

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
(WESTERN DIVISION - LOS ANGELES)

LA ALLIANCE FOR HUMAN RIGHTS, )	CASE NO: 2:20-cv-02291-DOC-KESx
ET AL., )	
	CIVIL
Plaintiffs, )	
	Los Angeles, California
vs. )	
	Wednesday, February 18, 2026
CITY OF LOS ANGELES, ET AL., )	( 9:01 a.m. to 10:19 a.m.)
	(10:38 a.m. to 10:50 a.m.)
Defendants. )	(11:00 a.m. to 11:46 a.m.)
	( 1:04 p.m. to 1:14 p.m.)
	( 2:51 p.m. to 2:57 p.m.)

HEARING RE:

ORDER TO SHOW CAUSE RE CONTEMPT CITY OF LOS ANGELES  
[DKT.NO.1066];

MOTION TO ENFORCE A TERM OF THE PARTIES' SETTLEMENT AGREEMENT  
[DKT.NO.1122]

BEFORE THE HONORABLE DAVID O. CARTER,  
UNITED STATES DISTRICT JUDGE

APPEARANCES: SEE PAGE 2

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14  
15  
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18  
19  
20  
21  
22  
23  
24  
25

INDEX

<u>INTERVENORS' WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<b>STREFAN FAUBLE</b>				
BY MS. MYERS	35/60		84	
BY MS. KUMAR		71		101
<u>EXHIBIT</u>		<u>MARKED</u>		<u>RECEIVED</u>
575		84 (PREV)		
577		72 (PREV)		
581				84
590		60		
591		65		
592		68		
593		85		

1 Los Angeles, CA; Wednesday, February 18, 2026; 9:01 a.m.

2 --oOo--

3 **THE COURT:** All right. Counsel, we're on the record  
4 in the LA Alliance case. If you'd be kind enough because we're  
5 on CourtSmart to make your appearances today.

6 **MS. MITCHELL:** Good morning, Your Honor, Elizabeth  
7 Mitchell on behalf of plaintiffs here today.

8 **THE COURT:** All right. Thank you.

9 **MS. EVANGELIS:** Good morning, Your Honor, Theano  
10 Evangelis on behalf of the City.

11 **THE COURT:** Morning.

12 **MR. BICHE:** Good morning, Your Honor, Timothy Biche  
13 on behalf of the City.

14 **THE COURT:** Thank you.

15 **MS. KUMAR:** Good morning, Your Honor, Poonam Kumar on  
16 behalf of the City and our partner Brad Hamburger is also here,  
17 who just stepped out of the courtroom.

18 **THE COURT:** All right. Thank you.

19 **MS. BRODY:** Lauren Brody for the County of Los  
20 Angeles. I'm going to be joined today by my colleague Jason  
21 Tokoro.

22 **MS. MYERS:** Shayla Myers on behalf of the  
23 intervenors.

24 **THE COURT:** Let me start first of all by welcoming  
25 you back. And, counsel, when all of you have filed pleadings

1 either in this court or with the Ninth Circuit I read them.  
2 And reading what you've recently filed a couple of things have  
3 occurred to me, but is there anything else that you'd like to  
4 add to any of the documents that you've filed? Beginning with  
5 the LA Alliance?

6 **MS. MITCHELL:** Not anything to the documents. We  
7 have not responded to the City's most recent response, but I  
8 was in the case law over the weekend, Your Honor, looking at  
9 kind of how other courts have dealt with closed session  
10 privileged objections.

11 And what I have found and I can pull the cites and  
12 send them to Court and counsel if helpful, is that what is  
13 frequently done in an in camera review of the recording of  
14 closed session, if it exists. An alternative might be if a  
15 recording doesn't exist, like a factual determination in camera  
16 with a sealed transcript or something like that, if that's  
17 something the City is interested in.

18 And I say that because, you know, there is a  
19 legitimate public policy interest in protecting closed session  
20 privilege and there is no doubt about that. But I think  
21 there's also a legitimate public policy and certainly core  
22 interests in determining whether there was a misrepresentation  
23 made.

