on the record?"

Managing Texting, E-mails and Social Media Posts

- Public Records Act– Questions of its application to person devices is no longer an unanswered question.
 - In the City of San Jose the Cal Supreme Ct held: That a text, email and social media post may be a public record if it contains info relating to the conduct of the public's business even if in on a private device of a public employee.

iPads, Tablets & Smartphones

- Modern technology provides a means of communications with others
- Provides a means to quickly access information via the internet
- Technology gives individuals greater access to information, but that access can be outside of the public process
 - Result: denying the public access to what is being considered by decision makers

Ensuring Meaningful Public Participation

- Access to information considered by the Council, Commission, Committee or Board
 - What about:
 - Information received via text, e-mail, social media
 - Information from the internet
 - How do we ensure meaningful public participation
 - Due process and quasi-judicial matters
 - Disclosure of information is key

What about meeting with a member of the public?

- Individual contacts between a member of the legislative body and a member of the public is exempt from the act (*ex parte* contacts).
- Council Policy 116 requires keeping a written record of *ex parte* contacts, and disclosure of any *ex parte* contacts either prior to or when the agenda item is called.
- Due process concerns: quasi-judicial matters – *ex parte* contacts raise fairness, bias, and impartiality concerns and should be avoided

What is not a meeting?

- Majority of members at a:
 - Conference open to the public
 - Local public meeting
 - Open meeting of another body
 - Social or ceremonial event

But, cannot discuss any council, commission, committee or broad matters amongst the members.

Holding Meetings

- When
 - Regular Meetings: agenda posted 72 hours prior (time set by ordinance, reso, or by-laws)
 - Special Meetings: called by chair or majority, agenda posted 24 hours prior
 - Emergency Meetings: immediately – “work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members” (real emergency – one hour notice to media outlets that have requested notice)

Location of Meetings

- Where can a meeting be held?
 - In the City (within jurisdictional boundaries), unless a specific exemption applies
 - Specific exemptions:
 - Comply with a law or court order
 - Inspect property outside of city
 - Multiagency meeting
 - No meeting facility within the jurisdiction
 - Meeting with federal or state officials on a legislative or regulatory issue
 - At a facility outside of the jurisdiction, which is the topic of discussion
 - Closed session at legal counsel's office regarding pending litigation when it would reduce legal fees or costs
 - Must be ADA accessible

Agenda Requirements

- Brief description of each item (20 words or less ok)
- Reference what is sought regarding the item (approval, direction, information, etc)
- Date, time & location of meeting
- Post agenda 72 hours prior (or 24 hours for special meeting), accessible by public 24 hours a day

Closed Session

- Brown Act limits closed session
- Behind closed doors - a confidential meeting
- Must be noticed on the agenda
- Oral announcement of items to be discussed in closed session
- Reconvene in open session upon completion of closed session and may require reporting out (in certain instances)

Closed Session & Lawyers

- Discussions in closed sessions will typically involve legal counsel
- Who provides the legal advice?
 - Regular Meeting: staffed by City Attorney or Deputy City Attorney
 - Hearings: City Attorney's Office will either advise the legislative body or represent the department in the proceedings.

Rights of the Public Attendance

- To attend any public meeting with no conditions for attendance (e.g. registering, but voluntary sign-in ok)
- To record the meeting with audio or video recorder; take photographs
- To review agendas and other documents distributed to a majority of the board

Rights of the Public Commenting

- To comment on any matters
 - Regular Meeting
 - Agenda Item: reasonable time limits can be adopted (e.g. 3 minutes)
 - Non-agenda items may be commented upon (non-agenda public comment), but no action or discussion can occur
 - Can refer to staff for information; request a report back; request item be placed on future agenda

Public Comment - continued

- Special Meeting
 - Agenda Item
 - Non-agenda comment not required but permissible
- What about criticisms or complaints?
 - Must be allowed
 - Disruptive behavior does not have to be tolerated
- When should comments be allowed?
 - For agenda items - - before any action is taken

Matters Not On the Agenda

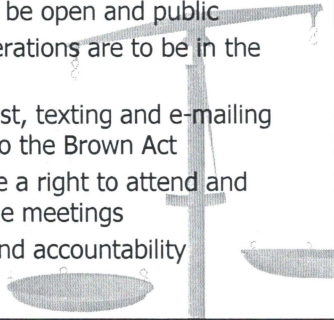
- Cannot consider, discuss, deliberate or take action on matters not on the agenda, unless:
 - Majority vote determines an "emergency" exists (very narrow exception)
 - Two-thirds (4 of 5) vote determines the need to take immediate action arose after the agenda was posted

Violations of the Brown Act

- Civil Remedies
 - Any interested party may sue (incl'g DA)
 - Opportunity to cure and correct action(s)
 - Action void if violation occurred
 - Costs & attorney fees may be awarded
- Criminal Penalties - Misdemeanor
 - Intent to deprive public of information and take action in violation of Act
 - Disclosure of closed session discussion

Conclusion

- Meetings are to be open and public
- Actions & deliberations are to be in the open
- Social media post, texting and e-mailing are all subject to the Brown Act
- All persons have a right to attend and participate in the meetings
- Transparency and accountability



Questions?

