

M. Smith Public Comment on BOS 7/29/14  
Consent Calendar

Board of Supervisors, July 29, 2014 – Mark E. Smith Garden Valley  
Consent Comment

Two weeks ago there were 44 items on consent and this board spent 4,229,056 on those items alone. Last week there were 22 items on consent and it was impossible to compute the amount you spent because you hid the amounts in the wording and funding sources. This week there are 20 items on consent that total almost 1.7 million, but that's not really the total. Once again you hide the real dollar amount, out of sight from the public, and I expect, out of sight from yourselves.

What difference does it make how much money you spend. You can always get more from the taxpayers, right? Maybe a special police tax to add on to the fire tax, or maybe hike up those water fines to 10k per offense. Whatever it takes to extract more money from the serfs.

I see the same kind of abuse in the consent calendar this week as I did last – no costs listed, no accounting of how much is available in a particular fund, double or triple use of the same dollars, government funding of non-profits, contract awards to dubious providers and fraudulent listing of funding sources to name just a few.

But it is clear that trying to get through to the Four Horsemen of the Apocalypse isn't worth my time and effort.

After all, you are the Four who violated Melody Lane's 1<sup>st</sup> Amendment rights in this chamber on July 15<sup>th</sup> when you dictated what she could say. Just one week later you violated my 1<sup>st</sup> amendment rights on July 22<sup>nd</sup> when you refused to allow public comment on the small number of consent items I asked to be pulled from the long list of tyrannies you inflicted on the citizens of El Dorado County. ~~You violated all citizens free speech again today by refusing to pull items from consent.~~ you violated Melody Lane Free Speech AGAIN today.

You have made it a pattern of behavior to crush free speech in this chamber. This is something I never thought I would see in America. Today, you did pull some consent items AFTER demand. I ASK the public to READ my ATTACHED email Request.

You have committed multiple violations of the Brown act, regardless of what county counsel might say. I might add, if counsel's explanation is to be believed, since when is it county policy to make the personnel records of county employee's public?

You have refused to investigate multiple criminal violations of county contract administration. You have perpetuated this fraud by awarding more funding to said contractor after physical and audio evidence was provided to you during multiple BOS sessions and testimony provided.

You have abandoned the rule of law by adopting "rule by consent calendar" as described by the Mountain Democrat, testimony and evidence submitted by myself and others to the public record.

It remains to be seen how much longer the citizens of El Dorado County will tolerate rule by the Four Horsemen of the Apocalypse. I for one don't think it will be much longer. The PEOPLE put you up there, and the PEOPLE can bring you down. I suggest that you re-read your oath of office, especially the U.S. Constitution and Bill of Rights. Then, Mr. Mikulaco, get your head on straight.

Attachments (1):

1. This consent comment document
2. Email, Monday July 28 2014, requesting items be pulled from consent, from Mark Smith

See Below for further comment: RE BROWN ACT VIOLATIONS.

→ As reflected in the minutes from last week, comments made by County Counsel were during Consent Calendar, after the public commentary was closed. No public comment could be made, nor prepared. This was yet another violation of the BROWN ACT by County Counsel, covered up by Chris Daly in his propaganda report in the Mountain Democrat, where he claims those comments were made during Open Forum/public comment.

No one could disagree according to the rules, no one could be prepared for debate. The people were ambushed ONCE AGAIN!<sup>2</sup>


Then final paragraph 

**Mark**

**From:** Mark [REDACTED]  
**Sent:** Monday, July 28, 2014 11:24 PM  
**To:** 'edc.cob@edcgov.us'; 'bosone@edcgov.us'; 'bostwo@edcgov.us'; 'bosthree@edcgov.us'; 'bosfour@edcgov.us'; 'bosfive@edcgov.us'  
**Subject:** Please Pull from Consent July 29, 2014

**BOS and Clerk of the BOS:**

Please pull from consent for full public consideration and comment the following scheduled July 29, 2014 :

- #4 13-1385 ✓
  - #6 13-0220 ✓
  - #10 13-0549 ✓
  - #11 14-0933 ✓
  - #12 09-1101 ✓
  - #13 09-0978 ✓
  - #15 14-0918 ✓
  - #19 14-0980 ✓
- 14 NOT ME 

I will remind you that use of the consent calendar to suppress the free speech of the people and bypass the democratic process is in violation of your oath of office. This is not a request to pull these items from the consent calendar, it is a demand. You are the elected representatives of the people and the people have the right to have their business heard in the public square.

**Mark E. Smith**  
**E-Mail:** [REDACTED]  
**Phone:** [REDACTED]

*"They're on our right, they're on our left, they're in front of us, they're behind us; they can't get away this time!"*  
**Chosin Reservoir, Korean War**  
**Col. Lewis B. "Chesty" Puller, USMC**

It is my purpose to address what appears to be a deliberate attempt to bamboozle the public regarding the minutes of these Board meetings.

