

# APCD COMMUNITY ADVISORY COMMITTEE

Overview of  
CAC MEETING PROCEDURES  
BROWN ACT  
FINANCIAL DISCLOSURE  
October 2015

# CAC Charter

- ▣ Advise Control Officer & Board on planning and rulemaking.
- ▣ Board may refer other issues to CAC.
- ▣ CAC recommendations are advisory.
- ▣ CAC may not set APCD policy nor communicate APCD policy to other agencies or the public.

# Purpose of the CAC

- ▣ CAC was initiated by the Board
  - in response to long and sometimes contentious Board hearings on rules.
- ▣ CAC was not meant to have no industry representation.
  - Requirements of rules is driven by mandates of Clean Air Act, State Law, ARB, and local CAP.
  - CAC allows industry input & negotiation within mandate and with participation from community members.
- ▣ PROCESS HAS WORKED.

# CAC Members

- ▣ Each Board member appoints 2 CAC members,
  - serve at the pleasure of the Board member.
  - Term expires when appointing Board member leaves the Board.
- ▣ CAC member becomes “inactive” if 3 consecutive meetings missed. Treated as vacant and vacant member does not count for quorum.

# CAC Bylaws Quorum

- ▣ A quorum is a majority of the appointed members (26) minus one.
  - Majority -- 14 CAC members
  - Quorum – 13 CAC members
  - Majority of quorum may vote to take action – can be as few as 7 members.

# Brown Act

- ▣ Pursuant to Board direction, CAC meetings are subject to the Brown Act.
- ▣ *“Meeting” – Shall be open to the public.*
  - - any gathering of majority of body to hear, discuss or deliberate on any issue under body’s jurisdiction.
  - Exemptions: Conferences & retreats -- No caucusing allowed & must be open to the public.
  - Purely social occasions are not meetings.

# Brown Act

- ▣ *Business discussed -- limited to Agenda.*
  - Limited exceptions apply for “emergencies” (G.C. sec. 54956.5) and items needed immediate action that can’t wait until next meeting (sec. 54954.2).
- ▣ Agenda -- posted at least 72 hours before any regular meeting.
- ▣ CAC Charter directs agenda 2 weeks prior to meeting and packet mailed one week prior.

# Brown Act: No Serial Meetings

- ▣ *Serial meetings are prohibited.*
  - *Communication involving a majority of a quorum.*
  - E.g., Member A talks to B who talks to C – on a 5 member board this is a serial meeting.
- ▣ Serial email can violate Brown Act.
- ▣ Communications through intermediaries can violate the Brown Act e.g., aides, lobbyists, applicants, & staff “walk” the CAC.
- ▣ Violation occurs when positions are made communicated. Briefings are ok.

# Meeting Procedures

- ▣ Call of the question –
  - Chair decides whether to agree to call the question.
- ▣ Motion on procedural issues usually considered before motion on the merits. E.g.:
  - Motion to continue item.
  - Motion to request more information.
  - Motion to continue debate.
  - Motion to amend the motion on the floor.
- ▣ Minutes reflect the motion, second, and vote.

# Minority Recommendations

- ▣ Minority Recommendations – any recommendation that receives one vote.
- ▣ Forwarded to APCO and/or the Board as a “minority recommendation.”
  - There is no “minority report.”
  - Dissenting member may appear and testify before the Board on the matter.
  - Any proposed explanation of the minority vote should be submitted to APCO at the CAC meeting.

# CONFLICT OF INTEREST

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- ▣ CAC Charter: Article VIII, sec. 1.
  - the Conflict of Interest provisions of the Political Reform Act do not apply to the CAC.
  - However, in order for all members of the CAC and interested public to understand the full context of the deliberations and voting of the CAC, CAC members shall declare financial interests which may be affected by CAC recommendations.

# Dec. of Interest

- ▣ Written Declaration of Interest –
  - Filed at appointment to CAC
  - Annually - February of each year.

# Deliberation & Voting

- Prior to deliberation of or vote on any recommendation which could result in financial gain or loss of any amount for a member of the CAC or immediate family member or employer, that CAC member shall declare interest during an open, regularly scheduled meeting of the CAC.
- This differs from the tests under the FPPC regs, e.g., 2 CCR sec. 18700(d)(1):
  - is it reasonably foreseeable the decision will have a financial effect on the official's financial interests?
  - Is it reasonably foreseeable the effect will be material?
  - Does this fall under the "public generally" exception?

# Disclose first; then vote

- ▣ Deliberation & voting.
  - Unlike FPCC regs, CAC financial interests shall not prevent the member from deliberating or voting on any issue before the CAC.
  - The disclosure shall be recorded on the voting summary of the CAC's recommendation that is submitted to the Board of Directors, as stipulated in the CAC Procedure for Disclosure on the Voting Summary.

**The End!**