



**POLICY COMMITTEE MEETING OF THE BOARD OF TRUSTEES**

**November 9, 2016**

**5:00 PM**

**AGENDA**

*The Policy Committee is not a decision-making body and only makes recommendations to the Board.*

*Policy Committee Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to participate in this meeting; or who have a disability and wish to request an alternative format for the agenda, meeting notice, agenda packet or other writings that may be distributed at the meeting, should contact District Manager Chindi Peavey at least five working days before the meeting at (650) 344-8592. Notification in advance of the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it.*

*Public records that relate to any item on the open session agenda for a Policy Committee meeting are available for public inspection. Those records that are distributed less than 72 hours prior to the meeting are available for public inspection at the same time they are distributed to all Policy Committee members. The Policy Committee of the Board has designated the office of the San Mateo County Mosquito and Vector Control District, located at 1351 Rollins Road, Burlingame, for the purpose of making those public records available for inspection.*

**1. CALL TO ORDER.**

**2. PLEDGE OF ALLEGIANCE.**

**3. ROLL CALL.**

- Chairperson Kati Martin will take roll call. \_\_\_\_\_
- Robert Riechel, City of San Bruno \_\_\_\_\_
- Ed Degliantoni, City of San Mateo \_\_\_\_\_
- Donna Rutherford, City of East Palo Alto \_\_\_\_\_
- Kat Lion, City of Redwood City \_\_\_\_\_

**4. PUBLIC COMMENTS AND ANNOUNCEMENTS.**



- 
- This time is reserved for members of the public to address the Policy Committee of the Board relative to matters of the Committee not on the agenda. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person (ten minutes where a translator is being used).

**5. REGULAR AGENDA**

- A. Discuss developing a policy on teleconference participation at Board meetings by members of the Board of Trustees**

**6. ADJOURNMENT**

---

## Agenda Item # 5.A

**SUBJECT:** Consideration of a Policy on Teleconferencing for Board Meetings

---

### **STAFF RECOMMENDATION**

The District Manager recommends against having a policy that allows participation by teleconference. Communication in person at Board meetings increases transparency in assuring that all members of the Board and public can hear each other accurately.

### **BACKGROUND**

The Board has asked the Policy committee to investigate whether to develop a policy on allowing Board members to participate in Board meetings from remote locations via teleconferencing technology. The District Manager and consulting attorney have researched the requirements of the Brown Act and how other agencies have addressed this issue. Participation via teleconferencing presents a number of difficulties, as has been noted by other government agencies. The discussion below includes material taken from the Napa County Teleconferencing Policy and the Berkeley staff letter on the Use of Teleconferencing for Participation in Commission Meetings.

Requirements Under the Brown Act:

- At least a quorum of the members of the Body must participate from locations within the territory over which the Body exercises jurisdiction.
- The members of the Body who participate by teleconference must be located within the 50 States of the United States of America or the District of Columbia, but may not participate from a foreign country or from a consulate or embassy of the United States located within a foreign country or territory.
- The notice of the meeting of the Body and the agenda for the meeting must identify the specific location where each teleconferencing member of the Body will be calling in from.
- The agenda must be posted not only at the main meeting site but also at all teleconference locations (for example, outside a hotel room or outside the conference center where a member of the Body will participate).
- Each teleconference location must be open and accessible to the public, including to those with disabilities.

- If members of the public are at a teleconference location, they must be able to hear the proceedings (and see them if the teleconference includes video presentations and participation) and they must be given the right to comment as if they were at the primary site for the Body's meeting. Therefore, the telephone used at each location must have speakerphone capability.
- All votes taken during a teleconference meeting must be by roll call vote, and the vote must be publicly reported.

Difficulties that arise from Remote Participation in Board Meetings by Members of the Board:

It is anticipated that using the District's speaker phone system in a Board meeting with a Board of this size in the current Board room will result in very poor sound quality and an inability for all members at both ends of the line to hear each other. There will also likely be a technical problems ensuring that members of the public at both ends of the line will be able to hear and understand the speakers.

