

Van de Kamps Coalition's Complaint Leads District Attorney to Find LACCD's Board Routinely Violates the Brown Act In Going Into Secret Sessions "By Announcement"

Actions of General Counsel Camille Goulet and Outside Legal Counsel Gresham, Savage, Nolan & Tilden In Advising Or Participating In Closed Session Regarding Van de Kamps Traffic Restrictions Specifically Found By the District Attorney to Violate the Brown Act

Responding to a complaint filed by the Van de Kamps Coalition ("VDK Coalition") that the Los Angeles Community College District Board of Trustees illegally conducted a closed session regarding Van de Kamps litigation with its outside legal counsel, Gresham, Savage, Nolan & Tilden and Vice-Chancellor Adriana Berrera, the Los Angeles County District Attorney on April 6, 2012 issued a letter to the LACCD Board of Trustees with its findings of wrongdoing by District officials and its attorneys.

Additionally, going beyond the specific complaint raised by the VDK Coalition, the District Attorney also found the District's practice of placing on its closed session agendas items such as "Discussion with Real Property Negotiator as may be announced prior to closed session" or "Other litigation matters as may be announced prior to closed session" is inconsistent with the Brown Act's mandate that each item of business proposed for discussion or action be listed on a regular meeting agenda at least 72 hours prior to the meeting. As the District has been including these illegal "catch-all" closed session items on its meeting agendas since at least the hiring of General Counsel Camille Goulet, the VDK Coalition's complaint will bring an end of yet another "technique" of LACCD to operate in illegal secrecy and without accountability to the public.

On September 12, 2011, Los Angeles Superior Court Judge Ann I. Jones issued a written decision finding that LACCD violated the California Environmental Quality Act ("CEQA") in approving a lease of a building at the Van de Kamps satellite campus in Glassell Park to the Alliance for College-Ready Public Schools. The Alliance School is a charter high school that used its politically influential board members to get control of the building in a sweetheart lease offer by high-level staff of LACCD in July 2009. Since losing the CEQA case before Judge Jones, the District's attorneys, Gresham Savage, have refused to cooperate in the reduction of the court's decision into a final judgment and final order for the District to comply with CEQA. "The District is desperately trying to stall and evade the Court's requirement that it must overturn the Alliance Charter School's lease and prepare a new environmental impact analysis," said Laura Gutierrez, a member of the VDK Coalition's steering committee. "That is the usual remedy in CEQA cases," she said.

Part of LACCD's evasion of the Court's decision was a plan hatched behind closed doors with the attorneys representing the Alliance School and the City of Los Angeles (who occupies the rest of the Van de Kamps community college campus under a 5 year lease). "They are trying to persuade Judge Jones that there is no need to set aside the charter school lease agreement as part of the final judgment of the case. By entering into a Memorandum of Understanding (MOU) that the traffic restrictions once imposed on the campus when it was going to be a community college would be imposed of the Alliance Charter School and the City of Los Angeles under the current leases they hope to skirt the Court's conclusion that a supplemental EIR is required," said Miki Jackson, another member of the VDK steering committee.

But the Brown Act requires the adopting of such a MOU on traffic measures to be discussed and voted only in open session. Apparently, the District did not want the public, and especially the VDK Coalition, to know what it was up to, so the item was hidden in closed session under the false pretense that it was a "negotiation of the price or terms of payment" for a lease agreement. The District Attorney specifically found this action by District officials and its attorneys to be a clear violation of the Brown Act.

After analysis of the issues, the Public Integrity Section of the District Attorney's office concluded that "any closed session discussion about the [Van de Kamps] MOU as agendized pursuant to the real property exception of the Brown Act was impermissible." In fact, the District Attorney found the claim that consideration and approval of the MOU as any kind of real estate negotiation for which the Brown Act allows a closed session to be dubious at best: "the notation on the agenda that the price and terms of payment were the subject under negotiation with regard to the property is, at best, wholly misleading."

"The District Attorney, at best, was too polite. This is one more example of the sleazy and underhanded actions of the lying liars who run the LACCD. Camille Goulet, the General Counsel to the Board, knew full well that the Van de Kamps MOU was required to be considered in open session. Because she did not want us to know what they were up to before filing the MOU with the Court, Goulet allowed the MOU to be considered illegally in closed session," observed Gutierrez. This is not the first time Goulet has used bogus interpretations of open government laws to hide LACCD's activity from public scrutiny. She is also refusing to grant State Controller John Chiang access to financial records for the Van de Kamps campus construction. <http://citywatchla.com/archive/1715-laccd-board-must-terminate-its-general-counsel-now>

For years, Goulet has placed on LACCD closed meeting agendas the language that purports to allow the Board to consider any litigation and any bond construction issue it wants to through the magic phrase "or any other matters announced prior to the board going into closed session." Such language is blatantly illegal. As the District Attorney observed, "There is no provision in the Brown Act that permits an "add on" of additional items by announcement without proper notice that meets the applicable time requirements having been provided."

Finally, the District Attorney warned the LACCD Board that it must conform its

practices to the law. “Your agency, like every other public agency, is required to provide sufficient notice of any matter for discussion to the public so that a reasonable person would have sufficient, accurate information upon which to make further inquiry. The agendas reviewed in this matter [the Van de Kamps Coalition’s complaint] do not satisfy that requirement. We urge this board to review its obligations and demonstrate a renewed commitment to comply with the Brown Act, by providing accurate information and greater transparency with regard to the matters you consider as the agents of the public you serve.”

In its cover letter addressed to the Van de Kamps Coalition, the District Attorney thanked the Coalition: “We appreciate your interest in protecting the public’s right to open and transparent decision making by local governmental agencies. Thank you for your activism.”

The Coalition will follow up the District Attorney’s findings with a demand that the LACCD Board, commencing with its next meeting agenda, remove all language that suggests last minute items of business can be added to a closed session “by announcement by Camille Goulet or the Board President.” Additionally, the Coalition will inform that Board that if another violation of the Board Act occurs, the Coalition will seek enforcement of the Act including orders to tape record the closed sessions of the LACCD Board of Trustees.

“Because of the enforcement actions of the Van de Kamps Coalition arising from its current litigation against the LACCD, the closed sessions will no longer be a place where LACCD makes decisions behind closed doors that the public is guaranteed by our constitution to be made in public,” said steering committee member Miki Jackson. “A little more sunshine is a good thing.”