24 And I think an in camera or under seal review of  
25 these issues might be the right balance to strike here, such

1 that it's not public information, but I think that the heart of  
2 the issues could be evaluated. So that is something that I  
3 would like the Court and the parties to consider and I'm happy  
4 to forward those cites if helpful.

5 **THE COURT:** All right. Thank you. Now, turning to  
6 Ms. Myers then before I turn back to the City.

7 **MS. MYERS:** Your Honor, we have nothing more to add  
8 beyond what we've added in our pleadings.

9 **THE COURT:** Are you joining in this request by LA  
10 Alliance concerning an in camera process concerning the audio  
11 or this hearing session?

12 **MS. MYERS:** Your Honor, we think that there are  
13 significant public policy issues at stake related to the  
14 transparency of these proceedings. Also that's my client's  
15 position in the Brown Act litigation which is separate and  
16 apart from this.

17 In terms of the Court's review of what occurred, we  
18 would be open to an in camera review, our concern though is  
19 that the public would not have access to the Court's  
20 determination related to this and we think that there's a  
21 significant public policy issue at stake related to the Court -  
22 - the public understanding what is happening in these  
23 proceedings which is our concern related to an in camera  
24 review.

25 But certainly if the Court viewed an in camera review

1 as an appropriate way forward, we do think that would certainly  
2 resolve this particular issue, this narrow issue that we think  
3 is before the Court.

4 **THE COURT:** You're counsel in Judge Kin's court?

5 **MS. MYERS:** Yes, Your Honor.

6 **THE COURT:** Let me come back to the City.

7 **MS. KUMAR:** Thank you, Your Honor, Poonam Kumar on  
8 behalf of the City. To address Ms. Myers' point first, Your  
9 Honor, in terms of the public's access that is not at issue  
10 here. That's an issue in the Cangress litigation and we have -  
11 - as we have said repeatedly do not believe that the  
12 appropriate purview of this Court in any way, shape or form.

13 The Brown Act governs what the public has access to  
14 and the transparency of city meetings and so that should govern  
15 and Judge Kin has not decided on the appropriate remedy in that  
16 litigation. So that case, for all of the reasons we said,  
17 including the fact that this Court should not be meddling in  
18 what's happening in a state court proceeding should not be  
19 relevant today.

20 To the question of an in camera review of the Court,  
21 I'd first note for the record, of course, we have not seen  
22 these cases, counsel never advised us that they were requesting  
23 this, so this is completely on the spot for us notwithstanding  
24 her representation she did this over the weekend.

25 I would say to Your Honor that there's no basis for

1 an in camera review. I suspect, I would look at the cases,  
2 that in those cases there was some reason to believe that an in  
3 camera review would further something. I would repeat here for  
4 the Court that the purported scope of this hearing is two  
5 purported misrepresentations.

6 First, a stipulation in which a City -- an officer of  
7 this Court, an attorney for the City represented the City  
8 Council approved the encampment reduction plan.

9 The second purported misrepresentation is the  
10 testimony by Mr. Szabo that the encampment reduction plan was  
11 approved. Neither statement said anything about a vote, all  
12 that was said that it was approved.

13 So the -- and then what we saw -- and I am aware of  
14 not a single witness that either side has proposed that is  
15 going to walk into this courtroom and testify that it wasn't  
16 approved. Not a single witness. All of the witnesses I will  
17 proffer to you will say that it was approved.

18 So why are we here and what would be the basis for  
19 this Court to invade the City Council's privilege that has been  
20 mandated by the state legislature is applicable and interfere  
21 with the Congress litigation and review those recordings in  
22 camera. There is no reason to do that because there's no good  
23 faith basis to believe that there was any willful  
24 misrepresentation.

25 At best, the intervenors and the Alliance, at best,

1 they are pointing to some sort of procedural defect, the City  
2 maintains there was no such procedural defect, but some sort of  
3 procedural defect as to whether or not the approval could have  
4 only come in the form of the vote. That has no impact  
5 whatsoever.