It would be difficult, and at times impossible, for the Board Secretary to confirm whether the noticing and other procedures have been complied with in remote locations, especially considering that the meetings occur during or shortly after workday rush hour and some parts of the county are over an hour's drive away from the District Board room. The Board runs the risk of being in violation of the Brown Act without being fully aware of the situation.

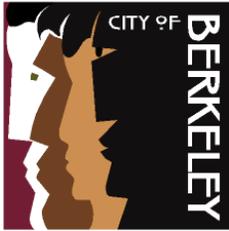
The Brown Act requires roll call votes on all motions during a teleconference. With a 21 member Board and one or more of the members participating from remote locations, this could take quite a bit of time.

With some members present in the room and some participating via teleconference, it may be difficult for the Board President to recognize those participating via teleconference in a timely manner when they wish to speak. This is particularly true with a 21 member Board such as this one. It may also be difficult for members of the public in a remote location to be fully heard. Holding the meeting in a single location increases the ability of all participants to be properly heard.

For these reasons the District Manager recommends against participation at Board meetings through teleconferencing technology.

**DOCUMENTS ATTACHED**

1. Teleconferencing under the Brown Act
2. Berkeley-Use of Teleconferencing for Participation in Commission Meetings



Office of the City Manager

ACTION CALENDAR  
December 18, 2007

To: PK Honorable Mayor and Members of the City Council

From: PK Phil Kamlarz, City Manager

Submitted by: Pamyla Means, City Clerk

Subject: Use of Teleconferencing for Participation in Commission Meetings

RECOMMENDATION

Allow the use of teleconferencing by commission members to participate in commission meetings due to extreme, unforeseen health or disability limitations only.

SUMMARY

On October 23, 2007 the City Council directed the City Manager to explore the possibility for requests for teleconferencing by commission or task force members when members have a good reason that they are unable to attend meetings in person.

After reviewing the issue and the many challenges inherent in this type of participation by public officials, staff does not recommend allowing teleconferencing at the Commission or Task Force level for any reason other than extreme, unforeseen health or disability limitations. There are many obstacles to providing teleconferencing capabilities to commissioners. The primary concerns are centered on participation and fairness, technical challenges, meeting management, Brown Act requirements, public policy considerations, and cost.

Despite these many challenges, it is possible to formulate a reasonable policy that allows teleconferencing in very specific, unavoidable situations.

FISCAL IMPACTS OF RECOMMENDATION

Unknown potential costs associated with equipment, phone lines, technical support, commission secretary training, and phone charges.

CURRENT SITUATION AND ITS EFFECTS

Currently, there is no official policy regarding teleconferencing for city boards and commissions.

The use of teleconferencing requires compliance with the requirements of the Brown Act. This involves posting agenda notices within the prescribed timeline and public accessibility at the meeting location as well as each teleconference location.

December 18, 2007

Currently, commissioners who cannot attend a meeting either request a routine leave of absence for the meeting they will miss, or be marked absent.

### BACKGROUND

Some commissioners have requested the ability to teleconference for commission meetings. These requests have primarily come from commissioners who are out of the area for travel or business purposes. At the October 23, 2007 Council meeting, Councilmember's Wozniak and Moore submitted a request that the Council consider a policy on this matter.

### RATIONALE FOR RECOMMENDATION

There are several areas of concern regarding teleconferencing for commissioners:

#### **1. Brown Act Requirements and Meeting Management Challenges**

In order to participate in a meeting via teleconference, compliance with the following provisions of the Brown Act (GC 54953(b)) is required.

- (a) All votes taken during a teleconferenced meeting shall be by roll call.
- (b) Agendas shall be posted at all meeting locations. For the purposes of the requirement, each teleconference site is considered a meeting location.
- (c) Teleconference meetings must be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.
- (d) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. This requires advance planning to insure that the teleconference location is posted on the agenda for the meeting. In addition, each teleconference meeting location must be made accessible to any member of the public who so desires to attend the meeting at that location.
- (e) At least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.
- (f) The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

Secretaries are required to take minutes, respond to inquiries from the commission and the public (many times while the meeting is in progress), and perform all administrative tasks at the meetings – simultaneously. Adding the technical demands and potential technical difficulties of teleconferencing will reduce the ability of the secretary and the chair to manage the meeting effectively. In addition, this will require additional training for commission secretaries in the areas of the Brown Act, parliamentary procedure and legislative processes.

