



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
PUBLIC INTEGRITY DIVISION

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December 2, 2015

Honorable Members of the City Council
City of Carson
701 E. Carson Street
Carson, California 90745

Re: Complaint of Brown Act Violations
Case P15-0435

Dear Honorable Members of the City Council,

We have received a complaint alleging violations of the Ralph M. Brown Act (the Act) at the June 16, 2015 Carson City Council meeting. From our review of the audio-video recording of the meeting, it appears that a majority of the then three-member City Council had previously engaged in improper communications regarding city business outside of an authorized meeting in violation of Government Code section 54952.2.

At the City Council meeting on June 16, 2015, three members were present: Mayor Albert Robles, Mayor Pro Tem Elito M. Santarina, and Councilmember Lula Davis-Holmes. At that time, the other two seats on the Council were vacant, one pending results from the election held on June 2, 2015.

The agenda contained a description for Item 32 as follows: "FURTHER CONSIDERATION OF AN APPOINTMENT TO FILL THE VACANCY ON THE CITY COUNCIL CREATED BY THE APPOINTMENT OF MAYOR ROBLES (CITY COUNCIL)." Under this description it further read, "Recommendation: CONSIDER and PROVIDE direction." This was followed by an electronic attachment entitled, "Exhibit 1 Letters of Intent." The attached electronic file contained a list of 14 names of individuals evidently interested in being appointed to fill the vacant Council seat held by Robles, with letters and reference materials from each individual. Jawane Hilton was one of the 14 names on the list.

After the initial public comment period of the meeting, Mayor Robles called for the Council to handle Item 32 out of order from the way items were listed on the agenda. Without opening for any discussion, Robles immediately made a motion to appoint Jawane Hilton to fill the vacancy. Within seconds, Davis-Holmes seconded the motion. At that point on the video, Santarina left his seat next to Robles and walked behind Robles toward a door

just a few feet away. As Santarina was walking, Robles quickly called the vote and he and Davis-Holmes stated, "Aye." As Santarina exited through the door, Robles called for any opposed but Santarina said nothing before exiting. After Santarina exited, City Clerk Jim Dear informed the Council that there was no quorum. Robles then announced that the Council would be in recess until Hilton could be sworn in as a councilmember. Santarina did not return to the meeting. But Hilton was present and prepared to be sworn in.

Later in the meeting, the city attorney advised the Council that a relevant statute could be interpreted as requiring three councilmembers to vote for the appointment. Robles immediately responded by citing a case for the city attorney's reference and represented that the case allowed for the appointment to be made by the votes of merely two council members as had occurred.

The Brown Act, in Government Code section 54952.2(b), states:

A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

From the facts as explained above, it is evident that the appointment was so orchestrated as to necessitate prior communications, whether direct or indirect, involving Robles and Davis-Holmes. The end-run was launched when Robles called for Item 32 to be handled, not just out of the order as listed on the agenda, but as the very first matter of business following general public comments. As soon as Robles called the item, he made a motion to appoint Hilton. Literally within three seconds, Davis-Holmes seconded the motion. Neither Robles nor Davis-Holmes suggested or allowed for discussion of the matter despite the fact that 14 different individuals were on the list for consideration of appointment. It was also evident from the video that Robles was aware that Santarina was leaving; nonetheless, Robles rushed the vote to occur right before Santarina exited through the door. Robles did not pause to inquire Santarina of his reasons for leaving or how long he might be absent. Rather, right after Santarina exited, Robles sought to legitimize the vote by stating, "The vote was taken before quorum was broken."

Santarina's actions indicate that he was made aware beforehand of the intentions of Robles and Davis-Holmes to appoint someone at the meeting. For when Robles made the motion to appoint without discussion, Santarina immediately stood from his seat and walked to a rear exit—by all appearances in protest of the end-run tactic—rather than seek to discuss the matter with his fellow members of the Council.

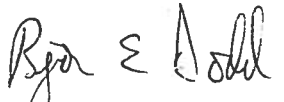
The orchestration is further evidenced by the fact that Hilton was in attendance and prepared to be sworn in as a member of the Council. In fact, he addressed the Council and requested that the city clerk deputize his wife so that she could administer the oath to him. Despite the fact that his name was but one of 14 on the list of individuals to be considered for the appointment, clearly it was communicated to him beforehand that he would be selected.

As noted above, the City Council had two vacant seats at the start of the meeting on June 16, 2015. Thus, for a time, the Council continued to function with three members. Therefore, during that time, two members constituted a majority and would be prohibited from communications regarding city business outside of an authorized meeting. Understanding that two councilmembers amounted to a majority at the time, Robles was all too ready to cite case law to the city attorney when the issue was raised of whether the appointment was valid based on votes from only two councilmembers.

Because it is clear that the appointment was a result of communications in violation of the Brown Act, the remedy according to the Act would be for the Council to reconsider the matter at an authorized meeting. However, we note that at a meeting on June 25, 2015, the Council rescinded the appointment in light of the election results in which Hilton was recognized as the winner. Therefore, although no further corrective action by the Council is necessary to remedy the violation, it is imperative that the Council be advised that improper communications involving a majority of members could jeopardize any resulting action in the future. We expect that this letter will suffice for the Council to avoid future improper communications so that judicial intervention under Government Code section 54960.1 will not be necessary.

Very truly yours,

JACKIE LACEY
District Attorney

By 
Bjorn Dodd
Deputy District Attorney

cc: Sanaz K. Soltani