



**TOWN OF APPLE VALLEY
TOWN COUNCIL STAFF REPORT**

To: Honorable Mayor and Town Council **Date:** August 28, 2012
From: La Vonda M-Pearson, Town Clerk **Item No:** 7
Town Clerk's Office
Subject: **ADOPTION OF RESOLUTION NUMBER 2012-46 - A RESOLUTION
REAFFIRMING THE TOWN'S COMMITMENT TO OPEN GOVERNMENT
AND COMPLIANCE WITH THE RALPH M. BROWN ACT**

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

Adopt Resolution No. 2012-46 reaffirming the Town's commitment to open government and compliance with the Ralph M. Brown Act.

SUMMARY:

The Ralph M. Brown Act requires cities to prepare and post agendas for public meetings and disclose decisions made in closed session meetings. Because these requirements are considered a state mandate, the state must provide reimbursement to the Town for costs associated with these requirements. In an effort to save money, the State eliminated the funding to reimburse those costs. In addition, the State has suspended the requirement to continue posting public meeting agendas and disclose closed session decisions. The resolution prepared expresses the reaffirmation of the Town of Apple Valley's commitment to open and transparent government and compliance with the Ralph M. Brown Act.

Background:

California's main open government meeting law, the Ralph M. Brown Act, provides numerous safeguards to protect public access to the people's business. Enacted in 1953, the Brown Act guarantees that the public may participate in the meetings of elected bodies and sets requirements for the publication, posting, and release of public documents.

Recent action in Sacramento suspends until 2015 a key component of the Brown Act - the requirement that local governments provide 72 hours of notice on their meeting agendas.

Findings:

The Brown Act requires cities to prepare and post agendas for public meetings and disclose decisions made in closed session meetings. Because these requirements are considered a state mandate, the state must provide reimbursement to the Town for costs associated with these requirements. In an effort to save money, funding to reimburse those mandated costs was removed from the State's budget and the requirement to continue posting public meeting agendas and disclose closed session decisions was suspended through Fiscal Year 2014-15. Suspended provisions of the Brown Act are:

- Preparation and posting at least 72 hours before a regular meeting of an agenda that contains a brief general description of each item of business to be transacted or discussed at the meeting. (See Gov. Code § 54954.2(a).)
- Inclusion on the agenda of a brief general description of all items to be discussed in closed session. (See Gov. Code § 54954.2(a).)
- Disclosure of each item to be discussed in closed session in an open meeting, prior to any closed session. (See Gov. Code § 54957.7 (a).)
- Report in open session prior to adjournment on the actions and votes taken in closed session regarding certain subject matters. (See Gov. Code § 54957.1(a)(l)-(4), (6); 54957.7 (b).)
- Provide copies to the public of certain closed session documents. (See Gov. Code § 54957.1 (b)(c).)

The remainder of the Brown Act remains in effect and meetings of local legislative bodies must generally continue to be open and public.

Senator Leland Yee (D-San Francisco) has introduced a Senate Constitutional Amendment (SCA 7) that would ask California voters if they want the transparency. The amendment is stalled in committee.

The Town has always posted agendas in compliance with the Brown Act, not because of reimbursement, but as a means of providing our residents with information.

Fiscal Impact:

The suspension of the abovementioned mandates under the Brown Act prevent the Town from obtaining reimbursement for its costs of providing statutory notice and complying with certain requirements in relation to the Act's closed session provisions. As a result, the Town will not be receiving the reimbursement of funds from the State for the 2012-2013 fiscal year. The last open meetings claim was paid to the Town in 2006 in an amount of \$26,290 for the fiscal year 2004-05.

Based on the foregoing, staff recommends adoption of the form motion.

RESOLUTION NO. 2012-46

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REAFFIRMING THE TOWN'S COMMITMENT TO OPEN GOVERNMENT AND TO COMPLIANCE WITH THE RALPH M. BROWN ACT

WHEREAS, the State has suspended certain mandated programs in an effort to cut millions of dollars more from California's Fiscal Year 2012-2013 Budget; and

WHEREAS, a number of these suspensions relieve local governments of the strict legal requirement to carryout previously-mandated programs, including certain public noticing provisions of the Ralph M. Brown Act (the Brown Act), California's open meeting law; and

WHEREAS, the Brown Act, found in California Government Code Section 54950,et seq., requires open and publicized meetings of government and advisory bodies in local government, and allows members of the public to be present and to address the body on issues relevant to the body's authority; and

WHEREAS, the Town Council has recognized the critical importance of providing open and transparent government by timely noticing public meetings and adhering to open government laws;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: That the Town Council and its appointed Committees that currently are required to comply with the Brown Act are directed to continue to do so, regardless of the suspension of related mandates by the State of California.

Section 2: That the Town Council reaffirms its commitment to maintain compliance with the Brown Act, as well as the Town's other governing laws that are designed to ensure the actions of Town government are open and transparent.

Section 3: That the Town's voluntary compliance with suspended provisions of the Brown Act shall not be construed to grant any rights or remedies, related to any claim of non-compliance with suspended provisions of the Brown Act.

PASSED, ADOPTED, AND APPROVED by the Town Council of the Town of Apple Valley this 28th day of August 2012.

Barb Stanton, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk