



July 10, 2006

Office of the Board of Supervisors  
Attn: Katcho Achadjian, Board of Supervisors  
County Government Center  
San Luis Obispo, California 93408-2040

Re: SCAC Response to 2005-06 San Luis Obispo County Grand Jury Report: "Area Advisory Council Resolution"

The May 19, 2006 Grand Jury Report, "Area Advisory Council Resolution," requires response from Planning and Building, County Counsel, and the Board of Supervisors. Since the South County Advisory Council (SCAC) was mentioned by name in the report, we believe our response to allegations in the report will have merit. As we were not requested to respond directly, we are providing the attached comments to the report to aid you in preparing your (mandatory) response.

Most of the findings of the Grand Jury were general, and did not apply to the SCAC, but some were directed at our council. A subcommittee of the SCAC drafted the attached response that was unanimously endorsed by the entire SCAC.

Respectfully submitted,

Ed Eby  
2006-2007 SCAC Chairman

Attachment: COMMENTS ON THE 2006 GRAND JURY REPORT ON COMMUNITY  
ADVISORY COUNCILS

cc: Victor Holanda, Director, Planning and Building  
James B. Lindholm, Jr., County Counsel  
Board of Supervisors (please distribute)

# COMMENTS ON THE 2006 GRAND JURY REPORT ON COMMUNITY ADVISORY COUNCILS

## Introduction

The South County Area Council (SCAC) has reviewed the Grand Jury report and sought to correlate the observations and findings to recent activities of the SCAC. The Grand Jury did not indicate its motivation for investigating the Area Advisory Council Resolution, but it appears obvious from earlier reports from this Grand Jury that the investigation was complaint driven. The report was generally vague in its descriptions of weaknesses in the system, so this commentary will try to address those issues that might apply to the SCAC.

## ADVISORY COUNCIL RECOGNITION

A primary concern of the Grand Jury was the recognition of the advisory councils. The SCAC compliance with the recognition criteria established by the authorizing "Resolution" is noted below:

1. *"A community advisory council must be based in and represent a defined community within an established Urban or Village Reserve Line, which can include representatives from outlying or surrounding unincorporated areas associated with the community."*

The SCAC clearly meets the first criterion since it represents all of the area described in the General Plan's South County Area Plan (SCAP). This includes one Urban Reserve zone and six Villages.

2. *"Community advisory council membership should reflect a broad cross-section of the community."*

All voting members in the SCAC are elected by the general population of the areas they represent. Each area is of approximately equal population. Two "at-large" council members, representing Public Safety and Agriculture are elected by the entire area population.

3. *"Advisory council meetings should occur regularly and be publicly noticed in a timely manner, and open to all members of the public."*

The SCAC holds public meetings, with public comment, on the fourth Monday of each month as specified on our website and bylaws. The meeting agendas are published at least 72 hours in advance on the website, the community e-group, and in e-mails to the press. The meetings are conducted with the intent of being in compliance with the Brown Act.

4. *"Advisory council bylaws will be established and maintained which direct the organization and protocol of the council. These should include a statement of purpose, rules of order, frequency of meetings and method of appointment of subcommittees, and appointment or election of council members."*

The SCAC bylaws are published on the website. They are regularly revised, approved, and provided to the Board of Supervisors as situations change.

5. *"Recommendations made by the advisory council and forwarded to the Board of Supervisors or Planning Commission should be arrived at by majority vote of a quorum of the membership, with as much public input as is feasible."*

The SCAC publishes minutes of its full council and committee meetings on its website. A summary of all votes and recommendations is sent to the Board of Supervisors, the Planning and Building and Public Works Departments, and the press after the monthly meetings.

Verification of the SCAC's authenticity, a discretion of the Board of Supervisors, has never been an issue.

## TRAINING

The Grand Jury report states that the advisory councils receive training from the County's Planning Department. In reality, a one-day orientation is offered each year, but it is not mandatory or fully attended. Many SCAC members have been on the council for several years, and do not attend "retraining." Most of the attendees are newly elected council members. All SCAC members are eligible for a set of General Plan volumes, including the Land Use Ordinance. This library was purchased from the County with a grant from Save the Mesa.

The Grand Jury report's conclusion that there is not enough "training" that the councils' are only advisory seems off the mark. The SCAC membership has no illusions that it does more than give advice. Any misperception of our advisory status appears to be that of the Grand Jury.

## CONTROVERSIES

Since it has been established that the councils are advisory, it is difficult to understand how "permit applications have been held up awaiting input from a council." This criticism may have originated from a specific complaint the Grand Jury doesn't choose to share, and therefore cannot expect serious consideration. We cannot speculate about vague and unsubstantiated complaints.

Public apathy is a deficiency the SCAC cannot remedy. We conduct a massive publicity campaign starting over a month before our yearly elections. We maintain a very informative website, and we are regularly the subject of newspaper, radio, and TV features. Some of our geographical areas have very active citizen participation, while others have very little. We currently have 14 elected members and one ex-officio councilperson, with 2 unfilled seats. Our meetings are usually attended by 50-60 members of the public, press, and local government.

