



Honorable Mayor and Members of the Hermosa Beach City Council

INFORMATION ON REQUEST FOR CLOSED SESSION MINUTES FROM MAY 5, 2025 (ITEM 4B) AND MAY 13, 2025 (ITEM 4B) BE PUBLICLY DISCLOSED
(Interim City Attorney Todd Leishman)

Recommended Action:

Staff recommends City Council receive and file this report on an informational-only item regarding a request for the closed session minutes from May 5, 2025 (item 4b) and May 13, 2025 (item 4b) to be publicly disclosed.

Executive Summary:

At its June 10, 2025, meeting, City Council requested that an informational-only item be added to the June 24 agenda, regarding disclosure of the closed session minutes from May 5, 2025 (item 4b) and May 13, 2025 (item 4b). Mayor Pro Tem Detoy motioned and Councilmember Jackson supported.

Background:

At its April 22, 2025, meeting, City Council placed the following item on the closed-session agenda. This item was continued to the closed session meeting on May 5, 2025, under the following heading:

- 4.b PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to Government Code Section 54957
Title: City Manager

At its May 13, 2025 meeting, the City Council placed the following item on the closed session agenda:

- 4.b Government Code Sections 54954.5(e) & 54957:**
PUBLIC EMPLOYEE APPOINTMENT
Title: Acting City Manager
PUBLIC EMPLOYMENT
Title: Interim City Manager / City Manager

At the June 10 Council meeting, Mayor Pro Tem Detoy moved to add an item to a future agenda for the Council to discuss waving confidentiality of the closed session minutes for

these two items from prior meetings (the “Minutes”). Councilmember Jackson supported adding the item. No other member of the Council supported the motion.

Analysis:

Informational-Only Today. Under the City’s long-standing practice, if only two members of the Council support adding an item to a future agenda, the item may only be informational, agendaized “for initial discussion with [a] brief staff report.” (*Leader’s Guide 2016*, Protocol 11.A, p. 106.) Three votes are required to add an action item to a future agenda.

Here, because there were only two votes in favor of MPT Detoy’s motion on June 10, this Minutes discussion is only informational. An action item would have to be placed on the agenda for another future agenda for the Council to take action on it.

Closed Session Confidentiality. The Brown Act governs Council meetings and allows the Council to meet in closed session to discuss certain topics. If minutes of the closed session are kept, the Brown Act states that they “shall be kept confidential” except in rare circumstances. (Gov. Code § 54957.2(a).) Confidential information received in closed session may not be disclosed unless the Council authorizes disclosure. (Gov. Code § 54963(a).)

Council authorization of closed session minutes is rare, but it does happen. Some factors that may be considered when deciding whether to authorize disclosure or not include: Whether disclosure might prejudice the City in on-going negotiations or settlement discussion; whether disclosure might chill member candor in closed session; and whether disclosure might create liability risk for the City. Some confidential information may not be disclosed even if the Council is willing to authorize it, such as confidential personnel information, which is protected from disclosure under the California Constitution and the Brown Act.

Whether discussing potential disclosure of the Minutes occurs during an informational-only item, such as this one, or as part of an action item, such as might be added to a future agenda — Council discussion of whether to disclose the Minutes ***must not reveal the contents of the minutes or any other confidential information*** from the closed sessions. For example, the public agenda description of the May 5 item makes it clear that the Council met to evaluate the performance of the city manager, so when discussing a motion to disclose the Minutes for that item, a member of the council or staff may refer to the fact that the council met to evaluate the city manager’s performance (that much is apparent from the agenda), but no reference should be made to comments or motions made or to action or to votes taken at the closed session.

The same is true of the May 13 item. Council discussion of whether to disclose the

Minutes for that item may refer to the fact that the Council met to discuss appointment of a new interim city manager, as well as to the now-public fact of a subsequent appointment, but the discussion may not include unauthorized disclosure of any part of the Minutes themselves, of motions or comments made, or of votes or actions taken in the closed session.

Recommendation: Receive and file this report because no action may be taken at this meeting to authorize disclosure of the Minutes. Any such action would need to be placed on a future agenda by an affirmative vote of three members of the Council.

Fiscal Impact:

There is no fiscal impact related to the recommended action.

Attachment:

None.

Respectfully Submitted by: Todd Leishman, Interim City Attorney

Approved: Steve Napolitano, Interim City Manager