

**Friday Memo**  
**July 2, 2015**

**Upcoming Events – Bruce Harter**

- July 6: Governance Workshop, Harbor Master Building, 1:00 PM
- July 7: Clay Investigation Subcommittee, Alvarado Rm 1, 6:30 PM
- July 8: Board of Education, DeJean, 6:30 PM
- July 9: Extended Learning Graduation Ceremony, Richmond Auditorium, 6:00 PM
- July 10: Last Day of Summer School

**Recognition for Parent University Graduates and Closed Session for July 8 – Bruce Harter**

Closed session for next Wednesday’s meeting begins at 5:30 PM. The plan is to complete closed session in time to participate in a reception for the Parent University Graduates at 6:00 PM or shortly thereafter.

**Assessed Valuation – Sheri Gamba**

Assessed Valuation (AV) is the taxable value of property on which taxes are levied. The GO bond program relies on the taxes to pay the debt of the bonds, so the level of AV is an important component to the program for both debt service and future bond issuance.

The County Assessor released its 2015-16 Assessed Value (AV) Report on July1, 2015 with specific information on city and unincorporated area assessed value data within Contra Costa County and the numbers look very strong. While the District’s specific AV data is not expected to be released until later in the month, KNN, the District’s financial advisors, have calculated an estimate of the District’s 2015-16 Assessed Value based on assumptions about the composition of the District’s tax base. As you can see below, they estimate the District’s growth rate to be 8.47%. KNN will be preparing a presentation for the upcoming Facilities Subcommittee Meeting based on this estimated calculation, which will project the impact of the new AV data on the District’s bond program.

	<b>2014-15</b>	<b>2015-16</b>	<b>Change</b>	<b>Change %</b>
El Cerrito	\$ 3,264,235,176	\$ 3,589,412,806	\$ 325,177,630	9.96%
Hercules	\$ 2,731,614,588	\$ 2,892,189,321	\$ 160,574,733	5.88%
Pinole	\$ 1,974,488,120	\$ 2,112,161,565	\$ 137,673,445	6.97%
Richmond	\$ 11,842,200,772	\$ 12,892,773,551	\$ 1,050,572,779	8.87%
San Pablo	\$ 1,385,536,636	\$ 1,522,192,734	\$ 136,656,098	9.86%
Other	\$ 3,413,554,960	\$ 3,688,279,166	\$ 274,724,206	8.05%
<b>Total</b>	<b>\$ 24,611,630,252</b>	<b>\$ 26,697,009,143</b>	<b>\$ 2,085,378,891</b>	<b>8.47%</b>

**Education for Homeless Children & Youth Grant Award: Families In Transition- Wendell Greer**

WCCUSD has been awarded the McKinney-Vento Grant award for the Education for Homeless Children & Youth program for 2015-2018. The Families In Transition program will be funded at approximately \$115,000 per year for the next three years, nearly doubling our funding from the previous grant program. The new grant award will allow for the expansion of the FIT program

West Contra Costa Unified School District  
*Office of the Superintendent*

to strengthen support for homeless students in WCCUSD and alignment with the Full Service Community Schools initiative. Based on our certified CALPADS report, WCCUSD has 1692 students that qualify under the definition for homeless.

The program is designed to reduce barriers to identify homeless children and youth with emphasis on: intake and enrollment, attendance and retention, parent and family engagement, academic achievement and student success, and equitable access to programs. Grant funds will be used to support staffing of the FIT Liaison, the addition of a School Community Outreach Worker to support homeless students, strengthen the intake and enrollment process—including additional training for school site staff, transportation access for students to school and out of school time enrichment activities, coordination of services and increased communication support to ensure students have equitable access to programs and resources, increased data tracking and metrics support, and the addition of an annual Homeless Resource Fair for students and families.

**Full Service Community Schools: Contra Costa Health Services Kennedy Clinic – Wendell Greer**  
Contra Costa Health Services has opened the community pediatric clinic at Kennedy High School. The clinic offers immunizations, physicals, and diagnosis and treatment of minor illnesses. Services are available for children who have Contra Costa Health Plan, Medi-Cal or low income families with no insurance. Contra Costa Health Services will assist uninsured families in applying for insurance coverage. The clinic is open Mondays through Fridays 1pm to 5pm and 8am to 5pm on Wednesdays. To make an appointment, families should contact Eva at (510) 333-4259 and ask for the pediatric clinic located at Kennedy High School.

