

RESOLUTION NUMBER R- 315739DATE OF FINAL PASSAGE JUL 30 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DECLARING AN UNCONDITIONAL COMMITMENT PER CALIFORNIA GOVERNMENT CODE SECTION 54960.2 TO CEASE, DESIST FROM, AND NOT REPEAT ANY ACT PREVENTING PUBLIC TESTIMONY ON ITEMS PRESENTING PROCLAMATIONS APPEARING ON THE CITY COUNCIL AGENDA AS REQUIRED BY THE BROWN ACT.

WHEREAS, the Ralph M. Brown Act, California Government Code (Government Code) sections 54950 through 54963 (Brown Act), governs how the legislative bodies of local agencies, such as the San Diego City Council (Council), are to conduct their meetings; and

WHEREAS, under the Brown Act, all meetings of the legislative body of a local agency shall be open to the public and all persons shall be permitted to attend and participate in the meetings, with limited exceptions; and

WHEREAS, under the Brown Act, every agenda for a regular meeting of the legislative body of a local agency shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, either before or during the legislative body's consideration of the item, with limited exceptions; and

WHEREAS, on May 21, 2024, the Council received public testimony before adopting a Proclamation declaring June 4, 2024, to be San Diego Police Chief David Nisleit Day in the City of San Diego (Proclamation); and

WHEREAS, the Council agenda for June 4, 2024, noticed "Presentation of Chief David Nisleit Day," under the heading "Proclamations/Ceremonial items (Presented at the Meeting)"; and

WHEREAS, public testimony was not permitted prior to or during the presentation of the Proclamation on June 4, 2024; and

WHEREAS, a member of the public who requested and was denied the opportunity to speak has come before the Council threatening to sue the City for an alleged Brown Act violation by failing to allow public testimony when the Proclamation was presented on June 4, 2024; and

WHEREAS, the City has not received any written objection to the failure to allow public testimony at the June 4, 2024 presentation of the Proclamation, and no lawsuit has been filed; and

WHEREAS, in order to avoid unnecessary litigation, the Council wishes to adopt a resolution declaring the Council's unconditional commitment to cease, desist from, and not repeat any act preventing public testimony on items presenting Proclamations appearing on the Council's agenda as required by the Brown Act; and

WHEREAS, the Council intends to adopt this Resolution to comply with and in the form required by Government Code section 54960.2(c); and

WHEREAS, this Resolution may not be rescinded unless the requirements in Government Code section 54960.2(e) are followed; and

WHEREAS, the fact that the Council provides this unconditional commitment shall not be construed or admissible as evidence of a violation of the Brown Act, except as provided in Government Code section 54960.2(c)(4); and

WHEREAS, under San Diego Charter section 280(a)(1), this Resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE,

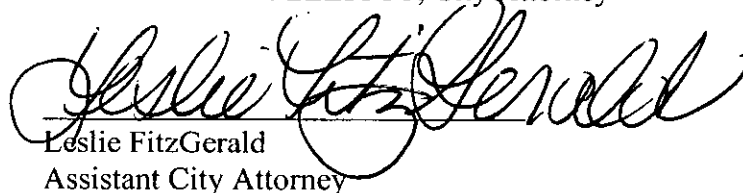
BE IT RESOLVED, by the City Council of the City of San Diego, that to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Council hereby unconditionally commits that it will cease, desist from, and not repeat any act preventing public testimony on items presenting Proclamations appearing on the Council's agenda as required by the Brown Act.

BE IT FURTHER RESOLVED, that the Council may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment."

BE IT FURTHER RESOLVED, that a City representative will give written notice of the Council's intent to consider rescinding this Resolution to Lori Saldaña, sent by any means or media she provides the City Clerk, to whatever address or addresses she specifies, at least 30 days before any meeting where rescission of this Resolution is considered.

APPROVED: MARA W. ELLIOTT, City Attorney


By


Leslie FitzGerald
Assistant City Attorney

DJK:LF:cm
July 30, 2024
Or.Dept: City Attorney
Doc. No. 3737008

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 30 2024.

DIANA J.S. FUENTES
City Clerk

By 
Deputy City Clerk
for Gil Sanchez

Passed by the Council of The City of San Diego on JUL 30 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 30 2024.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

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