

2001-2002 GRAND JURY REPORT

City of Moreno Valley

Background

The City of Moreno Valley is a charter city established in 1984. The City Council is comprised of five members, with each elected by his/her respective district. The City Council appoints four executive managers: City Manager, City Attorney, City Clerk, and City Treasurer to implement the policy of the council and to direct and manage the day-to-day operations of their respective offices. The City Council meets in regular session on the second and fourth Tuesday of each month and sits in closed session on the first Tuesday of each month. They also conduct study sessions and special meetings as needed.

All legislative bodies in California are subject to the Ralph M. Brown Act codified as California Government Code §54953(a) that states, “all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.”

California Government Code §54954.2(a) states, “At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting including items to be discussed in closed session.”

Closed sessions are covered by California Government Code §54957.7 that states:

- “a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.
- b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.
- c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.”

Where matters are not subject to closed sessions meeting exceptions, the Brown Act has been interpreted to mean that all deliberative processes by legislative bodies be open and available for public scrutiny.

Informal gatherings where discussions are held or decisions made about issues under the subject matter jurisdiction of the body, are considered “meetings” and are subject to the Brown Act §54952.2(a).

The Brown Act specifically prohibits other means which may be used to develop a collective concurrence as to actions to be taken. §54952.2(b).

Findings

1. The Moreno Valley City Council initiated release actions for the City Clerk, a long-term appointee, in 2000. No record of these initial actions are documented in agendas or reports from closed sessions.
2. Subsequently, the council contracted for a “City of Moreno Valley City Clerk’s Office Performance Review.”
3. In December 2000, although there was no official appointment, an “Acting City Clerk” began signing council meeting minutes.
4. In January of 2001, the City Manager issued a memo to the City Council stating the following:
 - * “It is my understanding that I have been appointed as the City Clerk for the time being”.
 - * The long-term appointee was notified that personal effects were to be removed from the office at 6:00 pm on January 3, 2001.
 - * The City Manager/City Clerk appointed an “Interim City Clerk” effective as of January 4, 2001.
5. Actions precipitating items 3 and 4 above failed to comply with the requirements of the Brown Act including closed sessions and reconvening with reports of actions taken.
6. The Brown Act specifically prohibits other means which may be used to develop a collective concurrence as to actions to be taken. These other means (or type of meetings) include having less than a quorum present.
7. One council member stated, “We didn’t have to comply with the Brown Act regarding those meetings; we didn’t have a quorum.”

Recommendations

Moreno Valley City Council

1. Comply with the Brown Act at all times.
2. Post all agenda items prior to going into closed sessions, and make public disclosures after closed session, as required by the Brown Act.
3. Ensure that any meetings, even those involving less than a quorum, are conducted under the Brown Act requirements so the public's right to know is protected.