



COUNTY OF SANTA CRUZ

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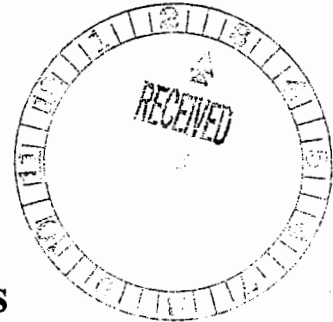
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June 23, 2004

Ms. Marilyn O'Rourke
528 Sumner Ave.
Aptos, CA 95003



RE: RESPONSE TO REQUEST FOR RECORDS

Dear Ms. O'Rourke:

At a public meeting of the Santa Cruz County Regional Transportation Commission held on June 17, 2004, you requested that the Commission provide you with any written documents considered during the closed session held by the Commission on May 20, 2004, and a copy of the Santa Cruz Branch Line Acquisition Business Plan. While you stated that the request was made pursuant to the Brown Act, this response will additionally consider the request as being made under both the Brown Act and the California Public Records Act.

The Brown Act

The Brown Act (Government Code §§ 54950 et seq.) governs meetings conducted by local legislative bodies establishing a "open meeting" requirement (*Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116.) The Act provides that where matters are not subject to a closed meeting exception, the deliberative processes of a legislative body shall be open and available for public scrutiny (*Sacramento Newspaper Guild v. Sacramento County Board of Supervisors* (1968) 263 Cal.App.2d 41.) With regards to matters considered in a closed session, the Act specifies what documents and reports must be made available to the public following the session (see Government Code § 54957.1 (b), a copy of which is attached).

Consistent with the statutory requirements of the Brown Act, there were no reports or documents made available to the public following the closed session held by the Santa Cruz County Regional Transportation Commission at its meeting held on May 20, 2004.

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The Public Records Act

The Public Records Act (Government Code §§ 6250 et seq.) was enacted in 1968 and provides that "every person has a right to inspect any public record, except as hereafter provided." The Act exempts from disclosure certain public records protected by federal or state law, including records relating to those privileges contained in the California Evidence Code (Government Code § 6254 (k)).

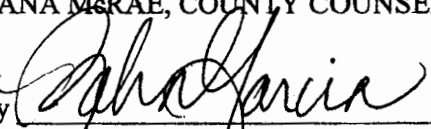
Evidence Code § 950 et seq., establishes the attorney-client privilege which is applicable to communications between public entities and their attorneys (*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363.) Consequently, the right to obtain records under the Act would not include documents subject to the attorney-client privilege, such as those written communications from counsel considered in a closed session authorized under the Brown Act.

In conclusion, the Brown Act did not require any report or the release of records considered during the closed session held by the Santa Cruz County Regional Transportation Commission at its meeting held on May 20, 2004, and there were no records considered in the closed session that are subject to release under the Public Records Act. With respect to your request for a copy of the Business Plan, the Chair of the Commission has already informed you that this plan is in the process of being prepared by consultants and has not yet been conveyed to the Commission.

Sincerely yours,

DANA McRAE, COUNTY COUNSEL

By


RAHN GARCIA

Chief Assistant County Counsel

cc: Santa Cruz County Regional Transportation Commission