

EXPLANATION OF CURING OF BROWN ACT
VIOLATION - ITEMS 4 THROUGH 19 FROM
COUNCIL MEETING OF DECEMBER 17, 2024

CITY OF SEBASTOPOL CITY COUNCIL
MEETING OF: January 21, 2025

=====

To: Honorable Mayor and City Councilmembers
From: City Attorney Alex Mog
Mary Gourley, City Clerk
Subject: Ratification of Agenda Items From the December 17, 2024 City Council Meeting

=====

RECOMMENDATION:

That the City Council re-approve the Action Items from the December 17, 2024 City Council Meeting Due to an Alleged Brown Act Violation

=====

SUMMARY:

The Ralph M. Brown Act, commonly known as the "Brown Act" is California's sunshine law for local government. The Brown Act requires local government business to be conducted at open and public meetings, except in certain limited situations.

Government Code Section 54954.2 of the Brown Act provides that at least 72 hours before a regular meeting, the designee of the legislative body shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda is to be posted in a location that is freely accessible to members of the public and on the local agency's internet website.

BACKGROUND:

On January 13, 2025 the City received a complaint from Michael Hilber alleged a Brown Act Violation regarding posting of meeting location on the agenda for the City Council Meeting of December 17, 2024.

On January 13, 2025, the City received a letter alleging that the agenda for the City Council's December 17 meeting violated the Brown Act, and demanding the City "cure and correct" the violations. The letter alleged that: 1) the meeting agenda did not identify the location of the meeting, 2) the meeting agenda was not posted outside the actual meeting location, and 3) agenda materials was not available at the meeting for members of the public to review.

The Brown Act requires the materials distributed to a majority of the City Council also be available to the public. All such materials for the December 17 meeting were published on the City's website in the same location as the meeting agenda, and are also available for review at City Hall. There is no requirement that physical copies of those materials be available in the Council meeting room, unless the materials are first distributed to the City Council during the meeting.

The Brown Act also requires that: 1) the agenda identify the time and location of the meeting, and 2) be posted in a location "freely accessible to members of the public and on the local agency's internet website" 72 hours before the meeting. The agenda was posted in the glass case outside of City Hall and on the City's website, in compliance with the Brown Act's requirement. In addition, the agenda was posted in the inner lobby of the Youth Annex. Additionally, the location of the meeting was listed on the City's website. However, the location of the meeting was inadvertently omitted from the agenda for the December 17 meeting. The City is unaware of anyone impacted by this inadvertent error. On December 17, 2024, the City Council held its regular City Council meeting with public audience present.

Typically, a complaint regarding a Brown Act violation must be filed within a specific timeframe (usually 30 days for immediate actions) after the action in question took place. The City received the complaint within 30 days of the December 17, 2024 City Council Meeting. Once the legislative body has received the complaint, it has 30 days to cure or correct the challenged action. If the City does not do so, the complaint may file litigation against the City seeking a court order to correct the violations.

This meeting is well within the 30 days to cure the complaint of January 13, 2025.

DISCUSSION/ACTION:

Although staff believes that the agenda for the December 17 meeting substantially complied with the Brown Act, in an abundance of caution, staff is recommending the City take action to cure and correct the alleged violations. Staff recommends the City Council ratify and re-approve the action items approved at the December 17 meeting. These items are listed on the consent calendar for the January 21 meeting. The agenda for the January 21 meeting clearly identifies the location of the meeting, correcting the advertent error from December 17.

City staff and the City Council takes this matter seriously and have taken it upon themselves to publicly recognize the inadvertent error and take immediate action to cure and correct the alleged violation as provided for in the Brown Act. In addition, the following proactive steps are being implemented to ensure transparency:

1. Address meeting location is listed on two places on the agenda for transparency
2. The following locations will be used for posting of agenda items to ensure greater transparency:
 - a. City Hall Display Board
 - b. Youth Annex front door
 - c. Senior Center
 - d. Chamber of Commerce
 - e. City Web Site Home page
 - f. Sebastopol Library
 - g. Social Media distribution
3. Waive copying charge if a member of the public requests an agenda from Front Counter staff. This does not approve the costs to mail agendas to members of the public.

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date. The City has also used social media to promote and advertise the City Council Meeting Agenda Items.

FISCAL IMPACT: There is no fiscal impact associated with the approval of this item.

RESTATED RECOMMENDATION:

That the City Council re-approve those items listed on the December 17, 2024 City Council meeting agenda wherein the City Council took affirmative action, which are contained as part of the Consent Calendar as Items 4-19 on the January 21, 2025 Council agenda.

OPTION:

There is no option as the Brown Act Violation shall be cured.

ATTACHMENTS: None

APPROVALS:

Department Head Approval: Approval Date: 1-14-2025

CEQA Determination (Planning): Approval Date: 1/14/2025

The proposed action is not a project under the California Environmental Quality Act (CEQA)

Administrative Services (Financial) Approval Date: 1-14-2025

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable) _____

City Attorney Approval: Approval Date: 1-14-2025

City Manager Approval: Approval Date: N/A