



OFFICE OF THE DISTRICT ATTORNEY  
CONTRA COSTA COUNTY

*Diana Becton*  
DISTRICT ATTORNEY

January 4, 2023

Kwame Reed  
Acting City Manager  
City of Antioch  
200 H Street  
Antioch, CA 94509

RE: Alleged violations of the Brown Act by Antioch City Council members

Dear Mr. Reed:

The Contra Costa County District Attorney's Office was contacted earlier this year regarding alleged violations of the Brown Act by Antioch Mayor Thorpe, Antioch Councilmember Torres-Walker and Antioch Councilmember Wilson. Specifically, we were told that those three council members met in private to discuss matters within the council's jurisdiction regarding the Public Works Department and the hiring of the City Engineer. Our investigation also led to an allegation that those three city officials met in private to discuss the redistricting of the city's electoral map. The District Attorney's Office reviewed these allegations and the applicable law and then interviewed potential witnesses to determine whether any Brown Act violations occurred.

As you are aware, the Brown Act is set forth in California Government Code sections 54950, et seq. Our analysis here is specifically guided by Government Code section 54952.2. That section prohibits a majority of the members of a legislative body to develop a collective concurrence as to action to be taken on any item within the subject matter jurisdiction of the legislative body unless such a meeting is open and public.

In this matter, there is evidence that Mayor Thorpe and Councilmembers Torres-Walker and Wilson met at Mayor Thorpe's home in 2022 and held discussions. Furthermore, it appears that the discussions may have included an agreement to take action on matters within the subject matter jurisdiction of the council. As defined by Government Code section 54952.6, "action taken" means a collective decision, or even a commitment or promise to make a decision, on a matter concerning the city. Our investigation leads us to believe that Mayor Thorpe and Councilmembers Torres-Walker and Wilson did meet and may have developed a collective occurrence absent a public forum.

Government Code sections 54959 through 54960.5 set forth the actions that may be taken by the District Attorney's Office to enforce and prevent Brown Act violations. Following our review of the underlying facts and the applicable laws that are relevant to this matter, the District Attorney's Office has serious concerns that non-compliance with the Brown Act may have occurred, however, there is insufficient evidence to prove beyond a reasonable doubt intentional violations of the statute at this time.

We have decided to bring our concerns to your attention in order for you to impress upon the council the importance of the Brown Act and the requirements of the statute. Any similar meeting on matters concerning the city could subject council members to criminal liability. Further, we are referring this letter to the Contra Costa County Grand Jury to provide that body the opportunity to take any action it may deem appropriate.

Thank you for your serious consideration of this matter. As the Brown Act makes clear, the deliberations and actions of our governmental representatives must occur openly and be subject to public scrutiny. If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely,

DIANA BECTON  
District Attorney

Steven Bolen  
Deputy District Attorney  
Contra Costa County

cc: Thomas L. Smith, City Attorney, City of Antioch

Contra Costa County Grand Jury