6 And so whether there was a willful misrepresentation  
7 to this Court by an officer of the Court and by the city  
8 administrative officer, there's no reason to believe that  
9 anyone walked in this courtroom and lied. In fact, no one did.

10 And in order to understand whether, even though  
11 there's no basis to look behind and see what it is, to -- this  
12 is essentially a fishing expedition. Your Honor, when I -- I  
13 was a federal prosecutor in this courthouse for seven and a  
14 half years. When a defense attorney represents that they've  
15 spoken to their counsel and they're going to plead guilty,  
16 they've been informed they're going to pled guilty, this Court,  
17 nor court inquires as to how that got into that basis, what was  
18 the basis of that representation, because there's no reason to.  
19 Just like there's no reason to do that in this particular case.

20 So, Your Honor, we just don't think there's any  
21 reason to have this hearing and we certainly don't believe  
22 there's any reason to invade the Court's -- the City Council's  
23 privileges to look at attorney/client privileged material,  
24 invade the Brown Act protections and review that recording and  
25 there's no reason to interrogate whether there was a

1 willfulness misrepresentation where there is no basis to  
2 believe so.

3           Lastly, Your Honor, I would point out that the Brown  
4 Act, Section 54960 does not contemplate in camera review. We  
5 can brief this issue, Your Honor, once counsel provides us  
6 these case citations. But between the Brown Act, the  
7 attorney/client privilege, the deliberative process privilege,  
8 the legislative privilege, and the official information  
9 privilege, this Court should not be invading those privileges  
10 and doing an in camera review to satisfy a representation we  
11 had no idea where it's coming from when there's no basis to  
12 believe there was a misrepresentation.

13           No one will be walking into this courtroom and saying  
14 it wasn't approved, not a single person, no witness, no  
15 document, nothing. So to do that would be a serious injury to  
16 the City Council and to the City. And we would strenuously  
17 object and request the ability to brief this and actually  
18 confront the objection with the case law that counsel cited.

19           **MS. MITCHELL:** Your Honor, if I may, California  
20 Government Code Section 54960 specifically permits in camera or  
21 even calls for in camera review by the Court if there is an  
22 alleged violation of the Brown Act. Now, that's certainly in a  
23 different context because we're not talking about a violation  
24 of the Brown Act, but it does explicitly permit in camera  
25 review of recordings of closed sessions by this Court under

1 that section. So I just wanted to correct the record on that.

2 **MS. KUMAR:** Your Honor --

3 **THE COURT:** Just a moment, counsel. Let me turn to  
4 intervenors next and we'll come back to the City so we have a  
5 process.

6 **MS. MYERS:** Thank you, Your Honor. First just to  
7 clarify the position from the City related to the intervenor's  
8 position about the public transparency at issue here. That has  
9 to do not with the issues related to the Brown Act proceeding,  
10 not related to the issues of whether or not the City should  
11 have properly engaged in approving or not the encampment  
12 reduction plan, but rather the veracity of the City's  
13 statements to this Court. That is a significant issue of  
14 public concern when the City of Los Angeles is making  
15 representations and there are questions about the veracity that  
16 the public has a right to know what its city attorneys are  
17 saying, what its politicians are saying, what its  
18 representatives are saying.

19 We are a time right now where the City of Los  
20 Angeles' integrity has to be pressure tested by the Court, Your  
21 Honor, and I would say this is exactly that circumstance.

22 Your Honor, and I think the City's consistent focus  
23 on the Brown Act misses the point completely. The City of Los  
24 Angeles through its attorney made a representation that the  
25 City Council approved the encampment reduction plan without

1 delay and then when asked in a separate court proceeding what  
2 the vote tally was, said there was no vote.

3           And so, Your Honor, it is a reasonable, very straight  
4 forward, and very basic question, what was the process used by  
5 the City Council then to approve it. The intervenors have  
6 consistently pointed to the City Charter as well as the City  
7 rules that provide only that the City Council may approve, may  
8 take actions through a vote. And that did not occur here.

