


Daniel Guss
Freelance Columnist
P.O. Box 5921, Sherman Oaks, CA 91413
TheGussReport@gmail.com
818-231-1108

September 4, 2018

VIA EMAIL AND IN-PERSON DELIVERY TO LA CITY COUNCIL
VIA EMAIL AND IN-PERSON DELIVERY TO LA CITY CLERK

Los Angeles City Council
~~c/o Brian Walters~~
City Hall, Room 935
200 N. Spring Street
Los Angeles, CA 90012

Holly L. Wolcott
City of Los Angeles
City Hall, Room 935
200 N. Spring Street
Los Angeles, CA 90012

BY  CITY CLERK
2018 SEP -4 AM 9:43
CITY OF LOS ANGELES

RE: COUNCIL FILE NUMBERS: 18-0679, 18-0740, 18-0739, 18-0744, 18-0742, 18-16-0698-S2, 17-0983-S1, 17-0600-S120, 18-0600-S152, 18-0688, 18-0749

NOTICE OF BROWN ACT VIOLATION DEMAND TO CURE OR CORRECT VIOLATION CEASE AND DESIST

President Herb Wesson and Honorable Members of Los Angeles City Council:

On behalf of myself as a taxpayer I demand the City Council cure and correct its violations of the Ralph M. Brown Act (the "Brown Act," Government Code §54950, et seq.) that occurred on August 20, 2018, in connection with the above 11 items.

I further demand that the L.A. City Council, pursuant to Government Code § 54960.2, cease and desist from continuing to illegally designate items "considered" in a committee without a quorum as if they were vetted with a legally comprised quorum. If the City fails to act on this demand to cure these violations of law within 30 days, I will seek judicial invalidation of the actions, including an award of court costs and reasonable attorneys' fees pursuant to Section 54960.5.

- 1. The August 20, 2018 Budget and Finance Meeting did not have a quorum. Several additional actions taken were illegal as well.**

The meeting August 20, 2018 of the Budget and Finance Committee had only two members present: Councilmember Chair Paul Krekorian, and Councilmember Bob Blumenfield. Therefore, as announced by the Chair there was no Committee quorum. As such, the only issue available in such a committee is General Public Comment, and no other action should have been taken.

The two people who signed up to speak are two frequent public participants: Armando Herman and Wayne Spindler (aka "Herman" and "Wayne from Encino" respectively). But the clock timing their comments was broken, and this caused confusion during Mr. Herman's attempt to offer General Public Comment. As a result of this confusion caused by the broken clock, Mr. Krekorian ejected Mr. Herman from the meeting, and he simultaneously ejected Mr. Spindler for no apparent reason, denying him an opportunity to offer General Public Comment.

The Committee then moved forward and approved the non-lawsuit items without a quorum. It is clear the meeting was conducted as if a quorum existed. The City Clerk and City Attorney allowed these items to be approved without a quorum and moved to the full City Council. Those items, the non-closed session items, were moved to today's Council Meeting of September 4, 2018. The closed session items were taken with the City Attorney in closed session, again, without a quorum. The closed session items were moved to the City Council meeting of August 29, 2018. On each of those Closed Session items, the Motions falsely stated that the items were approved in Committee. The Motions show that only two members voted aye, not three as the law requires. On the 20th, after the illegal Closed Session, Mr. Krekorian did not announce the Closed Session actions taken, and adjourned the meeting without a quorum. Each of these is a violation of state law.

2. The City Council Motions on the "Closed Session items" are untrue. This Meeting opens up the City to a host of legal issues.

While every meeting held under the Brown Act isn't "per se" a violation of the Act, the problem with holding meetings without a quorum is that there is an expectation that the items will be discussed with members who **weren't at the meeting** and that the information discussed in the meeting without quorum will be disclosed to the public or interested persons in a way that causes a distrust in the integrity of the government system.