December 18, 2007

In addition new legislation (SB 343) was recently signed by the Governor. This new law effective July 1, 2008 requires that all writings or documents which are related to any item on an open session agenda and which are distributed to a majority of the City Council or any Commission within 72 hours of a regular meeting be made available for public inspection at the time the subject writing or document is distributed to a majority of the subject body at a designated location identified on the subject agenda. This new requirement will be difficult if not impossible to comply with for members of the public who attend at remote teleconference locations, particularly ones without equipment such as a fax machine or printer.

## **2. Technical Issues**

The technical obstacles to providing teleconferencing are numerous. The greatest challenges are listed below.

- a) Most of the facilities used by commissions for meetings do not have phones or phone lines in the meeting room.
- b) Except for the commissions that meet in the Council Chambers, no meeting facilities have streaming video capability. The lack of streaming to view and hear the meeting along with the addition of a member participating by phone diminishes the quality of public participation and the effectiveness of the meeting.
- c) Any technical errors that may occur during the meeting will require after hours technical support in order to allow that member to continue to teleconference for that meeting.
- d) How will the member at the remote location receive late submissions, handouts, visual aids, etc?
- e) Ongoing problems with sound system availability and/or speakerphone systems. Many existing meeting locations do not have sound systems or phone lines. The use of a speakerphone alone will in most cases be inadequate and will in fact require the addition of a sound system to amplify the conversation so that all in attendance can be heard and understood. The size of the room and the number of people in attendance will affect the sound quality and in some cases, it will still be difficult and perhaps not possible for everyone attending to be heard and understood. Therefore, it is not recommended that more than one person be allowed to teleconference at any given meeting.

## **3. Phone Line Usage Costs**

Commission meetings often last more than two hours. If a commissioner is teleconferencing from a remote location (out of the calling area or even outside the country) there will be significant long distance charges; these charges are not currently budgeted.

#### **4. Participation, Fairness, and Due Process**

Participation at commission meetings is enhanced by being present at the meeting through improved communication between the legislative body and the public. Other effective communication considerations including eye contact, facial expressions, and body language would be diminished. Although video streaming of meetings is available for some meetings (those held in the current Council Chambers), remote locations do not have the capability to video stream meetings.

Legal issues surrounding teleconferencing may be raised for those commissions who conduct noticed public hearings, particularly those whose meetings are not streamed. Given that nearly all commissions conduct their meeting in facilities without video streaming capabilities, the commissioner at the remote location will not be able to view materials presented at the meeting, which may impact his/her ability to vote on an issue, especially in adjudicatory matters.

The technical limitations of all meeting facilities will need to be examined and evaluated to determine if it can accommodate teleconferencing. The site must have access to phone lines, speakerphones, and a sound system. It is possible that more than one commissioner will request teleconferencing for the same meeting. If the number of members who so request exceeds the City's capacity for teleconferencing, there would have to be some mechanism for allocating teleconferencing capacity, which would inevitably lead to conflicts. Multiple teleconference sites further complicates the issues identified above and is predominately the basis for the recommendation that only one teleconference member and site be allowed at any given meeting.

#### **5. Public Policy**

With the ongoing discussions and the city's commitment to enhance open governmental processes, the limitations of teleconferencing would hinder the public's access to public officials and thereby lessen the vitality and integrity of the discourse at commission meetings.

When a commissioner accepts an appointment to one of the city's citizen commissions, he/she is committing to fully participating in the process. The commitment to attend meetings is recognized when the appointment is accepted, and all efforts should be made to take into account the commission-meeting schedule prior to making travel arrangements.

