

The City Attorney
City of San Diego
MEMORANDUM
236-6220

DATE: February 11, 1987

TO: Dave Nielsen, City Manager's Office

FROM: City Attorney

SUBJECT: Otay Mesa Policy Committee

By memorandum to this office dated January 8, 1987, you asked for a legal determination as to whether the Otay Mesa Policy

Committee falls under the purview of the Brown Act. As background information you provided this office with City Manager's Report No. 84-406 which described in some detail the creation of a task force for the coordination of planning and development of Otay Mesa. The City Manager's Report also recommended the establishment of three committees, one of which was the Otay Mesa Policy Committee. The Otay Mesa Policy Committee, as described in the City Manager's Report, is composed of legislative representatives from The City of San Diego and the City of Chula Vista and the Board of Supervisors of the County of San Diego. Resolution No. R-261743 adopted by the City Council on October 15, 1984, a copy of which is attached hereto with the City Manager's Report, authorized the implementation of the recommendations of the City Manager's Report and established the Otay Mesa Task Force as described in City Manager's Report No. 84-406.

Furthermore, City Council Resolution No. R-261332 designated then Mayor Hedgecock, then Councilman Martinez, and the City Council's Local Agency Formation Commission's (LAFCO) representative as The City of San Diego's legislative representatives to sit on the Otay Mesa Policy Committee.

In discussing with staff how the Otay Mesa Task Force functions, I have been told that the Otay Mesa Policy Committee acts as the decision-making body for the Otay Mesa Task Force. The Property Owner Advisory Committee and the Staff Committee act as advisory committees to the Otay Mesa Policy Committee. The Otay Mesa Policy Committee meets, deliberates and makes decisions on matters after taking into account the recommendations of the Property Owner Advisory Committee and/or the Staff Committee. However, neither the Property Owner Advisory Committee nor the Staff Committee deliberates or makes independent decisions as does the Otay Mesa Task Force. The Otay Mesa Policy Committee is therefore acting as the Otay Mesa Task Force.

With the foregoing thoughts, we can make the following observations respecting the applicability of the Brown Act to the Otay Mesa Policy Committee. It would appear that the Otay Mesa Policy Committee/Task Force is a Charter Section 43.b. type committee. Charter Section 43.b. authorizes the creation and establishment of committees "only for the purpose of advising on questions with clearly defined objectives which shall be temporary in nature and shall be dissolved on the completion of the objective for which they were created." Resolution No. R-261743, adopted by the City Council set forth the Otay Mesa Task Force goals by adopting the City Manager's Report No.

84-406. Some of the goals enumerated in the City Manager's Report are to:

1. Review a public facilities financing plan;
2. Review alternatives to zoning in the Otay Mesa area;
3. Review alternative land use plans to transportation elements for the potential development of the entire Otay Mesa; and
4. Review potential impacts on surrounding jurisdictions and alternative methods of financing mitigating public improvements.

The Brown Act which is found at Government Code Sections 54950 et seq., requires that all meetings of legislative bodies of local agencies be open to the public and that all persons shall be permitted to attend any meetings thereof. The definition of legislative body includes advisory committees created by resolution such as the Otay Mesa Policy Committee of the Otay Mesa Task Force. Therefore, the answer to your question respecting the Otay Mesa Policy Committee is that in our opinion the Brown Act is indeed applicable to the Otay Mesa Policy Committee meetings and its meetings fall under the purview of the Brown Act.

In addition, we would point out to you that Council Policy No. 000-16 mandates that all City appointed boards, commissions, or corporations and committees thereof closely adhere to the requirements of the Brown Act. Therefore, the City Council, by adopting this policy, has made a statement that notwithstanding the fact that the Brown Act may be technically inapplicable to particular City created board's meetings, the board's meetings should still comply with the Brown Act.

Should you have any further questions respecting this matter please do not hesitate to call me.

JOHN W. WITT, City Attorney

By

Thomas F. Steinke
Deputy City Attorney

TFS:ta:013
Attachments
MS-87-1