**Grand Jury Report on the Brown Act – Marcus Walton**

In June, the Contra Costa County Grand Jury issued Report 1513, which focuses on the Ralph M. Brown Act. The report is addressed to the Rodeo Hercules Fire Protection District, Reclamation District 799 and the West Contra Costa Unified School District. Despite naming three agencies, the report focuses on the Rodeo Hercules Fire Protection District. The grand jury requires WCCUSD to respond to one finding and one recommendation, both of which deal with Brown Act training for Board members and support staff. Staff will prepare a response by the 90-day deadline in accordance with the Grand Jury's request. The grand jury's report is attached.

**District STEM efforts featured in Richmond Today – Marcus Walton**

Phil Gonsalves wrote an article for Richmond Today, a Chevron publication that highlights the company's community engagement efforts. Phil highlighted the many STEM initiatives in the District that are supported by Chevron. Additionally, Chevron outlined several of the education initiatives it supports in the City of Richmond. A copy of the publication is included in this week's packet or you can view it online at [http://richmond.chevron.com/Files/richmond/Richmond\\_Today.pdf](http://richmond.chevron.com/Files/richmond/Richmond_Today.pdf).

**Public Records Log – Marcus Walton**

Included in this week's memo is the log of public records requests received by the district. If you have any questions, please contact me.

A REPORT BY  
THE 2014-2015 CONTRA COSTA COUNTY GRAND JURY  
725 Court Street  
Martinez, California 94553

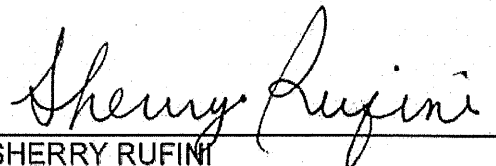
Report 1513

**RALPH M. BROWN ACT**

**"The People of the State Do Not Yield Their Sovereignty  
to the Agencies Which Serve Them"**

APPROVED BY THE GRAND JURY:

Date: June 11, 2015

  
SHERRY RUFINI  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: June 11, 2015

  
JOHN T. LAETTNER  
JUDGE OF THE SUPERIOR COURT

Contact: Sherry Rufini  
Foreperson  
925-957-5638

Contra Costa County Grand Jury Report 1513

## **RALPH M. BROWN ACT**

**“The People of the State Do Not Yield Their Sovereignty  
to the Agencies Which Serve Them”**

**TO: RODEO HERCULES FIRE PROTECTION DISTRICT, RECLAMATION  
DISTRICT 799, WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT**

### **SUMMARY**

The Ralph M. Brown Act, (Act or Brown Act), a critical piece of legislation, protects transparency in government in California. It prohibits secret dealings by various elected bodies and provides remedies for violations. It applies to city councils, boards of supervisors, and local agencies, such as school boards and special districts in California.

During its investigation of Brown Act compliance, the Grand Jury visited board meetings of Rodeo Hercules Fire Protection District, Reclamation District 799 and West Contra Costa Unified School District (WCCUSD), (collectively, the “Districts”), the Grand Jury found instances of the Districts’ board members receiving too little training in the Brown Act and, in other instances, a general lack of respect for it. The Grand Jury also found improperly worded agenda items; a failure to make documents available to the public in a timely fashion; citizens who were uneducated about remedying Brown Act violations; and boards holding closed sessions at the end of an evening meeting when most of the public had left, thus limiting public comment on the item reported out of closed session to those few remaining. The Grand Jury also found through their investigations that citizens were often frustrated with the actions of their elected and or appointed representatives who appeared to obstruct the public’s right to meaningful participation in the public business through the rights guaranteed by the Brown Act. These citizens were frequently at a loss as to how to challenge violations of the Act.

Training for the Districts’ elected and appointed officials could help alleviate the observed lack of Brown Act compliance. This training should include the preparation and scrutiny of agendas and the legalities of closed sessions, which, when permitted, should be held prior to the beginning of evening meetings to allow ample time for the reporting of actions and votes taken in closed session, and for comments by the public.