## PUBLIC MISCONCEPTION

The theme that either the public or the advisory councils believe there is governmental authority over land use issues is pervasive in the Grand Jury report. The SCAC gives advice to the Planning and Building Department, the Planning Commission, the Board of Supervisors, and LAFCO. All of these bodies have no misconception of our authority. We know we only give advice, and they know it is only advice. It seems only the Grand Jury, and other interests who do not want scrutiny, have voiced this complaint.

We find the following statement misleading:

*"The Nipomo Advisory Council stated on their web site that they are a "governing body" -- later changed to "governing council." They also have taken a web address in the domain of .ca.gov, which customarily identifies official California government agencies.*

The complete quote from the website is, "The SCAC is a governing council, but one without the authority to tax or enact ordinances. The SCAC lacks the capacity to implement many of its positions directly and seeks to accomplish those goals through county government." We clearly state our limitations and lack of authority. An incomplete quote like this creates a false argument. *In order to avoid confusion, we have changed the website to state that we are an "advisory" council.*

The Grand Jury also seems to take offense with our website domain name. This seems to be a result of their lack of understanding of Internet protocol. The California Department of Technology Services specifically authorized and permitted the SCAC to use the "scac.ca.gov" domain name under their policy that, "Historically, CA.GOV domains may be requested by almost any type of state government or associated entity." We are certainly an associated entity to a type of state government, the County Board of Supervisors. You will notice the County uses the domain name "slocounty.ca.gov." In fact, the Grand Jury is

eligible for a “.ca.gov” domain name, a choice that would not meet opposition from the SCAC.

## FINDINGS

The SCAC comments are noted below:

1. *There is no method or mechanism for verifying whether applicants for council status, or existing councils, meet the recognition criteria set forth in The Resolution.*

While there may be no mechanism, simple examination of the advisory council bylaws should be sufficient for verification.

2. *Multiple groups can lay claim to advisory council status in the same area.*

This seems to be an isolated case with no application to the SCAC.

3. *Advisory councils are listed as a “check-list item” on applications for county building permits.*

No comment.

4. *Advisory councils receive training from the Planning Department.*

No comment

5. *County Council is obligated to defend legal actions against advisory councils and the county must indemnify councils against losses in litigation.*

No Comment

6. *Certain discretionary permit applications must be acted upon within time constraints defined by state law.*

This seems irrelevant to the advisory councils, since their recommendations are not subject to enforcement.

## RECOMMENDATIONS

The SCAC comments are noted below:

1. *The Board of Supervisors should assume responsibility for assuring the conditions of The Resolution for recognition are met. The Resolution should be amended to establish a procedure for determining if groups applying for or claiming advisory council status meet the requirements of The Resolution. (Finding 1)*

The SCAC sees no reason for adding a cumbersome provision for the Board of Supervisors. We have no objection to such a provision, but find it as a solution where there is no problem.

2. *The Board of Supervisors needs to implement a method of resolving conflicts which arise from applications for recognition by competing councils in the same area. (Finding 2)*

We have no objection to such a provision, but find it as a solution to an isolated incident in another advisory council.

3. *All check-off items and other references to advisory councils should be removed from all county permit application forms. A side-letter should be made available to all permit applicants informing them of the advisory councils purpose, legal status, and role (or lack thereof) in the approval process. (Finding 3)*

This is a bad idea. In fact, referrals to the advisory councils are a formal part of the process defined on page 33 of the Community Advisory Council Handbook. The check box on the forms insures that this part of the process has been completed. The Planning and Building Department, the Commissioners, and the Supervisors should know the degree and nature of representative public input. The recommendation for a side-letter seems to remedy a misconception that only the Grand Jury possesses. Reminding the permit applicants about a fact that all informed parties already know serves no purpose in expediting the approval process.

4. *The Planning Department should reassess training of advisory council members and the manual used for this purpose to assure they include an extensive section explaining the purpose, reason for existence, role in the approval process, and legal status of the councils. It should clearly explain their role is strictly confined to soliciting community input for the purpose of giving advice during the approval process. The first sentence (and any subsequent sections) of the training manual for council members should be revised to eliminate any implication that official duties are assigned to the councils. (Finding 4)*

We have no objection to such a provision. Since the "training" is optional, we doubt this will have any effect in the Grand Jury's attempt at clarifying misconceptions.

5. *Training should make clear that members are responsible for their individual actions on the council as well as the collective actions of the council. They should be apprised of the fact that there is a potential for legal liability for their actions. This portion of the training should be conducted by County Counsel. (Findings 4 & 5)*

We have no objection to such a provision. Since the "training" is optional, we doubt this will have much effect in educating the councils.

6. *County Counsel should provide council members with an explanation clearly defining the conditions under which the county will, or will not, provide legal defense and indemnification to the councils and their members. (Finding 5)*

This recommendation appears redundant to 5.

*7. Advisory councils should respond to issues within the same time frame as is required of the Planning Department if their advice is to be considered. (Finding 6)*

This is a difficult proposition. The SCAC meets once a month. If a referral is received one day after cutoff for consideration, the issue will not see any recommendation for a full month. The SCAC has never been informed that late project referral recommendations have been a problem.