
From: tony higgins <tony.higgins123@gmail.com>
Sent: Wednesday, November 27, 2019 9:43 AM
To: City Council <citycouncil@hermosabeach.gov>
Cc: Michael Jenkins <Michael.Jenkins@bbklaw.com>; Suja Lowenthal <suja@hermosabeach.gov>; Ann Yang <anny@hermosabeach.gov>; Gary Mammet <gary@mammet.net>; Walter Booty <walterbooty@outlook.com>
Subject: Brown Act Cure & Correct Demand Letter

*Mayor Campbell
Members
Hermosa Beach City Council*

Brown Act Cure & Correct Demand Letter

Dear Mayor Campbell ,

*This letter is to call your attention to what I believe was a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of the action taken by **the Hermosa Beach City Council***

*The nature of the violation is as follows: In its meeting of November 21, 2019, the Hermosa Beach City Council took action to bypass the normal Mayor Pro-Tem rotation recommended by the City Clerk without discussing the justification for bypassing the normal rotation in advance in open session and without giving the public a chance to provide informed input. **While I fully support Mayor Campbell and truly believe she will make a good Mayor I cannot accept that the public could not have been notified in advance of the plan to bypass the normal Mayor Pro-Tem rotation recommended by the city clerk in the below referenced agenda, I cannot accept that a public discussion was not held on the actions that justified this bypass, however painful that discussion might be, and I cannot accept the public was not given an opportunity to make informed comments on this matter.***

This violates the very spirit of the Brown Act if not the letter of the law and raises the appearance of a back door deal.

http://hermosabeach.legistar1.com/hermosabeach/meetings/2019/11/12/55_A_City_Council_19-11-21_Adjourned_Meeting_Agenda.pdf

The action taken was not in compliance with the Brown Act because it occurred as the culmination of a discussion in closed session of a matter which the Act does not permit to be discussed in closed session, there was no adequate notice to the public on the posted

agenda for the meeting that the matter acted upon would be discussed, and there was no finding of fact made by the **Hermosa Beach City Council** that urgent action was necessary on a matter unforeseen at the time the agenda was posted.

Pursuant to that provision (Government Code Section 54960.1), I demand that the Hermosa Beach City Council cure and correct the illegally taken action as follows: vacate the appointment of Councilman Massey as Mayor pro-tem and provide the public the opportunity to comment on which it was deprived, e.g. the formal and explicit withdrawal from any commitment made, coupled with a disclosure at a subsequent meeting of why individual members of the legislative body took the positions — by vote or otherwise — that they did, accompanied by the full opportunity for informed comment by members of the public at the same meeting, notice of which is properly included on the posted agenda. Informed comment might in certain circumstances include the provision of any and all documents in the possession of the local agency related to the action taken, with copies available to the public on request at the offices of the agency and also at the meeting at which reconsideration of the matter is to occur.)

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would also ask the court to order you to pay my seek court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Respectfully yours,

Anthony Higgins

End

Dear Ms Yang

Please include this as a written communication to the next city council meeting

Thank you