The Attorney-Client privilege will not shield the meeting minutes and materials of the August 20, 2018, meeting, for example, because the "client", the City municipal corporation, met **without a quorum in violation of State Law. This could have a devastating consequence.**

Also, the individual members who voted, Mr. Krekorian and Mr. Blumenfield, can be **held personally liable** for these eleven votes IF they reasonably should have known that the law and rules do not allow action on behalf of the City without a quorum. These two City Councilmembers have been L.A. City Councilmembers for many years. Further, they are both former members of the California State Legislature. One member, Mr. Krekorian is a California Attorney (Bar license #115953—Not eligible to practice law due to failure to pay Bar membership fees and take continuing education courses). He would have an especially hard time arguing that he didn't know about quorum rules. It is assumed that the City Attorney has filed with the State Bar the required disclosure that the city is "assisting" a suspended attorney to work on legal lawsuit work, See State Bar Rule 5.3.1 (d). A suspended attorney such as Mr. Krekorian seems to be in a capacity to the City as a person who

among other things: "Negotiates, or transacts any matter for or on behalf of the client with third parties..."

3. The Actions of the September 4, 2018 meeting as posted are illegal as well, and a cure and correct on all 11 items is urgently needed.

As you know, the Brown Act creates specific obligations for notifying the public via a regularly posted agenda with a "brief description" of each item to be discussed or acted upon by the City Council. (See Government Code § 5494.2(a)(1))¹ The Brown Act also creates a legal remedy for illegally taken actions, namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

The City Council's Budget and Finance meeting action taken on August 20, 2018, was not in compliance with the Brown Act because there was no quorum, and there was no finding of fact that urgent action was necessary on a matter unforeseen at the time the agenda was posted. The City Council has no justification for making and adopting the Motions without compliance with Government Code §§ 54954.2(a)(1) and 54954.2(a)(2) for at least the following reasons: (1) the City Council adopted no findings to support its decision to make the urgency determination; (2) No urgency determination was supported by any evidence; (3) the lack of urgency determination is contradicted by the factual record as detailed above. Accordingly, I demand that the City Council cure and correct the illegally taken action as follows: (i) voiding the August 20, 2018 motions; (ii) voiding the August 29, 2018 actions of votes made on Council Agenda Items 67, 68, 69, 70, and 71; (iii) Send a letter to Mayor Eric Garcetti to not sign or pass these items; (iv) remit the items back to the Budget and Finance Committee for further actions; (v) cease and desist from actions on the lawsuits pending the cure and correcting of these items; (vi) take the non-Closed session items off the City Council meeting agenda today and refer them back to the Budget and Finance Committee meetings; and (vii) RECUSE both Mr. Krekorian and Mr. Blumenfield from voting, or considering these 11 items in all future Council and Committee meetings. Another strong suggestion is given the sensitive litigation positions taken by this Committee, Mr. Krekorian should immediately resign from the Budget and Finance Committee and cease and desist from hearing items in the City's Claims Board until such time that the ramifications of his licensure status with the State Bar can be vetted properly, as well as the issue of personal liability as a possible exposure to the City.

4. The City Must Cure Its Brown Act Violation within 30 Days.

As provided by Government Code § 54960.1 and § 54960.2, the City has 30 days from the receipt of this demand to either cure or correct the challenged action as demanded above, or inform me of your decision not to do so.

Should the City fail to cure or correct as demanded, I will have no recourse but to seek a judicial invalidation of the challenged actions, in which case I will ask the court to order the City to pay court

costs and reasonable attorney's fees in this matter, which we will seek to recover to the maximum extent provided under the law. In this instance, because the illegal actions affected 11 issues of the City, substantial legal expenses, and costs associated with the items may incur to the affected parties costs as well.

Sincerely,

Daniel Guss

CC: Mike Feuer, Los Angeles City Attorney
State Bar of California

Garden Variety Corruption at LA City Council

By Daniel Guss

@TheGussReport – Government corruption takes many forms, one of which is when elected officials take bribes. Politicians also corrupt processes and deceive the people who put them into their well-paid positions by intentionally misrepresenting that they are properly doing their job according to the laws they swore to uphold.

Take for example the corruption on the LA City Council agenda last Wednesday, August 29th, when four proposed lawsuit settlements (for bad sidewalks and bad LAPD officers) requiring cash payouts to the plaintiffs were voted on and approved.

It isn't that the total of those four settlements was significant, at just \$1,148,000. It's that the Councilmembers publicly misrepresented the fact that they properly considered the lawsuits before agreeing to settle them with your tax dollars.