Commissioners who are not able to attend a meeting may request a leave of absence. By requesting a leave of absence, the Mayor or appointing Councilmember may appoint a temporary replacement that is able to fully participate in the meeting. This is a routine process that is utilized regularly.

December 18, 2007

Despite these concerns, the council may wish to adopt a policy allowing teleconferencing in certain circumstances. The suggested policy is outlined below:

## **TELECONFERENCING FOR COMMISSIONERS**

### **Criteria for allowing teleconferencing:**

Commissioner is unable to attend a commission meeting due to an extreme, unforeseen health or disability situation that would prohibit attendance for a prolonged period of time. Teleconferencing may only be conducted at a meeting location that can accommodate such request as determined by the commission secretary.

### **Procedure for approval (if criteria above can be met):**

1. Commissioner must complete a form requesting the ability to teleconference. The form must include the reason that teleconferencing is needed, the timeframe of the request and meeting dates affected, the address and telephone number of the teleconference location and a statement that the commissioner will accept the responsibility to post the meeting notice in accordance with the requirements of the Brown Act and make the location accessible to any member of the public who so desires to attend at that location.
2. The request is placed on the agenda of the next regular commission meeting and is voted upon by the full commission membership. The request must receive a two-thirds vote for approval. In the event of an urgent matter where a special meeting of the commission is called to consider a request to teleconference, the request must be approved at least five business days prior to the meeting date to allow for proper Brown Act noticing.
3. Only one commissioner from any commission may be permitted to teleconference at each meeting.
4. Teleconferencing is not permitted under any circumstance for subcommittee meetings.

### **Teleconferencing will not be approved for:**

1. Vacation or business travel.
2. Task Force or sub-committee meetings.

### ALTERNATIVE ACTIONS CONSIDERED

Not to allow teleconferencing under any circumstances.

### CONTACT PERSON

Pamyla Means, City Clerk, 981-6900

Attachments: List of Commissions subject to teleconferencing policy

December 18, 2007

## **Commissions subject to Teleconferencing Policy**

Board of Library Trustees  
Citizens Humane Commission  
Civic Arts Commission  
Commission on Aging  
Commission on Disability  
Commission on Early Childhood Education  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Design Review Committee  
Disaster and Fire Safety Commission  
Downtown Area Plan Advisory Committee  
Downtown Berkeley Business Improvement District Advisory Board  
Elmwood Advisory Board  
Energy Commission  
Fair Campaign Practices Commission  
Homeless Commission  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Landmarks Preservation Commission  
Loan Administration Board  
Mental Health Commission  
Parks and Recreation Commission  
Peace and Justice Commission  
Personnel Board  
Planning Commission  
Police Review Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Transportation Commission  
Waterfront Commission  
West Berkeley Project Area Commission  
Youth Commission  
Zero Waste Commission  
Zoning Adjustments Board

## TELECONFERENCING UNDER THE BROWN ACT

In recent years, the California Legislature has considered various enactments to move municipalities fully into the information age. Although an amendment to the Public Records Act requiring full electronic access to city documents in electronic format appears likely to fall short of adoption in 1999 (AB 1099 - Shelley), a future enactment of these rules appears inevitable. Recent regulations relating to CEQA already encourage direct electronic public access to notices and documents. (CEQA Guidelines §§ 15062, 15075, 15085, 15201, 15202, 15205, and 15206.)

The Brown Act has also been amended to allow cities to take advantage of information age technologies for the conduct of public meetings. In comprehensive 1994 amendments, and through minor amendments in 1997 and 1998, the Legislature greatly expanded the ability of cities to conduct their business by teleconference. The 1994 amendments (codified in Government Code Section 54953 and hidden under the heading "Meetings to be open and public; attendance") allowed only "video teleconferencing", a term that required potentially costly audio and video participation by members of the city council<sup>1</sup> and the public at each location. The 1997 law -- supported by both the California Newspaper Association and the League -- provides greater flexibility and freedom to use the full range of conferencing technologies available.