Additionally, the Grand Jury recommends that each entity subject to the Brown Act provide a link on its website to provide a legal and simple way for citizens to object to perceived violations, including copies of cure and correct letters for their use and instructions on the legal timeframes for sending such letters.

## **METHODOLOGY**

The Grand Jury:

### **Attended**

- Special District Board meetings

### **Interviewed**

- Elected and appointed officials
- First amendment attorneys
- Citizens of Contra Costa County

### **Reviewed**

- The Brown Act
- Board websites
- Board minutes and agendas

## **BACKGROUND**

The Grand Jury received 12 complaints from citizens, civic groups and government employees alleging violations of the Brown Act by certain special districts. The Jury inquired into four of those complaints. A common theme of the complaints was a lack of adherence to the Brown Act, such as failing to comply with the requirements to provide a clear description of each item on the agenda for a public meeting or to comply with the requirements of the Act for holding closed meetings.

The Brown Act is an essential feature of municipal, county and public agency government in California. A series of articles in 1952 by Mike Harris, a reporter for the *San Francisco Chronicle* raised questions about the secrecy of some government meetings. As a consequence of this exposé, the Brown Act was adopted in 1953.

The preamble of the Brown Act makes the Legislative intent clear:

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. The people of this State do not yield their sovereignty to the agencies which serve them. 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.

In 1952, the *Sacramento Bee* said of the proposed Act:

A law to prohibit secret meetings of official bodies, save under the most exceptional circumstances, should not be necessary. Public officers above all other persons should be imbued with the truth that their business is the public's business and they should be the last to tolerate any attempt to keep the people from being fully informed as to what is going on in official agencies. Unfortunately, however, that is not always the case. Instances are many in which officials have contrived, deliberately and shamefully, to operate in a vacuum of secrecy.

The Brown Act applies to boards, councils, and committees for counties, cities, districts and other local agencies in California. It can be found in its entirety at Government Codes sections 54950-54963.

In November 2004, voters also adopted Proposition 59, the "Open Government Ordinance". This amends the California Constitution to make plain that the public has an absolute right of access to these meetings.

This report focuses on the Districts' compliance with certain portions of the Brown Act.

## **DISCUSSION**

Involvement and engagement of the people with local government has long been of critical importance in California and Contra Costa County. Every month, government officials in Contra Costa County meet and make decisions that affect the lives of citizens of the county, concerning issues such as education, fire safety, public health, reclamation, water, sanitation, and pension administration.

Generally, since the passage of the Brown Act, these meetings are held in public session. Closed government sessions are held to discuss certain confidential matters, such as litigation and personnel issues. These sessions are sometimes held at the end of the public meeting and, when the closed session is reopened the people attending the meeting often have left, so they do not hear the results of the vote that night and cannot comment on it.

Some hold the opinion that if an attendee leaves the meeting during closed session, the "fault" lies with the person who leaves, even if it is late at night. However, boards have the power to change the scheduling of closed meetings to an earlier time, although some Districts have not done so.

The Brown Act requires that agendas be posted at least 72 hours in advance of a meeting in most circumstances. Individual boards have the power to increase the notice time. For example, the City of San Francisco has enacted a 14-day period for review of labor contracts. The City of San Jose allows ten days for review of labor contracts, with each new offer becoming public at the time it is made during negotiations. Additionally, Contra Costa County has extended the notice period for agendas to 96 hours.

#### **CLOSED SESSIONS:**

The Districts are perceived by some as improperly conducting closed sessions. The Brown Act permits closed sessions only for particular types of business. The most commonly occurring items that may be heard during closed session are conferences with real property negotiators, discussions with legal counsel regarding pending or current litigation, threats to public safety, public employee appointments, and performance evaluations including disciplinary actions. Closed sessions may include a discussion on whether a change in compensation is warranted based on performance. They may not include discussion or action on proposed compensation except for a reduction in compensation because of disciplinary action.

After a closed session, in some circumstances the legislative body must publically report on action taken in closed session and disclose, by name, the vote or abstention of every member present. Copies of any finalized contracts that are approved in a closed session must be made available promptly.

