

Changes in Brown Act upset officials.

By Michael Bell

News staff reporter

Although Deputy City Clerk of Brentwood Vilma Greelman last week said she waited until the final minute before distributing agendas for the Tuesday night City Council meeting, the last minute didn't stretch out long enough.

Greelman had to inform Councilwoman Barbara Guise that her attempt to place on the agenda an item about a proposed bacteria test was just too late.

Before amendments to the Brown Act recently took effect, Guise's foiled attempt would not have resulted in a delay of discussion on so important a matter. But that was before January 1.

"I couldn't get it on the agenda," said Guise, "but before, we could have discussed it during council reports."

The various boards, commissions, committees and other public bodies throughout California don't have a choice in the matter of whether to obey the state legislature.

As a result, instructions and memos have been generated by the California League of Cities, to inform these bodies of what changes have taken place.

A Nov. 14 memo also issued to various local bodies by the County Counsel's Office summarized the four changes in the Brown Act and discussed each of them. The changes include

- Prior postings of agendas with a brief description of each item to be discussed.
- Time for public comment during meetings.
- 72-hour prior posting of notice of meetings.
- Actions taken during meetings held in violation of Brown Act can be declared null and void.

Local officials appear to agree unanimously that the greatest change in the conduct of meetings will occur as a result of the amendment which restricts discussion at meetings to items on an agenda.

"I think it's going to slow it down," said Guise. "You will not be able to talk freely."

As far as Guise seems concerned, this portion of the law appears unnecessary because the council meetings are conducted in public and not behind closed doors. "They're open meetings," she said. "I think things are getting a little carried away here."

Guise explained that a local citizen had requested she place the matter about the proposed bacteria test on the agenda. The test is certainly a matter of concern to people, she said, but now they'll have to wait two weeks before the council can openly talk about it as a public body.

Laine Lawrence, a Brentwood planning commissioner, said the amendments hurt in another way because now local government can't attend to what she called "housekeeping."

Lawrence said not being able to clean small matters up like this, or take care of items that just come to mind, is going to hurt commissioners in the performance of government. The important items should be on the agenda anyway, she argued, but now the commission will have to include the small, housekeeping items too.

"That I think is something that's going to be a little difficult. There's always something you notice and want to talk about," she said.

City Manager Harry Gill agrees the measure has taken matters too far. "You make it so restrictive you hamper the spirit of representative government," he said.

"I think there's certainly going to be a testing period, a learning period when we'll all be getting more comfortable with what we can and cannot do," said Gill.

Another consideration government officials will surely be taking into account is that the amended law allows the nullification of measures passed in a meeting not held in accordance with the Brown Act.

"Previously, I think if it was determined that if it had been detrimental, then it could be determined by the courts that it was void. This sort of mandates that it's null and void period," said Gill.

Another question, said Gill, is that if a measure is declared null and void because it was passed during a meeting that violated the Brown Act, is it declared null from the moment when the law went into effect, or from the moment when the court determined a violation of the Brown Act?

"Maybe it was setting a fee," said Gill. "Does it mean...that the city would have to pay back thousands of dollars or something that they overcharged because they made a determination of a violation of the Brown Act? These are questions we don't know the answer to."

"The law is very long and complicated. I think as far as being specific or clear, there's a lot of loopholes and open ends."