9           And so all we are asking, and all we are suggesting  
10 that is in the Court's purview then, how did the City Council  
11 approve it. We do not believe that the Court needs to  
12 interrogate what actually occurred in that meeting vis a vis  
13 discussions with Council, vis a vis the City's deliberations,  
14 that issue will be resolved through the Brown Act, that  
15 proceedings in front of Judge Kin. That issue will be involved  
16 through the Court of Appeals or the Court of Appeal if that's  
17 how the City chooses to move forward.

18           But, Your Honor, the question of the process used by  
19 the City Council to approve the encampment reduction plan will  
20 not be addressed by the Brown Act. If it's not interrogated  
21 here, it will not be interrogated anywhere. The City's made  
22 that clear in the Brown Act proceedings, that that is a red  
23 herring, that that issue is not before the Court and that is  
24 absolutely the case, it is not before the Court, before Judge  
25 Kin, whether or not the City Council approved the encampment

1 reduction plan.

2           And, Your Honor, I would go back to why we are  
3 standing here, why we have been in front of Your Honor for  
4 weeks in numerous proceedings since June of last year. The  
5 City of Los Angeles makes statements. They use plain language,  
6 they say the City Council approved things and expect that we  
7 will understand that to mean that the City Council went through  
8 the normal processes, approved it consistent with the charter  
9 and the rules. They approved it. That was a representation by  
10 the City Attorney's Office.

11           Your Honor, the stipulation didn't have to say vote,  
12 because Your Honor is allowed to read into the City Attorney's  
13 plain language, the legal context in which that statement was  
14 made.

15           When the City Attorney's Office said that the City  
16 Council approved something, you would expect, Your Honor, and  
17 this is a fair expectation for you, for the public, for the  
18 plaintiffs, for intervenors to expect that the City Attorney's  
19 Office represents that the City Council approved something,  
20 that they did so consistent with their own rules and the City  
21 Charter.

22           And when in subsequent proceedings the City  
23 Attorney's office represents that they did not, in fact, use  
24 the normal course to approve it, it is a very basic and very  
25 fundamental question what the City Attorney's Office meant

1 then, when they said, the City Council approved it.

2 Full stop, Your Honor, that's what these proceedings  
3 are about. The fact that the City is hiding behind the Brown  
4 Act proceeding is frustrating to say the least.

5 No one asked the City or the City Attorney's Office  
6 to represent to this Court what occurred during the January  
7 31st, 2024 meeting. The City Attorney's Office and the City  
8 did that on their own. They said, despite the fact that it  
9 occurred in closed session, they said that the ERP, the  
10 encampment reduction plan was approved by the City Council.  
11 They opened that door, Your Honor.

12 And subsequently when they were asked in another  
13 forum whether -- what the vote tally was, a very basic and very  
14 fundamental question that one would ask when it's represented  
15 that the City Council approved something, they opened the door  
16 further, Your Honor. And they said that no vote was taken.

17 So they discussed to Your Honor or to the intervenors  
18 and the petitioner in that case, they discussed aspects of the  
19 process. Your Honor, that is quintessentially what it means to  
20 open the door to basic questions about what that process was,  
21 and we know it wasn't a vote.

22 And how do we know it wasn't a vote, Your Honor?  
23 Because the City said it wasn't. And they don't get to tell us  
24 what they want to tell us and then refuse to answer questions  
25 when the Court takes it upon itself using its inherent

1 authority to ask fundamental questions to preserve the sanctity  
2 of this Court.

3 And that's what's at issue here, it's not about the  
4 Brown Act. That, Your Honor, is a complete red herring, it is  
5 about simply asking basic questions about what the City meant  
6 when the City put forward on its own that it approved the  
7 encampment reduction plan.

