

## **2001-2002 SANTA CLARA COUNTY CIVIL GRAND JURY**

### **INQUIRY INTO A POSSIBLE VIOLATION OF THE BROWN ACT BY THE MOUNTAIN VIEW CITY COUNCIL**

#### **INTRODUCTION**

The Santa Clara County Civil Grand Jury received a complaint alleging that the Mountain View City Council violated the Ralph M. Brown Act in the conduct of a closed session (Government Code 54956) held on July 10, 2001, relating to eminent domain (Government Code 54956.9). Penal Code 919(c) states the Grand Jury may inquire into willful conduct or corrupt misconduct in office of public officers of every description within the county.

The Grand Jury met with the Mountain View city manager, city clerk and city attorney on November 26, 2001. A city memorandum covering the area of inquiry, along with certificate of posting notice/agenda for a closed session were presented to the Grand Jury at this meeting.

#### **BACKGROUND**

Mountain View is home to 75,000 residents, as well as to many national and international companies. The city operates under a council-manager form of government. The City of Mountain View's stated mission is "...to provide quality services and facilities to meet the needs of a caring and diverse community in a financially responsible manner."

It is the goal of the Brown Act to require full disclosure. Government Code 54956 (closed sessions) requires that agendas of closed sessions be distributed and posted no later than 24 hours before the meeting actually takes place. In addition,

Mountain View City Code 2.1 requires the posting of meeting agendas.

#### **OBSERVATIONS**

The city manager verified and confirmed the authenticity of both the original and an amended agenda of the closed session. The city attorney explained that in most cities the city manager and the city clerk construct the meeting agendas together. The City of Mountain View goes one step further to involve the city attorney to carefully review agendas for compliance with the provisions of the Brown Act.

According to the city attorney, the July 10 closed session original agenda was posted Friday, July 6. This fact is supported by the certificate of posting of the notice/agenda for the closed session. On Monday, July 9, the original agenda of the closed session was amended to include the names and addresses of the defendants and it was immediately posted. The city attorney confirmed that items discussed in the closed session on July 10 were made public in an open meeting.

Under the law, litigation is one of the areas that may be discussed in closed session. Government Code 54956.9 states that "litigation includes any adjudicatory proceeding including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer or arbitrator."

## **CONCLUSIONS**

After a comprehensive review of documented evidence and examination of statements made by the interviewed parties, there was no evidence of violation of the Brown Act. The Mountain View City Council conducted the July 10, 2001, meeting in compliance with the applicable California State and Mountain View City codes in a professional manner.

## BIBIOGRAPHY

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Registrar of Voters Procedures Manual, current revisions.

Santa Clara County Registrar of Voters Website, <http://www.sccvote.org/>

Study of Florida 2000 Election, San Jose Mercury News, 11/10/01.

**PASSED** and **ADOPTED** by the Santa Clara County Civil Grand Jury this 7<sup>th</sup> day of February, 2002.

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Bruce E. Capron  
Foreperson

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Norman N. Abrahams, DDS  
Foreperson Pro Tem

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Joyce S. Byrne  
Secretary