



Superior Court of California
County of Kern

Date: 01/08/2020

Time: 8:00 AM - 5:00 PM

BCV-17-102929

FIRST AMENDMENT COALITION ET AL VS CITY OF BAKERSFIELD

Courtroom Staff

Honorable: Stephen D. Schuett

Clerk: Stephanie Paredes

NATURE OF PROCEEDINGS: RULING ON MOTION FOR WRIT OF MANDATE RELIEF FOR VIOLATIONS OF THE RALPH M. BROWN ACT HERETOFORE SUBMITTED ON 12/13/2019

The Court's ruling with regards to the matter submitted on 12/13/2019 is attached and is incorporated hereto and made a part thereof

Copy of ruling mailed to all parties as stated on the attached certificate of mailing.

MINUTES
Page 1 of 2

FIRST AMENDMENT COALITION ET AL VS CITY OF BAKERSFIELD

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MINUTES FINALIZED BY:

Stephanie Paredes

ON: 1/8/2020

SCANNED

**FIRST AMENDMENT COALITION ET AL VS CITY OF BAKERSFIELD
BCV-17-102929**

CERTIFICATE OF MAILING

The undersigned, of said Kern County, certify: That I am a Deputy Clerk of the Superior Court of the State of California, in and for the County of Kern, that I am a citizen of the United States, over 18 years of age, I reside in or am employed in the County of Kern, and not a party to the within action, that I served the *Minutes dated January 08, 2020* attached hereto on all interested parties and any respective counsel of record in the within action by depositing true copies thereof, enclosed in a sealed envelope(s) with postage fully prepaid and placed for collection and mailing on this date, following standard Court practices, in the United States mail at Bakersfield California addressed as indicated on the attached mailing list.

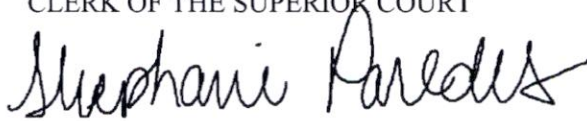
Date of Mailing: January 08, 2020

Place of Mailing: Bakersfield, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Tamarah Harber-Pickens
CLERK OF THE SUPERIOR COURT

Date: January 08, 2020



By:

Stephanie Paredes, Deputy Clerk

Signed: 1/8/2020 04:11 PM

MAILING LIST

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1 NATURE OF PROCEEDINGS: RULING ON MOTION FOR WRIT OF MANDATE,
2 INJUNCTIVE AND DECLARATORY RELIEF

3 Petitioners First Amendment Coalition and Californians Aware, The
4 Center for Public Forum Rights (hereinafter collectively "the Petitioners")
5 seek a declaration that the Respondent City of Bakersfield (hereinafter "the
6 City") violated the provisions of the Ralph M. Brown Act, California's open
7 meeting law (Government Code section 54950 et seq.; hereinafter "the Brown
8 Act") applicable to local government agencies. Petitioners seek a writ of
9 mandate prohibiting future violations of the Brown Act and an order
10 compelling the City to tape record all closed sessions for a period of three
11 years to ensure future compliance with the Brown Act. Petitioners also seek
12 a declaration that the City has violated the Public Records Act (Government
13 Code section 6250 et seq.) by failing to provide non-exempt documents
14 requested by Petitioners pursuant to that act. Petitioners also seek a writ
15 of mandate to compel the City to search for and disclose all records
16 responsive to Petitioners' written request.

17 At issue in this case are three closed sessions held by the governing
18 board of the City, the City Council, and documents provided to the City
19 Council in those closed sessions. Those meetings were held on July 9,
20 September 6 and September 20, 2017. Each of the closed sessions was listed
21 on the City Council's agenda under conference with legal counsel to discuss
22 potential litigation as authorized by Government section 54956.9(d)(2),
23 (e)(1).¹

24 This provision of the Brown Act authorizes a legislative body to meet
25 in closed session with legal counsel when "[a] point has been reached where,
26 in the opinion of the legislative body of the local agency on the advice of
27

28 ¹ All further statutory references are to the Government Code unless
otherwise stated.

1 its legal counsel, based on existing facts and circumstances, there is a
2 significant exposure to litigation against the local agency." This section
3 goes on to limit the "existing facts and circumstances" to certain
4 situations, including "[f]acts and circumstances that might result in
5 litigation against the local agency but which the local agency believes are
6 not yet known to a potential plaintiff or plaintiffs, which facts and
7 circumstances need not be disclosed."

8 Following the three City Council meetings, Petitioner First Amendment
9 Coalition sent the City a written request, dated October 18, 2017, for
10 certain public records:

11 1. All communications or other documents that were created, sent or
12 received by the City Council and/or its individual members and that relate to
13 or reference the materials enclosed with this letter;² and

14 2. All communications or other documents that were created, sent or
15 received by the City Council and/or its individual members before or after
16 the City Council meetings of July 9, September 6 and September 20, 2017 and
17 that concern actions to be taken as a result of any items discussed during
18 closed session on those dates.

19 First Amendment Coalition's letter also included a demand that the City
20 cease and desist from further violations of the Brown Act (Exhibit E).³

21 Petitioner Californians Aware sent a similar letter dated October 9,
22 2017 (Exhibit F).⁴

23
24
25 ² The letter included materials described below that were provided by
26 Assistant City Manager Chris Huot to members of the City Council by email
27 dated October 5, 2017. While it is unclear how the Petitioners obtained
28 these documents they formed the impetus for Petitioners' request for
documents related to these three closed sessions.

³ References to exhibits are those attached to the Declaration of Kelly
Aviles in support of the writ filed October 17, 2019.

⁴ Respondent's objection to Exhibit F is overruled.