8 And, Your Honor, in terms of an in camera review, I  
9 would say on further reflection that an in camera review would  
10 open the door to a significant interference with the closed  
11 session, which we are somewhat concerned about. We think it  
12 probably goes beyond what the Court actually needs to  
13 interrogate for purposes of answering this question, right,  
14 which is simply what the process was. And if the City would  
15 answer that question, then I think we could move on and we  
16 could do the briefing if the Court desires the parties to do  
17 so, we could do the briefing that the City -- that the counsel  
18 for the City last week represented would be helpful, which is  
19 whether or not that approval was consistent with the rules in  
20 the charter.

21 We just have to know what happened, Your Honor, and  
22 that's what we're asking for. Thank you.

23 **THE COURT:** The City please.

24 **MS. KUMAR:** Your Honor, just as -- I mean, it sounds  
25 like Ms. Myers is in agreement that no in camera review is

1 appropriate here, but to address Ms. Mitchell's point about the  
2 Brown Act, it allows for in camera review in a proceeding  
3 related to a Brown Act violation, which this is decidedly not.  
4 It does not allow for any court anywhere to review in camera  
5 recordings protected by the Brown Act because of some other  
6 unrelated purpose that has nothing to do with the Brown Act, so  
7 we don't believe that justifies this question.

8           But to address Ms. Myers' last statements regarding  
9 the need for the public to know and that the need for the  
10 City's integrity to be pressure tested, first of all, Your  
11 Honor, that's not the appropriate purview of this Court to just  
12 generally interrogate the integrity of the City of Los Angeles.

13           Particularly where here there is no basis to do so.  
14 The City hid nothing. If you listen to Ms. Myers' statements,  
15 what she said was, we both hid everything but then we disclosed  
16 enough to waive everything. I mean, it is candidly a little  
17 bit confusing.

18           The City is going its best to balance the needs  
19 between the Brown Act and its desire to be transparent. So as  
20 a result of that, it disclosed that it did, in fact, approve  
21 the encampment reduction plan, it being the City Council  
22 approved the encampment reduction plan. That is transparency.

23           Now, the fact that Ms. Myers and the Alliance want to  
24 know how was it approved, is irrelevant to this hearing,  
25 because no one's saying that it wasn't approved. No one is

1 looking to back away from the encampment reduction plan. It  
2 continues to be a valid plan. The City has said that  
3 repeatedly. It is -- no one is seeking to unwind the plan.  
4 Ms. Myers could have sought that in the Congress litigation,  
5 declined to do so. It is a valid plan, it continues to be the  
6 plan that this City proposed in conjunction with this  
7 settlement agreement.

8 Your Honor, as to whether or not it was properly done  
9 per City Council and City Charter rules, Mr. Marcus answered  
10 that. We are prepared to brief that question, but I will tell  
11 you, Your Honor, to the extent this hearing devolves into  
12 whether the City followed its own rules in approving the plan,  
13 that is outside of the purview of this Court.

14 The scope of this hearing is a purported willful  
15 misrepresentation, which again I would repeat no one is saying  
16 occurred. But for this Court to now delve into whether the  
17 City Council charter and the City Council rules allowed for  
18 approval to happen, short of a vote, that is running right into  
19 a state and local proceeding that this Court has no authority  
20 to do.

21 More importantly, they are wrong. The City Council  
22 can approve things or act in ways short of a vote. Mr. Marcus'  
23 testimony establishes that. And again I point out, Your Honor,  
24 that no witness I am aware of is going to walk into this  
25 courtroom and say that that can't happen.

1           So it's not the appropriate purview of this Court,  
2 but even if it were, they're wrong. So why are we in this  
3 courtroom interrogating a purported misrepresentation that no  
4 one is saying is, in fact, a misrepresentation.

5           Again, Your Honor, I point us back to every time that  
6 counsel in this courtroom makes a representation that this  
7 client authorized a proceeding or my client authorized -- is  
8 prepared to plead guilty, has that attorney waived what that  
9 lawyer -- what their client told them? If I stand here before  
10 you as a defense attorney and say, and you ask if my client is  
11 prepared to plead guilty and I say, yes, Your Honor, have I now  
12 waived what that client told me? I think we would be upending  
13 our principles of attorney/client privilege to say that that is  
14 what would happen.