### 1. Basic Provisions.

The Brown Act allows a city council to use any type of teleconferencing in connection with any meeting. (Gov't Code § 54953(b).) "Teleconference" is defined as "a meeting of a individuals in different locations, connected by electronic means, through either audio or video, or both." In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the law otherwise applicable. (Id.) Section 54953(b) contains the following specific requirements:

- Teleconferencing may be used for all purposes during any meeting.
- At least a quorum of the city council must participate from teleconferencing locations within the city's jurisdiction.
- Each teleconference location must be identified in the notice and agenda of the meeting.
- Agendas must be posted at each teleconference location.
- Each location must be accessible to the public.

---

<sup>1</sup> Although the Brown Act term "legislative body" applies to various city decision-making bodies (Gov't Code § 54952), I use "city council" herein because city attorneys most frequently interact with this body.

- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location.
- All votes must be by rollcall.

These requirements are explained in detail below.

- a. At least a quorum must teleconference from locations within the city.

The 1998 amendments to Section 54953 provide that at least a quorum of the city council must participate from locations within the city. (Gov't Code § 54953(b)(3).) The 1999 amendments allow local agencies to provide teleconference locations for the public where no member of the legislative body is present. (Gov't Code § 54953(b)(4).)

Although some opponents to the 1997 amendments argued that it is important to have at least a quorum in one room where the public can present face-to-face testimony, the 1998 and 1999 amendments make it clear that council members may participate from outside the city and that although a quorum must be within the city limits, they need not participate at the same location. The Southern California Association of Governments took the position in 1997 that this approach enhances public participation. SCAG argued that with regard to meetings in large jurisdictions or meetings of multi-jurisdictional regional bodies, the public's opportunity to participate is enhanced if, for example, citizens do not have to travel across town to a city council meeting or to a neighboring jurisdiction to attend a regional transit board meeting. This view prevailed in the final version of the amendments.

- b. Each audio/video teleconference location must be identified in the notice and agenda of the meeting.

The Act requires public notice of all audio/video teleconferencing events. This prevents a council member who is running late to audio/video teleconference in lieu of actual attendance if public notice of the teleconference location was not given in the agenda. Although the law is not specific as to what "identification" is required in the notice, cities should give the teleconferencing location, the street address, any suite or office number, and could even provide maps to the location. (An online agenda could provide a link to "Yahoo! Maps" or some other navigational device.)

- c. Agendas must be posted at all teleconferencing locations.

Section 54953(b)(3) requires that agendas be posted at all teleconferencing locations. The Act does not provide specific guidance on this requirement, but where practical, the agendas should probably be posted both outside the main facility of a teleconference location at a main entrance (e.g., outside an office building) and outside the specific teleconference location (e.g., outside the particular room or office door).

Agendas should, of course, remain visible at these locations. They should not be posted behind doors that are frequently ajar or behind counters, so as to be out of average reading distance.

d. Each audio/video teleconference location must be made accessible to the public.

While this requirement may not seem to be an obstacle, it may prove troublesome when deciding the means by which to teleconference. Because public access is not always possible, this requirement precludes some locations, such as car telephones or offices not accessible to the public. All telephones used for teleconferencing must have a functioning speaker to enable public access, even if there are no members of the public present at a particular location. The meeting must be conducted so that participants by audio alone are clearly identified.

Similarly, city staff must ensure that logistical problems do not occur in providing public access. For example, if a member is audio/video teleconferencing from his office, someone must be present to allow the public entry to the office building if it is normally locked after hours. If the office is in a location where the public is not welcome, then audio/video teleconferencing cannot occur at that location. Similarly, vacationing members wishing to teleconference must realize that the public must have access to the member's hotel room or cruise ship cabin and receive notice of that opportunity in the agenda. Presumably, the "no free admission" clause of Section 54952.2(c)(2) applies to members of the public wishing to join a member in a teleconference at these exotic locations as long as physical access is available.