A highly-questionable such closed session took place at the October 2014 meeting of the Rodeo-Hercules Fire District. In that session the District Board approved an employment agreement with its highest-ranking employee that contained significant pay and benefit increases as well as other favorable contract terms for the employee. However, the agenda for that meeting had offered no hint that contractual terms of such financial importance to the District were to be discussed at the meeting. The agenda had merely referred to a contract amendment that was to be discussed. Not enough copies of the contract were available to the public prior to the Board going into closed session to discuss and vote on the contract. Indeed, the Board members themselves had not seen the text of the proposed contract extension until they entered the closed session to discuss the matter. Yet the extension was approved in that single closed session of the Board which lasted less than an hour. No members of the public remained for the announcement of the vote or for comment after the closed session.

As illustrated by this particular case, citizens need to be aware of their entitlement to open government and to the remedies they have at hand when they see violations of the Brown Act.

## **AGENDAS**

The Brown Act requires that a local public agency post an agenda that contains a brief general description of each item, including items to be discussed in closed session, at least 72 hours before a regular meeting on the public agency's building or kiosk. The agenda also must be posted on the agency's website, if the agency has a website.

## **DOCUMENTS**

The Brown Act requires that when public documents are provided to a majority of board members, the documents must simultaneously be available to the people. If there are not enough copies available at the time of the meeting, the board must be able to make and distribute sufficient copies.

## **REMEDIES**

There are statutory remedies for violations of the Brown Act. They are outlined below.

### **Cease and Desist Letter**

In 2012, SB 1003 was signed into law with an effective date of January 1, 2013. This legislation provides that a complainant or the district attorney may send a legislative body of a local agency a "Cease and Desist" letter within nine months of a Brown Act violation. After receiving such a letter, the legislative body does not have to admit fault for past violations of the Act, but only has to agree to abide by the law in the future.

### **Cure and Correct Letter**

A complainant or the district attorney may send a "Cure and Correct" demand letter to a legislative body for the purpose of stopping ongoing violations of the Brown Act or preventing threatened future actions. The target of the letter must correct the action within thirty days of receipt of the letter and notify the complainant within thirty days of their action or inaction. If the board does not respond within thirty days there is an assumption that no action will be taken.

### **Effectiveness of Remedies**

Most legislative bodies that violate the Brown Act will simply get a letter from the District Attorney advising them not to do it again. District attorneys' offices often look upon Brown Act violations as mistakes and oversights made by overworked and under-appreciated public servants.

When violations are treated in this fashion by public authorities, the public may well feel left out of the process and as a result, public confidence in government is eroded. The Grand Jury believes unresolved Brown Act violations have led to a decrease in public



trust, involvement and oversight.

## **FINDINGS**

- F1. Rodeo-Hercules Fire District, Reclamation District 799 and WCCUSD members appear not to be familiar with certain requirements of the Brown Act.**
- F2. Certain items were not identified correctly on the Rodeo-Hercules Fire District agendas, particularly those items discussed in closed sessions.**
- F3. Many members of the public do not know how to correct a Brown Act violation and do not know the time frame to object to a perceived violation.**
- F4. Certain shortcomings in following the letter and spirit of the Brown Act may have eroded the public trust in the Rodeo-Hercules Fire District, Reclamation District 799 and WCCUSD.**
- F5. At an October 2014 Rodeo-Hercules Fire District meeting, not enough copies of an employment agreement that was to be discussed that night in closed session were made available to the public.**
- F6. The public may need more than 72 hours prior notice of an agenda item relating to labor contracts to evaluate the financial impact or to review the boards assumptions in regard to sources of funding because these matters are often complex.**
- F7. Rodeo Hercules Fire District closed sessions are held at the end of evening board meetings, resulting in limited opportunity for public comment on the outcome of matters decided in closed session.**
- F8. Decisions reached on matters discussed in closed session and the identity of the board members who voted for matters decided in closed session have not always been disclosed at meetings of Rodeo-Hercules Fire District as required by the Brown Act.**
- F9. Rodeo-Hercules Fire Department does not have the staff to keep a website updated.**

