

# City of Hermosa Beach

Civic Center, 1315 Valley Drive, Hermosa Beach, CA 90254-3885

Hany S. Fangary, Councilmember

hfangary@hermosabch.org

310-340-4773

December 4, 2019

Mayor Mary Campbell  
City of Hermosa Beach  
1315 Valley Drive  
Hermosa Beach, CA 90254  
Email: mcampbell@hermosabch.org

Re: **Request to Retract November 23, 2019 Press Release**

Dear Mayor Campbell:

As you know, I sent you a letter on November 28, 2019 requesting that you and the City of Hermosa Beach ("**City**") immediately retract the press release issued on November 23, 2019 ("**Press Release**") for five reasons listed in my letter. I have not yet received a response to my November 28, 2019 letter.

You elected to schedule a Special Meeting tonight to further discuss the appointment of the Mayor Pro Tem position, even though you have not yet responded to the issues I raised in my November 28, 2019 letter. Therefore, below is a summary of the reasons I believe the Press Release you issued was inappropriate and should be retracted.

## **1. You Had No Right To Issue The Press Release**

City press releases should not be issued by the Communication Subcommittee based on the position of the committee members, or solely on the Mayor's position. Press releases should be limited to issues on which a majority of the Council has specifically taken a position.

The Press Release included the following statement:

"I was sad that the Council's vote caused disappointment for the councilmember who was next in line, Hany Fangary," Mayor Campbell added. "He and I had discussed the need for him to work collaboratively with the city manager, but he's publicly stated that he has no confidence in the city manager and has not spoken or communicated with the city manager for several months. To make him mayor pro tem would create an unworkable situation because the mayor pro tem's role requires communication and coordination with the city manager on an almost daily basis. I would welcome his rotation to mayor pro tem when he is willing to work with the city manager."



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Although that may be your personal opinion, the City Council has not voted on, evaluated this position, or taken any other substantive action regarding this issue, at any public meeting or during any closed sessions. The Council has not taken a position, through a motion by a majority of Council, or through any other formal means, that is consistent with the statements you included in the Press Release. As such, you had no authority by the City Council to include the statement above and have it issued by the City.

## **2. Statements Included In The Press Release Are False and/or Misleading**

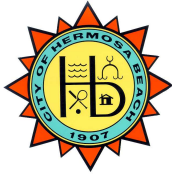
### **a. Communications with Suja for the past few months**

The Press Release states that Councilmember Fangary “has not spoken or communicated with the city manager for several months”, which is blatantly false. There is plenty of evidence, in dozens of our City Council meetings, both public meetings and closed session meetings, in which I clearly communicated with the City Manager. In fact, I believe the very last statement I made in our latest City Council meeting on 11/18/2019 was to thank Suja for re-scheduling the agenda item regarding Approval of the Municipal Lease Policy to the January City Council meeting, in response to my request.

In addition, prior to most City Council meetings, I send my questions regarding staff reports to Ann Yang for her to pass on the questions to the appropriate staff member. Typically, prior to the City Council meeting, I receive emails from staff with responses to my questions, which Suja is copied on. If I have any other questions regarding these issues, I respond back to the staff member, and copy Suja on my communication. I have been doing this in preparation for City Council meeting for the past several years, well before Suja was hired. I have dozens of emails over the past few months that prove these numerous communications with Suja and City staff.

In preparation for tonight’s City Council meeting, I went through the emails I sent either directly to Suja or to City staff, copied to Suja. I did not include all sent emails as some of the emails included references to closed session issues or were copied to the City Attorney. Excluding emails that were privileged and/or confidential, I sent almost 100 emails to Suja over the past few months, since the beginning of May. I printed these emails, and considered attaching them as an exhibit to this letter, but did not think that would be very helpful. However, I will have them with me at the meeting tonight if you or anyone else would like to review them. Some may think that sending 100 emails to Suja in a few months may be too much communication.

Contrary to the statement included in the Press Release, there is no protocol or requirement that mandates that a councilmember, irrespective of their role on the Council, needs to communicate with the city manager on a daily basis. Frankly, I believe such communication would be excessive, and may be construed by the city manager as micromanaging their



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responsibilities. The fact that you may elect to be in communications with Suja on a daily basis does not make that a requirement of the role of the Mayor Pro Tem.

Although my communications with Suja, and City staff, for the past few months have been primarily through emails or text messages, I never stated that I would be opposed to participating in meetings or conference calls if that is needed in my role as mayor pro tem. If you concluded that for some reason that I was not prepared to do so, that was an incorrect assumption.

**b. The Mayor Pro Tem's role does not requires communication and coordination with the city manager on an almost daily basis**

Your assertion in the Press Release that Mayor Pro Tem's role requires communication and coordination with the city manager on an almost daily basis is false, and not supported by my own prior experience as Mayor Pro Tem, or by Justin Massey's experience as Mayor Pro Tem during the time I served as Mayor.

During the time I served as Mayor, and Justin served as Mayor Pro Tem, the only tasks the Mayor Pro Tem was expected to do in addition to the councilmember's duties were coordinating issues relating to the City Council agendas with the City Manager twice a month and representing the city at events if the Mayor is not available to do so. These tasks do not require coordination with the City Manager on an almost daily basis, and I suspect Justin did not coordinate and/or communicate with the city manager when he was the mayor pro tem anywhere near a daily basis. Further, I never said that I would not communicate with Suja, or her staff, to satisfy the requirements of my role as mayor pro tem.

**3. Statements Included In The Press Release Violate My Privacy Rights**

One of the issues you raised in the Press Release about my conduct was the fact that I publicly stated that I have no confidence in the city manager. However, I clearly and specifically cleared with our City Attorney Michael Jenkins what I publicly announced, and limited my announcement to the very short sentence or two that Michael Jenkins approved. I did that, as instructed by our City Attorney, out of respect for Suja's privacy rights.

Yet, the statements you made in the Press Release, in addition to being false and misleading, constituted a significant negative evaluation of my job performance, and did not respect my privacy rights. In addition, you were not authorized by a majority of the Council to include these statements about my job performance in the Press Release.



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#### **4. Statements Included In The Press Release Are Confidential**

Statements included in the Press Release included information that was exchanged during the City Council's Closed Session meetings. These communications are privileged, and as our City Attorney has previously communicated to Council, the City Council holds the privilege and may in its discretion by majority vote waive the privilege, which the Council has not done. Therefore, you had no authorization to disclose any information that was communicated during the Closed Session meetings, which you have in the Press Release.

I feel bound by my obligation as a councilmember not to disclose any of the privileged information discussed in close session. As such, your actions have placed me in the very difficult position of asserting that my actions are unprofessional and unacceptable, yet I am unable to defend myself because doing so would require me to share information exchanged during Closed Session meetings, which I construe as privileged and that such privilege cannot be waived without a majority vote of the City Council.

#### **5. Statements Included In The Press Release Negatively Impact My Reputation**

As stated above, I believe most of the statements you included in the Press Release about me are either false, misleading, or were part of the Closed Session privileged communications. The false and misleading statements you made against me, which for the reasons listed above I am precluded from responding to, have significantly negatively impacted my reputation, and unless you and the City retract these statement immediately, the damage to my reputation will continue.

Sincerely,

Hany Fangary,  
Councilmember

cc: Michael Jenkins ([Michael.Jenkins@bbklaw.com](mailto:Michael.Jenkins@bbklaw.com))