

Citizens' Oversight Projects (COPs)

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December 13, 2011

TO: San Diego City Council
c/o San Diego City Clerk Elizabeth Maland
202 "C" St., 2nd Floor
San Diego, CA 92101
cityclerk@sandiego.gov

Copy to:
California Attorney General, California Department of Justice
Attn: Public Inquiry Unit
P.O. Box 944255
Sacramento, CA 94244-2550

Copy to:
Investigations
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Subject: BROWN ACT VIOLATION ON DECEMBER 12, 2011

To whom it may concern:

The primary mission of Citizens' Oversight Projects (COPS) is to encourage the involvement of the public in public meetings. Far too often, such meetings are held with no outsider in attendance, and when no citizens are involved in their oversight duties, public bodies can frequently spin out of control.

One area of particular interest is the inclusion of a Public Comment period in every public meeting to the extent at least or greater than that required by the Ralph M. Brown Act.

On December 12, 2011, the San Diego City Council held a public meeting at 9:00 AM in the City Council Chambers. The notice for this meeting asserted that the meeting was a "Special" meeting of the City Council, and therefore, no Public Comment period was included in the agenda.

The San Diego City Council does not include any agenda item to approve the agenda, unlike many legislative bodies that do. Therefore, there is no agenda item available for the public to question the practice of not including a Public Comment period, or indeed to question any other aspect of meeting operation. Therefore, during that meeting, I stood at the lectern until I was acknowledged, and I stated that the body was in violation of the Brown Act, and they should include a Public Comment period in the meeting. I apologize for this interruption, but there was no other option to address the Council.

The City Attorney stated that since it is designated as a “SPECIAL” meeting of the City Council, a public comment period was not required. Indeed, COPS admits that it is the case that the minimal interpretation of the Brown Act does not require a Public Comment period during special meetings, although many public meetings nevertheless do include public comment periods during such meetings. (COPS would rather see such public bodies err on the side of including the Public Comment period rather than on the side of not including it.)

However, despite the claim that this was a “special” meeting, it was not. The meeting was held on the same day as the weekly City Council meetings, and at approximately the same time. In fact, the same “special” City council meeting has been held, with substantially the same agenda, every year for at least the last six years. Therefore, this meeting was not a special meeting at all, but a regularly held meeting, as proven by the fact that it has been held the same way for years. The San Diego City Council is inappropriately omitting the Public Comment period from their agenda, and mislabeling the meeting as “special” when it is a regularly held meeting.

Therefore, COPS requests:

- 1) that the City of San Diego change their practice of designating the meeting as “special” when it has been held the same way for years;
- 2) that the City of San Diego include public comment in future meetings when possible, even when designated as “special,” thereby erring on the side of public participation rather than on the side of not allowing participation; and
- 3) that the State Attorney General review this practice and instruct the City Council to include a Public Comment period and discontinue the incorrect designation that the meeting is “Special” as well as impose fines or penalties as appropriate when the Brown Act is clearly violated, as it is in this case.

Please respond in writing as soon as possible, using email to RayLutz@CitizensOversight.org if possible.

Sincerely,



Ray Lutz
National Coordinator,
Citizens Oversight Projects

References:

Agenda for 2011-12-12: <http://dockets.sandiego.gov/sirepub/pubmtgframe.aspx?meetid=1323&doctype=Agenda>

Prior years: <http://www.sandiego.gov/city-clerk/officialdocs/legisdocs/previous.shtml>