



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

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City of San Diego Wins Brown Act Case

Council Followed City Attorney's Advice and Expanded Public Comment to Two Days

Superior Court Judge Gregory Pollack has thrown out a lawsuit against the City of San Diego over the City Council's discontinued policy of allowing only one day for public comment. The Court sustained the City's demurrer (attached) without leave to amend, dismissing a lawsuit that sought an injunction against the City and recovery of attorneys' fees.

In September 2001, at the suggestion of former Councilmember Ralph Inzunza, the Council amended its rules, consolidating Monday and Tuesday sessions into one meeting and allowing public comment only on Tuesdays. The City Attorney's office at that time advised that would satisfy the state's open meeting laws (the Brown Act).

On September 11, 2014, the Center for Local Government Accountability filed a lawsuit against the City, claiming the Council's policy excluding public comment on Mondays was a Brown Act violation. City Attorney Jan Goldsmith immediately thanked the organization for bringing this legal question to the City's attention and promised to conduct a prompt and thorough independent review.

In a Memorandum of Law dated October 7, 2014 (attached), the City Attorney advised that when publishing two separate agendas for Mondays and Tuesdays (which had been the practice), the Council must provide for public comment on both days. Even publishing a consolidated agenda for the two days could be seen by a reviewing court as an abuse of discretion under the Brown Act. In January 2015, the City Council amended its rules to allow for public comment on both days.

City Attorney Jan Goldsmith stated: **"I continue to thank the Center for Local Government Accountability for bringing this issue to our attention. I heard them out and promised to review it and take action if I agreed with them. They were right about public comment on Mondays and a 13 year old policy was changed. But, as we said and the judge concluded, there was no reason to file a lawsuit."**

This inquiry was useful to the City and has resulted in expanded opportunity for public comment at City Council meetings. However, the lawsuit was premature and unnecessary. The judge agreed and dismissed the case, meaning no injunction, no attorney fees and no lawsuit.

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