



OFFICE OF THE DISTRICT ATTORNEY

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

DAN DOW
District Attorney

SPECIAL PROSECUTIONS UNIT
KENNETH JORGENSEN
Deputy District Attorney

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By e-mail message only

Mr. John F. Weigold
General Manager
Cambria Community Services District
jweigold@cambriacsd.org

RE: Notice of Ralph M. Brown Act Violation

Dear Mr. Weigold:

Please accept this letter as a notice of a Brown Act violation concerning a closed-session meeting that took place on March 11, 2021. In sum, the meeting packet should have included a communication by Mr. Drayer threatening potential litigation concerning the District's compliance with the Voting Rights Act. This violation resulted in a delay in the public's knowledge of the threat. It also prevented a meaningful public comment before the Board went into closed session. As such, this office requests the District to commit to observing the applicable closed-session rules in the future.

Our office recently received a complaint concerning the District's closed-session meeting at its March 11, 2021, meeting. The District's description in the agenda was posted as follows:

6. ADJOURN TO CLOSED SESSION

A. Public Comment

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED
LITIGATION Significant Exposure to Litigation Pursuant to Government
Code Section 54956.9(d)(2) One Potential Case

In review of the Board's website, the agenda packet does not include any other information about the closed session item. Likewise, a review of the video of the meeting shows that when the item was called, no further information was provided. Hence, it appears the "significant exposure" was unknown to the public at the meeting.

Eventually, the Cambria community became aware of Mr. Drayer's communication at the District's April 15, 2021, meeting. But more than 45 days had elapsed from the District's receipt of the exposure to the litigation (as well as another Board meeting). It is well known of Mr. Drayer's similar demands on other local agencies and of the robust

public discussion it has generated. As such, this violation in particular—although not resulting in any present prejudice to the public—touches upon the core of California’s strong laws that favor an open and transparent government. As the Court in *Olson* held:

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

(*Olson v. Hornbrook Community Services Dist.* (2019) 33 Cal.App.5th 502, 525)

Furthermore, this office is guided by the court in *Epstein*, which warns against turning a blind eye to Brown Act violations referring to them as a “subterfuge.” (*Epstein v. Hollywood Entertainment Dist. II Bus. Improvement Dist.* (2001) 87 Cal.App.4th 862, 872.)

Here, the Brown Act required Mr. Drayer’s communication to be placed into the Board packet. (See Government Code §§ 54957.5 and 54956.9(e)(3); See *Fowler v. City of Lafayette* (2020) 46 Cal.App.5th 360, 370 [holding that the letter needs to be produced even if the Board is orally told of the contents of the significant threat of litigation].)

Ultimately, the Cambria community became aware of the issue and a discussion commenced. No other apparent significant lingering prejudice seems present with this violation, warranting a request of significant correction. Accordingly, the District is requested to review this matter under Government Code section 54960.2 and agree to commit to future compliance with this provision concerning closed session items.

I look forward to your response.

Very truly yours,

Dan Dow
District Attorney



Kenneth Jorgensen
Deputy District Attorney
Special Prosecutions Division

Cc: Tim Carmel, District Counsel