

Alameda County District Attorney

Atten: Mr. Michael Oconner

1225 Fallon St. #9<sup>th</sup> Floor

Oakland, California 94612

Subject: Ralph Brown Act violation

Section 54954.2(3)

Section 54954.3(a)

February 07, 2018

Dear Mr. Oconner:

This is a formal complaint pursuant to the Ralph Brown Act section 54954.2(3) "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 and

Section 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, 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 that committee's consideration of the item, UNLESS THE ITEM HAS BEEN SUBSTANTIALLY CHANGED SINCE THE COMMITTEE HEARD THE ITEM..."

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ALAMEDA COUNTY  
DISTRICT ATTORNEY

2).

This complaint being submitted relates to item eleven (11) at the February 6, 2018 Oakland City Council meeting.

The subject matter was introduced by Council President Larry Reid, Vice Mayor Anne Campbell Washington and Councilmember Lynette Gibson McClhaney, all whom are members of the Rules and Legislative Committee that agendized the subject matter to by pass the appropriate Council Standing Committee and directed the item to the full Council. This maneuver prevented any substantive public comment at the Standing Committee further denying any opportunity to advance recommendations being forwarded to the full Council. The Rules Committee action recommended the “**adoption of a Resolution amending and superseding the Councils Rules of Procedure currently set further in Resolution No. 86034 C.M.S. as amended by Resolution No. 86862 (see attached) to amend: 1) Rule 4 to authorize the Council President to establish Committee membership and Committee chair assignments, and 2) Rule 7.6 to provide that any items from the consent calendar are moved to the non-consent calendar and allow the item to be heard the same evening, subject to the discretion of the Council President to determine the order of the agenda items.**”

#### OUTSTANDING ISSUE FOR RULE 4

- 1). President Larry Reid was co-sponsor of the proposed change in Rule 4 that gives him unbridled authority to remove any chairperson of a Standing Committee without cause and further it should be noted Rule 4 does not provide for any provisions for the removal of the President. As a co-sponsor, President Reid should have recused himself because he personally benefits. Thus a conflict of interest.
- 2). This proposed Resolution establishes a capricious and arbitrary environment and creates a situation where the Chairperson of the Standing Committee cannot properly exercise judicious judgment that is necessary in order to guarantee that each action is in the best interest of the public.
- 3) While the text of the proposed Resolution asserts that the President is given the authority of appointment of Standing Committee Chairs this is as much as giving the President removal of Standing Committee Chairpersons

3).

4). The proposed Resolution does not establish when this Resolution would go into affect.

#### OUTSTANDING ISSUE FOR RULE 7.6

1). This Resolution provides for the removal of a CONSENT agenda item to the NON-CONSENT agenda calendar at the same council meeting which would allow for immediate discussion. The proponents of this action would argue that this would expedite and allow for more immediate discussion on the subject matter item and would further save time for the public so they would not have to return for another council meeting. This is a false representation of what is intended by this elusive recommendation. Often additional documents would be required which would not be available at the same meeting, requiring additional time for the public to review any additional documents in order to have any meaningful public comments.

#### ACTION TAKEN BY THE COUNCIL ON ITEM ELEVEN (11):

Approval of this item failed. The vote for this proposed Resolution (4) YES (3) NO and (1) ABSTENTION

#### SUBSEQUENT ACTION:

Councilmember Dan Kalb then offered a different MOTION from the floor which was not agendized nor was this an Amendment to the Main Motion, that previously FAILED.. This action required Public comment pursuant to the Ralph Brown Act. When the Public requested to be able to comment on this new motion, President Larry Reid refused to allow Public comment pursuant to 54954.2(a) and 54954.3(a) and the City Attorney who presides as the Parliamentarian refused to opine in the matter. The motion preceded without public comment as required by the Ralph Brown.(see enclosed KTOP recording of the Council's action related to agenda item eleven(11)

#### ACTION TAKEN by Councilmember Dan Kalb's MOTION

Kalbs MOTION was approved (5) YES (3) NO

4).

Respectfully submitted

A handwritten signature in dark ink, appearing to read "Gene Hazzard", is written over a long, thin horizontal line that extends across the page.

Gene Hazzard

Barbara Parker, City Attorney, LaTonda Simmons, City Clerk, Council President  
Larry Reid Sabrina Landreth, City Administrator, Councilmember Dan Kalb,  
Councilmember Lynette McElHaney, Councilmember Anne Campbell-Washington,  
Councilmember Abel Guillen, Councilmember Desly Brooks, Councilmember Rebecca  
Kaplan, Councilmember Noel Gallo