Specifically, each of the proposed settlements included the following statement: **"(Budget and Finance Committee considered the above matter in Closed Session on August 20, 2018)."**

In other words, the City Council agenda from August 29th assured that the proposed settlements were properly considered a week earlier at its August 20th Budget and Finance Committee meeting, Chaired by Councilmember Paul Krekorian and attended by Councilmember Bob Blumenfield.

But that assurance is complete and utter **bull**.

That's because there **was** no Budget and Finance Committee meeting on August 20th. There was only an attempted one. On that date, the three other Councilmembers assigned to it (Mitch Englander, Paul Koretz and Mike Bonin) never bothered to show up. Without a third Councilmember joining Krekorian and Blumenfield, there's no majority. No majority means no quorum. And without a quorum, the meeting cannot be held, except for taking General Public Comments from members of the public in attendance that day. No quorum means no discussions, no agenda items, no Closed Session and no action. Nothing. As defined by the locally focused California open meetings law known as the Ralph M. Brown Act, "'meeting' means any congregation of a **majority** of the members of a legislative body" (in this case, L.A. City Council's Budget and Finance Committee) "at the same time and location."

So, with just two of the five Budget and Finance Councilmembers in attendance, no meeting took place.

Yet Krekorian and Blumenfield illegally pressed on with the meeting without a quorum despite the presence of gatekeepers from City Attorney Mike Feuer's office and the City Clerk's office. They illegally went into closed session; illegally addressed the lawsuit settlements; illegally came out of Closed Session; and illegally failed to specify what the Closed Session outcomes were, each a violation of the Brown Act. Then, Krekorian and Blumenfield filed willfully untruthful Motions recommending approval of the proposed settlements to be heard on the 29th at the full LA City Council meeting, with this specifically untruthful declaration on each Motion:

"This matter was recommended for approval by the Budget and Finance Committee (Krekorian Blumenfield: "Yes") at its meeting on August 20, 2018, in Closed Session as permitted by Government Code Section 54956.9(d)(1)."

(It should come as no surprise that Krekorian's law license has been suspended since 2016 for failure to pay dues to the State Bar of California, and prior to that he was ineligible to practice law for failure to take Mandatory Continuing Legal Education courses.)

Fast-forward to last Wednesday, the 29th at the full LA City Council meeting.

Sharon Gin, the City Clerk's representative, publicly brought the lack of a Budget and Finance quorum to the attention of City Council president Herb Wesson and the other Councilmembers. But her caveat was ignored. Public comment was taken, but Wesson failed to address the untruthful Motions. The lawsuit settlements were unanimously approved **as filed** by L.A. City Council without a single question raised.

It's nothing, really....just garden variety corruption. Is it criminal? Who knows? One would have to file a complaint to find out. Toward that end, I will file a Cure and Correct notice on Tuesday. If it gets to such a point, those lawsuit settlements could be forcibly unwound by a judge, with the taxpayers having to reimburse me for all related legal expenses. And in some instances, officials who vote on motions at meetings without a quorum can at times be held **personally liable** for their actions. At any rate, it is inherently dishonest and corrupt.

Or maybe it's just sloth served with a dash of hubris. Plain and simple laziness by elected officials who take their jobs and responsibilities for granted.

And what's worse in this story? The fact that Krekorian and Blumenfield cheated the public with their dishonest actions; that Englander, Koretz and Bonin cheated the public by not bothering to show up as assigned; that the City Attorney and City Clerk offices disregarded their obligation to the taxpayers to halt an illegal meeting and Motions; or that Wesson didn't do anything about any of it?

That's eight people out of eight who didn't do their job. If it's not corruption, it's infuriating. But it's corrupted.

Krekorian, Blumenfield, Wesson and Feuer did not respond to requests to field questions.

(Daniel Guss, MBA, is a member of the Los Angeles Press Club, and has contributed to CityWatch, KFI AM-640, Huffington Post, Los Angeles Times, Los Angeles Daily News, Los Angeles Magazine, Movieline Magazine, Emmy Magazine, Los Angeles Business Journal and elsewhere. Follow him on Twitter @TheGussReport. Join his mailing list or offer verifiable tips and story ideas at TheGussReport@gmail.com. His opinions are his own and do not necessarily reflect the views of CityWatch.) Edited for CityWatch by Linda Abrams.