The more difficult issues arise in accommodating council members confronted with hospital confinement, immunocompromising diseases, or treatments that limit public exposure. Although it appears safe to assume that dual teleconferencing facilities in the same building (e.g., one teleconference setup in an ill member's garage and another setup in his bedroom) would satisfy the spirit if not the letter of this requirement, this arrangement, unfortunately, has not gone unchallenged. In this and similarly compromised situations, counsel should be certain to obtain and document the concurrence of public speakers in the Brown Act arrangement at each location before assuming it is safe to proceed.

e. The agenda must provide the opportunity for the public to address the city council directly at each teleconference location.

This provision requires some cooperation among teleconference sites. It requires that all audio and video hookups ensure that all members of the city council can hear and respond to public comments from all locations. It requires that the public hear all council deliberations.

f. All votes must be taken by rollcall.

The Act requires that all votes, regardless of topic, be taken by rollcall. With a large body – a regional air quality board, for example – this may be cumbersome. Where it is clear on routine items such as agenda approval that all members are in accord, it may be possible to ask whether there is any dissent, and if there is none, to dispense with a member-by-member roll call.

2. New issues.

These new amendments raise several issues that require further definition at the implementation stage.<sup>2</sup>

a. Quorums and locations.

As noted above, former law provided that legislative bodies could only use video teleconferencing to hear public comment and to deliberate. Under former law, a council member was not present for the purposes of a quorum and therefore, could not vote if she teleconferenced with audio equipment such as a telephone.

The 1997 legislation not only allows the use of audio or video equipment for the purposes of teleconferencing, but allows the council to conduct all meeting functions by audio or video teleconference. Council members are present for the purposes of a quorum, are able to vote, deliberate, hear public testimony and participate in all council functions by remote location.

Further, there is no limit on the numbers of council members who may fully participate in a meeting by teleconferencing. But, as mentioned above, a least a quorum of the city council must participate from locations within the city. Conceivably, all members of the council can conduct a lawful meeting from their individual offices or homes, provided the statutory procedures are met.

b. Due process considerations.

Under former law, before a council member could participate in a meeting by video teleconference, the city was required to adopt “reasonable regulations” to protect the statutory and constitutional rights of citizens appearing before the council. The new law no longer requires cities to adopt reasonable regulations, but states that they shall “conduct teleconference meetings in a manner that protects the statutory and constitutional rights” of citizens. (Gov’t Code § 54953(b)(3).)

This provision has interesting ramifications where substantive or procedural due process rights are at stake. For example, in land use proceedings, maps or photographs may be crucial to a council’s decision on an application or to a neighbor’s appreciation of

---

<sup>2</sup> Michael Jenkins raised several additional issues still lacking legislative or court direction in “1998 Brown Act Amendments”, City Attorneys Department Meeting, Spring 1999.

the decision's ramifications. Although video teleconferencing, a simultaneous telecopy, or some other digital transmission of an exhibit to each location would probably provide adequate due process, it may be difficult to protect these rights when only audio teleconference equipment is used. In the same vein, disciplinary proceedings or permit revocations may hinge on witnesses' demeanor not adequately conveyed through still images. In these situations, city councils should probably refrain from any action until its voting members are physically present at duly authorized meetings.

c. Attorney/client confidentiality.

Protection of attorney/client confidences requires additional precaution where closed sessions are held by teleconference. The broad range of sophistication in technology presents a broad range of risks.

- Video teleconferencing over dedicated telephone lines. This type of teleconferencing is provided over dedicated ISDN telephone lines. Access is not shared with other users and the information passes only through conventional, secure data lines provided by the phone company. These communications are the most secure, providing security equivalent to traditional telephone communications.
- Wide area networks. These are services not provided through dedicated lines, but by a provider willing to make a portion of its wide area network (WAN) available for teleconferencing. The WAN provider employs data encryption as the means of deterring interception of the communication. Because the lines are shared, confidentiality is not assured. However, some providers will guarantee security.
- Virtual private networking. This type of teleconferencing is available in many off-the-shelf forms and can be employed with common PC's. It can provide audio coupled with serial still pictures or video "streaming" where a relatively uninterrupted video image is transmitted. Although this technology is very inexpensive, faulty encryption or the involvement of too many hosts – common Internet problems – can compromise the lawyer's duty to protect and maintain client confidentiality.