Last week I brought to your attention that the article I'd submitted during the June 15<sup>th</sup> Consent had not been posted prior to this Board's approval of the minutes. The article was entitled, "**The balancing act: Grand jury gobbledy-gook.**" That article still has not been posted. This is information the public has a right to know concerning the people's business.

As in months past corrections to the minutes remain unheeded. Additionally this Board has selectively determined which items they will pull from Consent and which ones they will ignore. Mr. Smith's request to pull ~~5~~ items from Consent for public discussion is a blatant violation of his 1<sup>st</sup> Amendment rights. The Board's impunity in their disrespectful violation of the basic principles stated in the preamble of the Brown Act cannot and will not be tolerated by the good citizens of this county.

When our public servants dictate "what is good for the people to know and what is not good for the people to know" and when they further violate our 1<sup>st</sup> Amendment Rights, then it is clear this county has slipped into the dark abyss of government tyranny.

Last week prior to Consent commencing Ed Knapp made it a point to make a statement about a Mtn. Democrat article citing that, *in his opinion*, there was no Brown Act violation. Yesterday, July 28<sup>th</sup>, Chris Daley penned yet another article entitled: "**County's Chief Lawyer: No Brown Act Violation**" which I'm submitting as evidence into the public record of more Bureaucratic Shenanigans.

My purpose today is to exercise my right to challenge Mr. Knapp's questionable interpretation of the law. I also challenge this Board to take seriously your Oaths of Office as well as demonstrate respect for the citizens who come before you with their legitimate concerns. This is the proper time and place to actively address those issues, not just silently tolerate them.

As you should be aware by now, AB1234 states just because something appears to be legal by County Counsel's interpretation, doesn't necessarily mean it is ethical. It is such discrepancies in the interpretation of the law that keep lawyers in business, and a very lucrative one at that.

#6,7,10

Inquiring minds would like to know: SO WHAT'S THE EXCUSE THIS TIME FOR RUBBER STAMPING THESE BOARD MINUTES AND CONSENT ITEMS...AVOIDANCE, STAFF INCOMPETENCE, DYSFUNCTION, STONEWALLING, FRAUD, DECEIT, ABUSE OF PUBLIC TRUST, BUREAUCRATIC SHENANIGANS, ARROGANT DISRESPECT FOR EDC CITIZENS...OR ALL OF THE ABOVE???

**Mr./Madam Clerk:** Please post these documents on the government website:

- 1) This transcript
- 2) Mtn. Demo article, "County's chief lawyer: No Brown Act violation"

# County's chief lawyer: No Brown Act violation

By [Chris Daley](#)

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El Dorado County Counsel Ed Knapp reiterated that there was no Brown Act violation related to a letter written by the Board of Supervisors that ran as an "Op Ed" in the July 2 Mountain Democrat. Knapp opened the public portion of the July 22 board meeting explaining that the letter, drafted during a closed session on June 24, was related to an evaluation of Chief Administrative Officer Terri Daly. The letter, signed by all four supervisors, expressed complete confidence in Daly's handling of county affairs.

The following was included in the minutes of the July 15 board meeting as the last piece of business of the day:

"Late report from County Counsel regarding this item — the board previously held a closed session for the performance evaluation of the chief administrative officer on June 24. The board, in that closed session, prepared a letter, later given to the press who later ran such as an Op Ed piece. County Counsel did not believe there was a reportable action, however, because the press has inquired, County Counsel reported the letter was authorized by the Board of Supervisors."

Citing a number of Government Code sections, Knapp later told the Mountain Democrat that actions taken during an employee evaluation are not "reportable" unless they result in some change in the employment status of the individual. Had they been reportable, he said the Brown Act would have applied and the matter would have to be agendaized. The board's action, composing the letter, did not have that result and therefore was not "reportable" and no Brown Act violation occurred.

The Ralph M. Brown Act demands transparency on the part of elected officials and dictates regulations regarding posting of the agenda, conducting the public's business in open sessions, allowing public comment on agendaized items and the like. Exceptions include, but are not limited to, certain personnel matters, negotiations with labor groups and negotiations related to the acquisition of real property.

Knapp said his discussion Tuesday was intended to acknowledge the public's concerns and "put the alleged violation of the Brown Act to rest."

Government Code section 54957 prescribes what can be done in a closed session, such as personnel matters, he said. Section 54957.1 (subsection A-5) spells out what items are required to be reported out from a closed session, and a 2006 decision by the state's Attorney General excludes the employee performance evaluation as a reportable action as noted above, he said.