## **RECOMMENDATIONS**

- R1. Rodeo-Hercules Fire District, Reclamation District 799 and WCCUSD should have annual training in the Brown Act for its board members and support staff.**
- R2. Rodeo-Hercules Fire District should have annual training concerning how to draft agendas that comply with the Brown Act.**
- R3. Rodeo Hercules Fire District should consider maintaining a website of the District's minutes and agendas, and identify funds to do so.**
- R4. Rodeo Hercules Fire District, Reclamation District 799 and WCCUSD should have a link for citizens to post concerns about possible Brown Act infractions, and identify funds to do so.**
- R5. Rodeo Hercules Fire District, Reclamation District 799 and WCCUSD should have a link to an organization such as The First Amendment Coalition ([thefirstamendmentcoalition.org](http://thefirstamendmentcoalition.org)) for both Cure and Correct and Cease and Desist letters, with instructions, and identify funds to do so.**
- R6. Rodeo Hercules Fire District, Reclamation District and WCCUSD Boards should consider voting to extend the review period for contracts involving large financial commitments.**
- R7. Rodeo Hercules Fire District, Reclamation District 799 and WCCUSD should have sufficient hard copies of supporting documents of items to be discussed in closed sessions before the closed sessions begin, and the ability to make and distribute sufficient copies if necessary.**
- R8. Rodeo Hercules Fire District should consider conducting its closed sessions prior to the beginning of an evening meeting rather than the end because members of the public are less likely to be present to comment at a late hour on matters reported out of a closed session.**

**REQUIRED RESPONSES**

	<u>Findings</u>	<u>Recommendations</u>
Rodeo-Hercules Fire Protection District	1, 2, 5, 7-9	1-8
West Contra Costa Unified School District	1	1
Reclamation District 799	1	1

**Public Records Request Log 2014-2015**  
**Week Ending June 30, 2015**

	<b>Date of Receipt</b>	<b>Requestor</b>	<b>Requested Records/Information</b>	<b>Current Status</b>
87	11/18/14	Fatima Alleyne	Washington School Budget / SSC SY 2009 -to- 2013	<b>4/3 and 5/18/15-Contacted Requestor to review documents</b>  <b>Requestor to schedule apt. to review</b>
176	3/23/15	Michael Strub Jr. Irell & Manella LLP	CA Healthy Kids Survey / CA School Climate Survey / CA Student Survey / LCAP / Student Information / Suspensions / Expulsions / Employment Information	<b>Extension Invoked</b>  <b>In Progress</b> <b>Gathering / Reviewing Documents</b>
197	5/19/15	Timothy Adams Schoolie	WCCUSD Student Information/Records for the past 5 years	<b>Extension Invoked</b>  <b>In Progress</b> <b>Gathering / Reviewing Documents</b>
200	6/8/15	Letitia Sorensen Donahoo & Associates	El Cerrito High School / Stadium Project Records	<b>6/16/2015</b> <b>Letter sent requesting fees</b> <b>6/25/2015</b> <b>Follow-up letter sent</b>  <b>Requestor responded/sending fees</b>
202	6/15/15	Jerry McClain Labor Commissioner State of California	El Cerrito High School / Stadium Project	6/26/15 Documents mailed <b>COMPLETED</b>
203	6/15/15	Steve Chamberlin	Wilson Elementary School Project	6/30/15 Sent via email <b>COMPLETED</b>
204	6/16/15	Jessica Scott CC Electrical Compliance	Lake Elementary School / Fire Alarm Modernization Project	6/26/15 Documents mailed <b>COMPLETED</b>
206	6/26/15	Sally Riley Construction Industry Force Account Council (CIFAC)	Coronado Elementary School Project	<b>6/30/2015 Email sent requesting fees</b> <b>Information Received</b>
207	6/26/15	Jeff Thomas	BONDS – Records/Information	7/2/15 Sent via email <b>COMPLETED</b>
208	6/29/15	Robbie Block	<b>#1-</b> Superintendent's District Credit Card records from start of employment in 2006 – present <b>#2-</b> Calendars	<b>In Progress</b> <b>Acknowledgement Email Sent</b>