

CITIZENS' OVERSIGHT PANELS (COPS)

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Citation Report

The Citizens' Oversight Panels (COPs) are composed of citizens who observe and report on the operation of governmental bodies, such as city councils, community planning groups, school district boards, as well as federal and state elected offices. Panelists participate in these proceedings and request information per the Brown Act, the California Public Records Act, and/or the Freedom of Information Act.

This Citation Report is a standard submission to such bodies when the Panelists observe operation that results in a violation of the rights of the public, or results in inaccurate information to be promulgated. Although purely advisory in nature, it is suggested that the bodies make a special effort to address the concerns outlined by the report. A formal written response is hereby requested, and if necessary, agenda items be placed on the docket for discussion of the concern so that procedures can be amended to fully rectify the concern. Such discussion by the body may result in a change in policy and procedures, bylaws, or other documents, as well as modify the style of operation of the body.

The Citation Reports will be posted on the Citizens' Oversight web site and may be forwarded to news media or other information outlets, and may be also forwarded to officials who are responsible for managing the operation of these bodies.

Name of the Body: Valle De Oro Community Planning Group (VDOCPG)

Date of the Meeting: February 6, 2007 **Location:** Otay Water District HQ

Title of the Concern: Inaccurate Vote Counting

Tracking Number: VDOCPG-001

Description: The VDOCPG heard public testimony and discussed the disposition of a 108 ft tall Torrey Pine Tree on Queen Street. News media was present, recording the testimony and discussion. A motion was made and seconded, the vote taken, but the count was not carefully taken.

The COP panelist requested that the vote be documented so that the public would know which panelist voted for, against, and abstained. The chair (PHILLIPS) denied the request. A second request was made by the panelist, reminding the chair that this inquiry was allowed under the California Public Records Act. The chair again said no, but the secretary briefly described the count.

Unfortunately, the count was still unclear and the vote was published incorrectly in the Union Tribune. Since one of the panelists was absent, the vote supporting the motion was only 10, and not the 11 as reported by the chair and by the Union Tribune.

Recommendations:

Upon any request by the public, the chair should clearly review the vote of all of the members of the body. Governmental bodies should ballot issues carefully, and there should be absolute clarity in the disposition of the vote at the time of the vote, and in the minutes of the meeting. In controversial issues, a roll call vote is not an inappropriate action to take to ensure such clarity.

The COPS panel hereby requests that the body send a letter to the Union Tribune to correct the count that was published, and an effort made to improve the procedures used for counting votes. Certainly, if a citizen requests information regarding the vote, this request should be granted.

Title of the Concern: Undocumented Abstains

Tracking Number: VDOCPG-002

Description: In the vote for the removal of the tree, three of the members abstained. The high number of abstaining members indicates that the members may be misusing the option of abstaining.

Recommendations:

Members of public bodies are expected to reach a decision on all issues. If their questions are not fully answered, those members should raise these questions during the meeting, and the chair should allow discussion to continue for sufficient time for those questions to be answered. The option of abstaining is provided in the case of conflicts of interest, and if the member elects to abstain, the chair SHOULD request that the member describe the conflict of interest, and the conflict recorded in the minutes. *COPs* prefers that the option of abstaining be used only to avoid a conflict of interest, not as a method to express no opinion on the matter, or to weakly oppose the motion. Therefore, abstains should be rare, and the conflict of interest documented.

In the vote on the Torrey Pine Tree, the **COPS panel hereby specifically requests that those panelists describe why they abstained.** Do they have a legitimate conflict of interest? If they abstained because they felt they did not have sufficient information to process the matter, then perhaps the body should spend more time to process the question. If that panelist is unable to ask informed questions and reach a decision, perhaps that member should resign from the body.

In this case, there were concerns that were expressed about the quality of the analysis by the arborist who reported on the tree, with one report supporting the integrity of the tree while the other report suggesting removal. Indeed, it would be appropriate to request a second or third opinion, perhaps of an arborist who is not connected with the county, before a final vote is taken on the matter.

Title of the Concern: Conflict with News Media

Tracking Number: VDOCPG-003

Description: After the vote for removal of the tree, the news media continued to record interviews with the public in a far corner of the room. The chair made an effort to continue the meeting and wanted the news media to move outside.

Recommendations:

Such planning groups are probably not used to heavy media exposure, and may consider it an intrusion to have the media covering their meeting. On the contrary, the media is an indication of high public concern, and should be embraced by the body, in this case, by having a short break in the proceedings so that members of the body may be interviewed by the news media. It would have been a simple matter to have a short 10-minute break to allow the news media to fully cover the actions of the body. Indeed, if such a break had occurred, it may have eliminated the inaccurate vote count as described in VDOCPG-001.

In the future, the body should take a short break to accommodate the news media.