

Scott Pelka

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Lancaster, CA 93534-2008
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April 2, 2012

Mayor R. Rex Parris
City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534

Mayor Parris:

This letter is to call to your attention to what I believe were substantial violations of the central provisions of the Ralph M. Brown Act, one which may jeopardize the finality of the actions taken by the Lancaster City Council.

The nature of the violations is as follows: Beginning on February 28, 2012, and continuing at each City Council meeting that has followed, the City Council has not announced nor disclosed verbally the lawsuits that are being discussed in closed session.

Beginning on February 28, 2012, and continuing at each subsequent City Council meeting that has followed, the city council or city attorney has not appropriately disclosed or updated the public on the status of the many lawsuits the city is currently pursuing.

On March 13, 2012 the City Council took action that was not on the agenda by appointing Kit Yee Szeto to the Lancaster Housing Authority. CA1 was specific concerning the appointment of Council Member Marvin Crist.

On March 13, 2012 the Council refused to allow the public to comment on agendized Items NB2 and CA1. Mr. Rives was denied the right to speak, as is verified by the recorded minutes from that meeting. Further, it is believed that the appointment of Kit Yee Szeto would constitute a clear conflict of interest as she is employed by the Mayor, and represents his personal interests, not those of the citizens of the city of Lancaster.

On March 13, 2012 the city took action on an item during the non-agendized portion of the city council meeting by reversing their vote on an earlier action.

On March 27, 2012 the City Council Meeting was called to Order with only one council member in attendance, which is clearly not a quorum.

On March 27, 2012, the "meeting," as legally defined by the Ralph M. Brown Act, began a full one and a half hours after the posted noticed start time for the meeting.

In total, there were eleven violations of the Ralph M. Brown Act that took place:

#1. No verbal announcement of closed session items – February 28th, 2012

54957.7 (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

#2. No verbal announcement of closed session items – March 13, 2012

54957.7 (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

#3. No verbal announcement of closed session items – March 27, 2012

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#4. No public disclosure upon the conclusion of closed session – February 28, 2012

54957.7 (b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

#5. No public disclosure upon the conclusion of closed session – March 13, 2012

54957.7 (b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

#6. No public disclosure upon the conclusion of closed session – March 27, 2012

54957.7 (b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

#7. City Council took action on an item that was not on the agenda – March 13, 2012

54954.2 (a)(1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

#8. The city did not allow public testimony on agendized items NB2, and CA1 – March 13, 2012

54954.3(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total

amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

#9. Took action during the non-agendized portion of the meeting that was not on the agenda – March 13, 2012

54954.2(a)(1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

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#10. City Council meeting called to order without a Quorum – March 27, 2012

54952.2 (a) As used in this chapter, "meeting" means any congregation of a **majority of the members of a legislative body at the same time and location**, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

#11. City Council meeting began one and a half hours AFTER the posted, and legally noticed starting time – March 27, 2012

54954. (a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

Past actions of this City Council show a complete disregard for the Brown Act, and no respect for public comment and/or opinion. This leaves me no choice but to request all meetings that have been conducted since the installation of the current council be analyzed for other violations of not only the Brown Act, but of citizens' civil rights. Further, I request that all appropriate remedies be required and enforced, and that the March 27th meeting be nullified as it was not appropriately noticed to the public as to the start time of the meeting.

Respectfully yours,

Scott Pelka

cc:

Lancaster City Council members

- Ronald Smith, Vice Mayor
- Marvin Crist, Councilman
- Ken Mann, Councilman
- Sandra Johnson, Councilwoman

Mark Bozigian, Lancaster City Manager

David McEwen, Lancaster City Attorney

Steve Cooley, Los Angeles County District Attorney

Kamala Harris, California State Attorney General

R. Rex Parris, Mayor
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