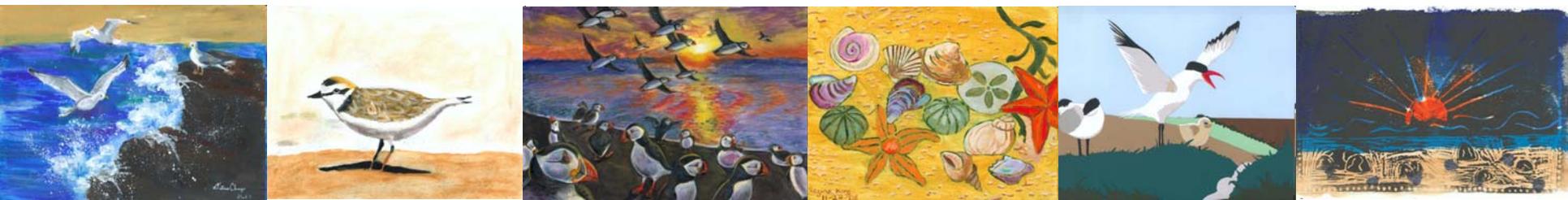




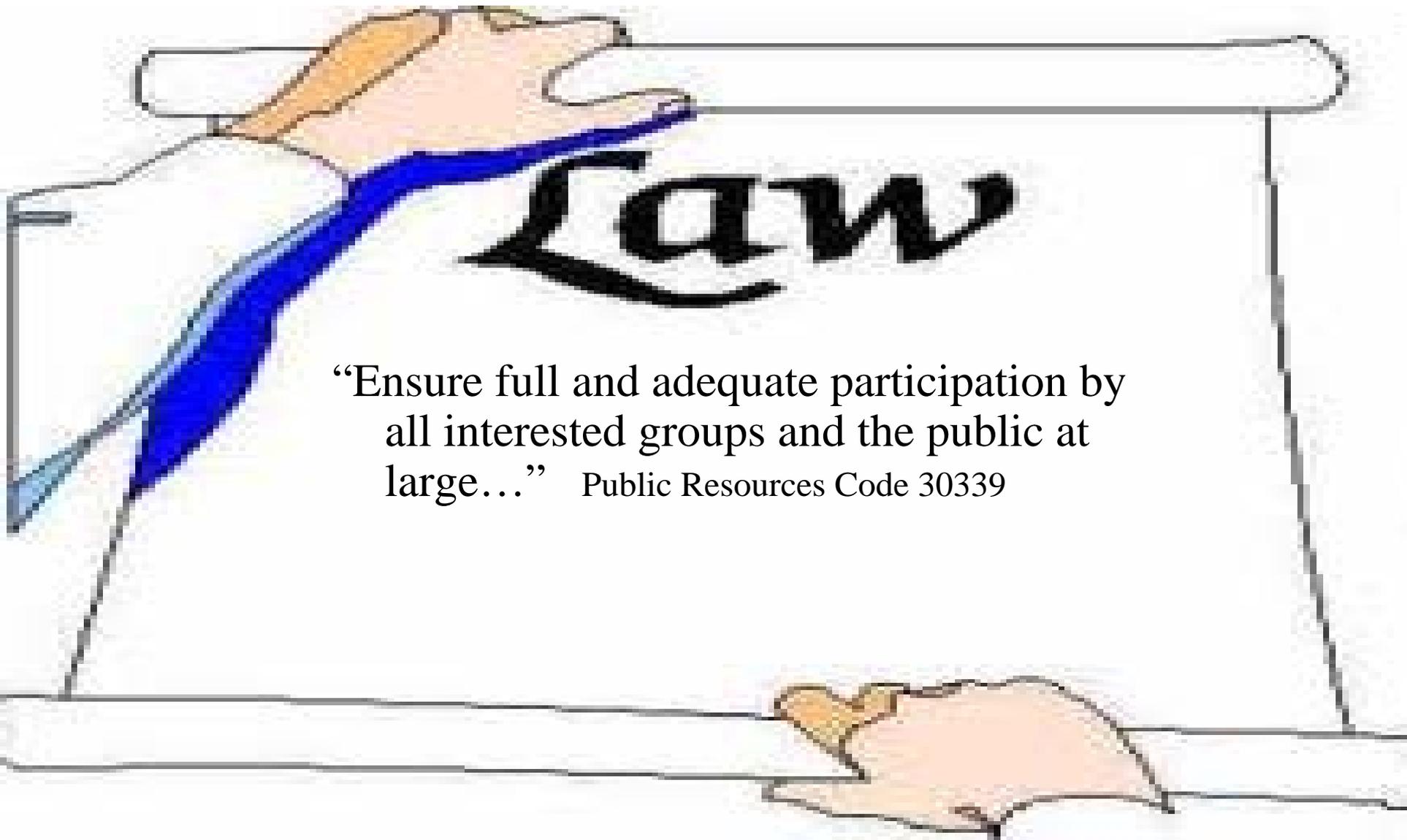
# Public Participation and Ex Parte Communications

