

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

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November 21, 2013

The Honorable Members of the City Council
City of La Habra Heights
1245 North Hacienda Road
La Habra Heights, CA 90631

Subject: Complaints of Brown Act Violations
Case No. P13-0351

Dear Honorable Members of the City Council,

We received complaints of possible violations of the Brown Act by the La Habra Heights City Council on various dates. Our review has revealed that members of the City Council may have unlawfully engaged in "serial communications/meetings" outside of the public view regarding two separate items of business. While the available evidence does not conclusively prove a violation, it does raise a sufficient inference which warrants that our office caution the Council on the issue.

Concerning this issue, the Brown Act clearly 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." (Gov. Code § 54952.2(b)(1).)

The first apparent "series of communications" related to the Council's decision to post a new section on the city's website to address accusations from the public. On the recording of the City Council meeting on May 9, 2013, one City Council member requested the city manager to inform the public of what the City Council planned to post. The city manager then provided a brief explanation. This information emerged as part of the city manager's report, but was not specifically described in the agenda. Additionally, in an email dated May 15, 2013, addressed as "Dear Friends," the city manager wrote that the City Council had authorized staff to create the new website section. However, we found no record of this item of business being posted on a previous meeting agenda or being discussed by the City Council at a previous public meeting. Therefore, it appears that the decision was the product of improper "serial communications" outside of the public view.

A second inference of improper “serial communications” related to the decision to install surveillance cameras at the La Habra Heights city hall. On April 9, 2013, the city manager sent an email to the members of the City Council to advise them of “items that might come up” at the April 11, 2013 City Council meeting. One item advised that cameras were being installed that day. The subject of the cameras was not listed on the agenda for the April 11, 2013 meeting, and it appears that it was not discussed at the meeting. Nor is there a record of the business item being listed on a previous agenda or discussed at a previous public meeting. Thus, the issue is whether the City Council authorized the expenditures and installation of the camera system, or whether city staff was authorized to act on its own initiative. If the City Council authorized the project, then the lack of public notice and discussion points to another incident of unlawful “serial communications.” The inference would be moot, however, if the city staff acted on its own initiative and without direction from the City Council. At this time, we are unable to determine which was the case. Yet, combined with the incident concerning the action regarding the website, it remains relevant to the need to address unlawful “serial communications.”

Serial communications as inferred from the scenarios described above, violate the primary concern of the Brown Act of allowing public access to the decision making process by local government bodies. We urge all members of the City Council to not engage in improper communications and to take caution to avoid even the appearance of such conduct. We hope that our explanation will assist you in your efforts to fully respect the spirit of the Brown Act. Please feel free to contact us if you have any questions.

Very truly yours,

JACKIE LACEY
District Attorney

By 

BJORN DODD
Deputy District Attorney

cc: Holly O. Whatley, City Attorney