

City of Grass Valley
125 East Main Street
Grass Valley, CA 95945

January 26, 2010

Re: Brown Act violations
Public Information Request

Dear Mayor Swarthout and City Council,

The California Government Code establishes legal requirements and standards for conducting the peoples business in a transparent and open manner. It is more commonly known as The Brown Act.

The opening section of The Brown Act states:

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”

I am raising what I believe are long running and repeated violations of the Brown Act by the City of Grass Valley. Additionally I make the complaint that City Council Member Cookson violated The Brown Act on January 7th by attending and participating in a meeting of the City Council Affordable Housing Subcommittee while two other Council members participated in that meeting.

I am requesting the City review these possible violations, respond to the public information request and continue any Council discussion or actions regarding the issue of rescinding the City's inclusionary housing policy, show as Agenda Item 15 on tonight's agenda.

City Council Affordable Housing Subcommittee, serial Brown Act violations

In April 2007 the full City Council established the “*Affordable Housing Subcommittee*”. City Council members Chauncey Poston and Janet Arbuckle were assigned to this Standing Subcommittee and have provided continuous service and representation on this Standing Subcommittee since it was first established almost three years ago.

Since the establishment of the Affordable Housing Subcommittee almost three years ago the Subcommittee has had numerous, but yet unknown number of meetings to work on the issues of affordable housing.

This Standing Subcommittee has reported back to the full City Council on issues of interest regarding affordable housing and has provided numerous recommendations to the full City Council for discussion and action.

It is currently unknown to the public how many Affordable Housing Subcommittee meetings have taken place since April 2007. It is currently unknown to the public who was invited and who attended these Subcommittee meetings as it appears some or all of the Affordable Housing Subcommittee meetings were not publicly noticed, as required by The Brown Act.

January 7, 2010 Affordable Housing Subcommittee meeting

On January 7, 2010 the City of Grass Valley conducted another meeting of the Affordable Housing Subcommittee. No public notice of this Subcommittee meeting was provided, as required by The Brown Act. No public agenda was provided to the public in advance of the Subcommittee meeting, a violation of the Brown Act.

Subcommittee members Vice Mayor Arbuckle and Council Member Poston attended this meeting, as did City staff members and a select group of yet undisclosed and invited members of the public.

It is reported that Council Member Cookson also attended the January 7th Affordable Housing Subcommittee meeting and sat at the table with City staff and the two designated Council Subcommittee members.

It is reported that Council Member Cookson actively participated in the discussions and provide her opinions and positions on affordable housing issues and her desire to rescind the City's inclusionary housing policy. Council Member Cookson's attendance and participation in the Affordable Housing Subcommittee meeting was a violation of The Brown Act.

As part of my public information request I ask the City to provide the dates that City Council members and any staff attended the State of California AB 1234, Brown Act and Ethics training.

Public Information Request

In April 2007 the full City Council established the "*Affordable Housing Subcommittee*". City Council members Chauncey Poston and Janet Arbuckle were assigned to this standing Subcommittee and have provide continuous service and representation on this standing Subcommittee since it was first established almost three years ago.

It appears the City of Grass Valley has repeatedly violated The Brown Act by failing to provide public notice and meeting agendas as required. The possible extent of The Brown Act, open meeting law violations are currently unknown.

In an effort to first determine the full extent of possible violations of law the following information is requested:

1. The City Council minutes from the 2007 City Council meeting that established the standing "*Affordable Housing Subcommittee*" and assigned City Council members Chauncey Poston and Janet Arbuckle to this Subcommittee.
2. The dates, times and location of any/all Subcommittee meetings conducted.
3. Any public notices and/or agendas provided for any/all Subcommittee meetings.
4. Any invitee names of those provided notice and/or invited to any/all Subcommittee meetings.
5. A list of all attendees for any/all Subcommittee meetings.
6. Any minutes or recordings for any/all Subcommittee meetings.
7. Any and all communications between City staff, Council Members and any others regarding possible Brown Act violations at the January 7, 2010 Subcommittee meeting or any other Subcommittee meeting. This includes any emails, correspondence or communications that included the topic of possible Brown Act violations at the January 7, 2010 Subcommittee meeting or other Subcommittee meetings.
8. I ask the City to provide the dates that City Council members and/or City staff attended the State of California AB 1234, Brown Act and Ethics training.

Requested action for the January 26, 2010 City Council meeting

The best government is one that is transparent, inclusive and responsive to the public. Elected officials are privileged to represent and serve the public. Elected officials must show the public that they understand these responsibilities by their actions and openly take responsibility when they fail to do so, regardless of intent.

I request that in the name of fairness and public trust the City Council move to continue any Council discussion or actions regarding the issue of rescinding the City's inclusionary housing policy, show as Agenda Item 15 on tonight's Council agenda.

I request that in the name of fairness and public trust that City Council member Cookson recuse herself from any Council discussions or actions regarding the issue of rescinding the City's inclusionary housing policy.

I also request the City review the possible violations of The Brown Act, respond to the public information request and provide full and transparent disclosure to the public and the citizens of Grass Valley regarding these matters.

Under the procedures outlined in The Brown Act I ask that the City review the issues that I have raised and provide a response to the possible Brown Act violations I have outlined.

I am also informing the City Council that under the provisions outlined in The Brown Act a formal complaint and request for investigation into these matters is being submitted to the Nevada County District Attorney.

In closing

The trust between elected representatives and the citizens to conduct the people's business openly is the foundation of our democratic system of representative government. This trust is sacred and must be respected and protected with the highest level of consideration.

The Brown Act clearly understands this responsibility by stating:

“The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created”.

The best government is one that is transparent, inclusive and responsive to the public. Elected officials are privileged to represent and serve the public. Elected officials must show the public that they understand these responsibilities by their actions and openly take responsibility when they fail to do so, regardless of intent.

Most respectfully,

Steven B. Enos

(530) 273-0788

P.O. Box 3464
Grass Valley, CA 95945

Cc: Nevada County District Attorney
Nevada County Grand Jury
California State Attorney Generals Office
Media