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# California Coastal Act



“Ensure full and adequate participation by all interested groups and the public at large...” Public Resources Code 30339

# Public Hearings

- Monthly public meetings at various locations throughout the coastal zone



## Public Meetings Under Bagley-Keene

- Meetings must be publicly noticed
- Time, date, agenda, location of meeting noticed 10 days ahead
- Description of items for discussion or action
- Public Comment for items on agenda

## Meeting Definition– Gov’t Code 11122.5(a)

“...any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.”

## Serial Meeting – Govt Code 11122.5(b)(1)

*“A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, 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 of the state body.”*

# Coastal Act Findings and Declarations

- *“ . . . principles of fundamental fairness and due process of law require that the commission **conduct its affairs in an open, objective, and impartial manner . . .**”*
- *“ . . . California's coastal protection program requires **public awareness, understanding, support, participation, and confidence in the commission and its practices and procedures.**”*

California Public Resources Code (Coastal Act) § 30320  
(emphasis added)



# Ex Parte Communications

- *The Coastal Act defines Ex Parte Communications as:*
  - *“any oral or written communication”*
  - *“between a member of the commission and an **interested person**”*
  - *“about a **matter within the commission's jurisdiction**”*
  - *“which does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter.”*

Cal. Pub. Res. Code (Coastal Act) § 30322(a) (emphasis added)

# Matters within the Commission's Jurisdiction

Defined as:

- *"any permit action, federal consistency review, appeal, local coastal program, port master plan, public works plan, long-range development plan, categorical or other exclusions from coastal development permit requirements, or any other quasi-judicial matter requiring commission action, for which an application has been submitted to the commission."*

Cal. Pub. Res. Code (Coastal Act) § 30321 (emphasis added)

# Interested Person

*The phrase “interested person” is defined to include:*

- Applicants*
- Other Participants in the proceeding*
- Any person with a financial interest in the matter*
- Any agent or an employee of any of the above, or anyone else receiving consideration for representing them*
- Representatives acting on behalf of a “civic, environmental, neighborhood, business, labor, trade, or similar organization who intends to influence the decision . . .”*

Cal. Pub. Res. Code (Coastal Act) § 30323



# Exclusions

- With your Coastal staff or attorney
- Procedural issues
- Matters before another state or local agency on which a Coastal Commissioner also serves, whether:
  - on the record during an official proceeding of such agencies, or
  - between the Coastal Commissioner who serves on the other agency and other officials or employees of that agency
- By nonvoting Commissioners, as follows:
  - with a staff member of any state agency, where both are acting in their official capacities; or
  - regarding a matter pending before the Commission where the nonvoting Commissioner does not communicate with any other Commissioners about the matter (in any way, on or off record)

Cal. Pub. Res. Code (Coastal Act) § 30322(b)

# Disclosure must be “on the Record”

If more than 7 days before the hearing on the matter being addressed, you must disclose:

- in writing,
- on the standard form,
- within 7 days,
- and submit the form before CCC meeting begins.

If the communication occurs less than 7 days before the hearing on the matter addressed, you must disclose the communication “on the mic,” at the meeting.

Cal. Pub. Res. Code (Coastal Act) § 30324(a)

# Scope of Disclosure

Disclosure must identify:

- Date, time, and location of the communication
- Identity of persons involved
- A **“complete description of the content** of the communication, including the complete text of any written material that was a part of the communication”

Cal. Pub. Res. Code (Coastal Act) § 30324(b) (emphasis added)

# Recusal Requirement

*Commissioners who have “knowingly had an ex parte communication that has not been reported” may not vote on the matter or “influence a commission decision” in any way.*

Cal. Pub. Res. Code (Coastal Act) § 30327(a)



# Violations - Fines

- *Knowing violations of the disclosure requirements can result in civil fines of up to \$7,500.*
  - Cal. Pub. Res. Code (Coastal Act) § 30824
- *In addition . . . , knowing violations of the recusal requirement can result in civil fines of up to \$7,500.*
  - Id. at § 30327(b)
- *In both cases, “the court may award attorney's fees and costs to the prevailing party.”*
  - Id. at §§ 30824 and 30327(b)

# Revocation of Decision

- *“If a violation of this article occurs and a commission decision may have been affected by the violation, [a court can order] the commission to revoke its action and rehear the matter.”*

Cal. Pub. Res. Code (Coastal Act) § 30328

# Questions?



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