

Hermosa Beach City Council

City of Hermosa Beach

Dear City Council,

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 City Council of Hermosa Beach. I bring this to your attention, as there has been a repeated pattern of lack of transparency in our City. Through City Council's private communications, deliberations, and the expansion of sub-committees, actions are often predetermined and the public's right to participate in a meaningful and informed manner is curtailed.

The nature of the violation is as follows: At its meeting on November 21, 2019, the Hermosa Beach City Council took action to appoint Councilmember Campbell as the new Mayor of Hermosa Beach. The item, listed on the agenda as "Appointment of Mayor and Mayor Pro Tem", was opened by Mayor Stacey Armato with her quickly nominating Councilmember Campbell, and without a second, her calling for a formal vote.

The action taken was not in compliance with the Brown Act because it did not allow for public participation. The rights of the public were intentionally curtailed because there was no opportunity to publicly comment. Now that the City's position that the mayoral rotation is not mandatory, the public may wish to comment on who is best equipped to be Mayor given the significant challenges the City faces at this time. Either way, the public should be provided this opportunity and proper steps should be taken to ensure we have a properly appointed Mayor.

In addition, at the December 4th meeting in which the City Council attempted to correct the violations related to the appointment of the Mayor Pro Tem, there are also unresolved inconsistencies concerning Councilmember Campbell and Councilmember Armato's statements on that matter.

Councilmember Campbell addressed why she had not communicated with Councilmember Fangary on the matter beforehand: *"There are a number of concerns expressed about the lack of Councilmember Fangary's lack of notice ahead of time about the break in tradition, I understand these sentiments, I had the same ones myself, but the California Brown Act prevents us as colleagues any matter that could produce a decision"*. She continued, *"I did make the motion, and while I felt it was completely the right thing to do, I was completely prepared for the motion to die without a second."* And finally, in closing she stated in frustration referring her decision *"you cannot speak to your colleagues before a public meeting"*. Based on what she said, Campbell did not discuss the matter with her colleagues.

In Councilmember Armato's statements, however, she stated *"I was prepared at that meeting to defend the Mayor's nomination of Justin Massey as Mayor Pro Tem, I had my list of reasons that I wasn't going to dig into unless we had questions or comments from our colleagues."* Clearly, Councilmember Armato was aware of the plan to appoint Justin Massey as Mayor Pro-Tem before the hearing. Based on Councilmember Campbell statements that she did not discuss the matter with her colleagues, Councilmember Armato must have found this information out from someone else. This certainly raises

concern about a serial meeting and exactly who was involved in sharing this information to Councilmember Armato and if she shared it with Councilmember Massey or others.

As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a “brief description” of each item to be discussed or acted upon, and also creates a legal remedy for illegally taken actions—namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

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: Hold a properly noticed hearing and provide the public the awareness and opportunity to comment of which it was deprived. Provide a 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 court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Respectfully yours,

Kenneth A. Hartley