

**MONA G. EBRAHIMI**  
mebrahimi@kmtg.com

April 12, 2023

**VIA EMAIL**

Julie Robinson  
[injoyjulie@yahoo.com](mailto:injoyjulie@yahoo.com)

Re: City of Placerville's Response to Allegation of Brown Act Violation

Dear Ms. Robinson:

I serve as the City Attorney for the City of Placerville ("City") and am writing to respond to your March 28, 2023 email to the City Clerk, alleging that the City violated the Ralph M. Brown Act during its February 28, 2023 City Council meeting. Specifically, you state that there "was a substantial violation...regarding informed public comment" and that the Farm Trails matter "was not properly described in the agenda".<sup>1</sup>

We have reviewed your email and conclude that no Brown Act violation occurred. Please be assured that neither the City Council nor I take our responsibilities lightly and had a violation occurred, the City would have cured and corrected its mistake. Below I provide additional analysis to support the conclusion that the Brown Act was not violated.

In your email, you explain that the purpose of the agenda description is to "inform interested members of the public about the subject matter" at issue. I agree. Government Code section 54954.2 dictates the description, notice, and access of a local government's public meeting agenda. That section states:

At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda *containing a brief general description of each item of business to be transacted or discussed* at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. (Emphasis added.)

Here, the City complied with the Brown Act agenda requirements because the City Clerk posted the agenda on February 24, 2023, 72 hours in advance of the regular meeting, and the agenda included a brief description of each item to be discussed. For example, Item 12.1 indicated that the Council would consider an agreement with El Dorado County Farm Trails. That there were additional details, including

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<sup>1</sup> Your letter says, "we request that within 30 days the PCC cure and correct...." It is unclear who "we" or the "PCC" is. Elsewhere, you draw the attention of the reader statements like "we believe". Again, it is unclear if you have drafted this email on behalf of others. Kindly explain if you have.

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proposed locations and percentage of agriculture versus other percentage of businesses, did not render the agenda description in violation of the Brown Act. Staff is free to make whatever recommendations to the Council, and the Council is free to adopt, reject, or modify those recommendations.

Critically, the agenda description does not dictate the ultimate decision of the City Council, but it must communicate the *essential nature* of the matter an agency will consider. Nor should it.

In this situation, the itemized recommendations included in the description for Item 12.1 could reasonably be understood to communicate that the City Council would be discussing the potential locations for the Farmers' Market for the 2023 and 2024 seasons, and the agreement between the City and El Dorado County Farm Trails that would govern the Farmers' Market activities. As with any item on an agenda, the recommended action is not a mandate or a description of what action will actually occur, but instead must give the public a fair chance to participate in matters of particular or general concern by providing the public with more than mere clues from which they must then guess or surmise the essential nature of the business to be considered by a local agency.

The final decision on any item, including Item 12.1 on the February 28, 2023 City Council Agenda, is within the discretion of the City Council subject to applicable law. Here, the description of Item 12.1 complied with the requirements of Government Code section 54954.2, and the City Council's discussion and final action were well within the bounds of the described matter. It cannot be said that the public did not know that the City Council would not be discussing the Farm Trails agreement at its meeting. As indicated, the subject matter was agendaized and widely commented upon.

In your email, you write "informed comment...was regrettably not available on 2/28/23" but the City Council spent almost an entire hour on public comments. Public comment opened at 1:05:42 and closed at 1:51:50 at this meeting. Additionally, this was the second meeting on this issue. On February 14, 2023, the City Council heard this item (see <https://evogov.s3.us-west-2.amazonaws.com/meetings/17/agendas/25161.pdf>). At that meeting, the item started at 22:43 into the meeting until 1:29 hours later. Public comment lasted from 32:42 minutes into the meeting until 54:28 minutes later. In other words, there has not only been informed comment, but robust public comment.



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Notwithstanding the foregoing, and the fact that the City Council has in fact complied with the Brown Act at all times, the City Council has decided to hear this matter again at either the April 25, 2023 City Council meeting or the first City Council meeting in May. Thank you for your interest in Placerville governance issues; these matters are important, and we appreciate your contributions to public participation.

Very truly yours,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation



MONA G. EBRAHIMI

MGE/las

cc: City Council, via email  
City Manager, Cleve Morris, via email

