

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Mayor and Council Members From: Scott C. Stiles
Dept.: Dept.: City Manager
Subject: Discussion of February 24, 2016, District Date: 3/8/2016
Attorney report regarding allegations of
Brown Act violations, and Adoption of a
Resolution designating City Clerk as
Closed Session Recorder. (*Action Item*)

OBJECTIVE

The purpose of this memorandum is for the City Council to discuss the February 24, 2016, District Attorney Report regarding allegations of Brown Act violations, along with its recommendations, and consider adoption of a resolution designating the City Clerk and deputies as closed session recorders, including the recording of closed sessions for two years.

BACKGROUND

The District Attorney, in its February 24, 2016, report regarding its investigation of alleged Brown Act violations pertaining to the employment of the Public Safety Administrative Officer, concluded that there was a lack of sufficient evidence to prove a violation of the Brown Act beyond a reasonable doubt such that no criminal charges or civil action will be filed. The District Attorney nevertheless recommended that the City Council consider adopting various recommendations in the interest of promoting public transparency. The recommendations are listed in the discussion below.

Government Code section 54957.2 authorizes the City Council by resolution to designate a clerk to attend closed sessions and keep a minute book or recordings of the City Council's closed sessions for a period of two years. Although the City's records are open to the public, Government Code section 54957.2 mandates that closed session records be kept confidential.

DISCUSSION

The District Attorney, in its report recommended that the City Council consider the following recommendations:

1. To record future closed session meetings for a period of at least two years effective immediately;
2. If a new employment position is created in the future by the City Council, that the City Council commit to disclose the creation of the new position in public before filling the position;
3. That the City Council commit to refrain from relying on the "pending litigation" exception to create a new City position in closed session without reporting this action immediately at the conclusion of the closed session; and
4. That the City audit the work and performance of the Public Safety Administrative Officer to assure the public that the position is not a "no show" position.

The City Clerk is the designated recorder for all City Council meeting minutes and City records. Government Code section 54957.2 further authorizes the Council to designate the Clerk or some other officer to keep closed session records in the form of a minute book or audio recordings.

Staff recommends that the City Council adopt the resolution appointing the City Clerk and deputies as the official closed session recorders and authorize recording closed sessions for a period of two years. This action will implement the first recommendation of the District Attorney. Staff further recommends that the City Council affirm that any new employment position in the City will be created in open session. With this affirmation, the second and third recommendations of the District Attorney will be implemented.

FINANCIAL IMPACT

There is minimal financial impact to the General Fund resulting from the adoption of the resolution and recording of closed sessions,

RECOMMENDATION

It is recommended that the City Council:

- Adopt the Resolution designating the City Clerk and deputies as the official closed session recorders;
- Approve the recordation of closed sessions for a period of two years; and
- Affirm that any new employment position in the City will be created in open session of the City Council.

ATTACHMENTS:

Description	Upload Date	Type	File Name
Resolution	3/1/2016	Resolution Letter	DA- GG_Reso_Appointing_Clerk_Recorder_of_Closed_Session_(1).docx

REVIEWERS:

Department	Reviewer	Action	Comments
City Manager	Stipe, Maria	Approved	
City Clerk	Bailor, Kathy	Approved	
City Attorney	Sandoval, Omar	Approved	
Deputy City Manager	Stipe, Maria	Approved	
City Manager	Stiles, Scott	Approved	

GARDEN GROVE CITY COUNCIL

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DESIGNATING THE CITY CLERK AND DEPUTIES AS THE OFFICIAL RECORDER OF CLOSED SESSIONS PURSUANT TO GOVERNMENT CODE SECTION 54957.2

WHEREAS, the California Ralph M. Brown Act, Government Code Section 54957.2 authorizes the City Council by resolution to designate a clerk to attend closed sessions and keep a minute book or recordings of the City Council's closed sessions;

WHEREAS, closed session records shall be kept confidential and are not public records subject to inspection under the California Public Records Act (Government Code Section 6250 et seq.); and

WHEREAS, the City Council wishes to record its closed sessions for a period of two years and appoint the City Clerk and duly appointed deputies of the City Clerk to keep a record of City Council closed sessions.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY RESOLVE AS FOLLOWS:

The City Clerk and his/her duly appointed deputies are hereby designated the official recorders of City Council closed sessions. The City Clerk and deputies shall maintain the confidentiality of the records consistent with Government Code Section 54957.2 and other applicable law. The closed sessions of the City Council shall be recorded for a period of two years.