While the attorney/client privilege in Section 954 of the Evidence Code is generally protected where an electronic eavesdropper intercepts a communication, communicating by means that others could easily intercept is evidence that the communication was not intended to be confidential. (See, Jack L. White, "You've Got Mail!", City Attorneys Department Meeting, Spring 1999.)

3. Practice tips.

The city attorney should not assume that teleconference procedures will go unscrutinized. On the contrary, it is probably safe to assume that for each council member who feels sufficiently compelled to take the extra steps to patch in, there is an antagonist who would rather see the council member not participate. In order to protect council action from invalidation under the Brown Act, it is important make sure the extra steps are documented.

This is doubly important where the city attorney might be called upon later to provide an opinion on the validity of the council proceeding or action. One city attorney called upon to issue an opinion letter for a bond issue, prepared the attached script to read into the record documenting that the agenda posting, setup of teleconference facilities, attendance, and rollcalls complied with the Brown Act.

SCOTT C. SMITH

Mr. Smith wishes to acknowledge the assistance of colleagues Hayley Peterson, Steve Deitsch, and Steve DeBaun in preparing these materials.

SAMPLE SCRIPT FOR TELECONFERENCING PUBLIC MEETINGS  
UNDER BROWN ACT  
(Gov't Code Section 54953)

PRIOR TO ROLL CALL:

Prior to roll call, I would like to make clear for the record of this meeting, and it should be reflected in the minutes, that at least a portion of this City Council and Redevelopment Agency meeting is conducted pursuant to California Government Code Section 54953, in that Mayor Pro-Tem Hansen is on the Viking Standard Cruise Ship in or off the Coast of Mexico, and Council member Kensington is in Edinburgh, Scotland. Both Mayor Pro-Tem Hansen and Council member Kensington are participating by speaker phone. In accordance with the Ralph M. Brown Act, each teleconference location has been identified in the notice and agenda for this meeting.

Madame Clerk, it would now be appropriate for you to conduct roll call, after which I would ask the Mayor to recognize me in order to confirm certain matters for the record.

[ROLL CALL]

I would now like to request that Mayor Pro-Tem Hansen respond to the following questions:

- (1) Mayor Pro-Tem Hansen, can you hear me well?
- (2) Were you able to hear our proceedings on this end up until now?
- (3) Do you have a copy of the agenda for this meeting?
- (4) Have you posted the agenda at the location where you are?
- (5) Is your location reasonably accessible to the public, such that any member of the public could participate in this teleconference from your location if he or she wished to do so?
- (6) Is there any member of the public there with you who would like to participate in the public comment portion of this meeting, or otherwise address any agenda item for this meeting?

Next, I would like to request that Council member Kensington respond to the following questions:

[REPEAT THE SAME QUESTIONS]

I would now like to ask that any member of the City Council and Board of the Redevelopment Agency speak up at this time if such Council member and Board Member has not been able to clearly hear either Mayor Pro-Tem Hansen or Council member Kensington. Hearing no comment, the record should reflect that all Council members and Agency Board members present have indicated that they were able to hear both Mayor Pro-Tem Hansen and Council member Kensington clearly.

I would next like to ask Mayor Pro-Tem Hansen whether he has been able to hear Council member Kensington.

I would next like to ask Council member Kensington whether he has been able to hear Mayor Pro-Tem Hansen.

I would next request that any Council member and Agency Board Member, including Council members Hansen and Kensington, speak up at this time if such Council member and Board Member has any reason to believe, based on voice recognition or otherwise, that those persons representing themselves to be either Council member Hansen or Council member Kensington are not truly so. Hearing no comment, the record should reflect that no Council member has expressed doubt that Council members Hansen and Kensington are the parties participating by teleconference with Council members and Board Members present here.

I would now like to advise the Mayor and Council members and the City Clerk, that any votes taken during the teleconference portion of this meeting must be taken by roll call.