15           Simply saying that something was approved does not  
16 waive what actually happened behind that, nor does any witness  
17 have the ability to waive what happened in the closed session  
18 on behalf of the City and violate the Brown Act. They're  
19 subjecting themselves to discipline by doing so. They also do  
20 not have the authority to waive the attorney/client privilege  
21 or any of these privileges that are at issue here.

22           Ms. Myers says we're using it as a sword and a  
23 shield. That's particularly ironic, Your Honor, because we  
24 never called this hearing. A sword and a shield is when the  
25 City is putting forth something, so that it can advocate

1 something, so that it can advocate a position.

2           The classic example that this Court is well familiar  
3 with is an attorney -- a device of counsel defense in any sort  
4 of proceeding. You can't say my lawyer told me to do this and  
5 then not reveal what the basis for that is. That's the classic  
6 sword/shield example. That is not what happened here.

7           The City answered the question that it was approved.  
8 Simple. We do that day in and day out, nor do we waive what  
9 happened underneath that by doing so. The idea that we're  
10 using this as a sword and a shield when it's the City that is  
11 being threatened to be held in contempt, it's -- Your Honor,  
12 it's just not tenable, it's just not a tenable position to  
13 take.

14           It's not -- we're not wielding some sort of sword.  
15 We're trying to defend ourselves against a contempt proceeding  
16 and may I remind Your Honor that we vociferously objected,  
17 asked for this to be held over so that we were not put in a  
18 position where we would have to discuss what happened in those  
19 closed sessions.

20           We have maintained that line, no one has done so. I  
21 anticipate that will continue today, but there's no reason to  
22 look behind the veil when no one is saying what was represented  
23 to this Court is untrue, and I would point out that Ms. Myers  
24 in her statements doesn't make any representation as to why she  
25 believes it wasn't approved, other than her belief that it

1 wasn't approved in accordance with the City Charter or the City  
2 Council's rules. That's not saying there was a willful  
3 misrepresentation.

4           The fact that this Court could read in that there was  
5 a vote, well I mean, I don't know why that would happen, it  
6 didn't say there was a vote. It said approved. And, you know,  
7 as I would have said before it's incorrect to believe that the  
8 City Council can only act by vote. And we can brief that issue  
9 if the Court desires.

10           But, Your Honor, again I would point out there's --  
11 the City is not using it as a sword and a shield, it's not  
12 hiding anything. The California legislature passed a statute  
13 that called for instances in which things can happen in closed  
14 session. That is not the City hiding behind anything. It is  
15 entitled as a municipal body to maintain its attorney/client  
16 privilege and to act in accordance with the Brown Act. In  
17 fact, it's required to.

18           So, Your Honor, I -- there's no reason to continue  
19 with this hearing and certainly no reason for an in camera  
20 review of the recordings related to this meeting. Thank you,  
21 Your Honor.

22           **THE COURT:** Check with your team. You have a number  
23 of attorneys here today, make sure you've covered all of your  
24 arguments.

25           **(Pause)**

1           **MS. KUMAR:** Nothing further at this time, Your Honor.

2           **THE COURT:** Okay. Anyone else? I want to make  
3 certain that if there's anything that any other party wants to  
4 add, you're more than welcome to.

5           **MS. MYERS:** Thank you, Your Honor. I'd just like to  
6 point out the sword that the City of Los Angeles used. That  
7 was when they represented that the City Council approved the  
8 encampment reduction plan, I would just point the Court back to  
9 the reason why the City made that representation. That was in  
10 response to a settlement enforcement action that the plaintiffs  
11 had filed.

12           So it is patently false to suggest that the City did  
13 not use that as a sword. Mr. Marcus made that representation  
14 as part of a stipulation to resolve the settlement enforcement  
15 action against the City of Los Angeles, when at issue, Your  
16 Honor, was the fact that the City Council had not approved an  
17 encampment reduction plan before January 31st, 2024. There's a  
18 reason, Your Honor, why Mr. Marcus made that representation to  
19 the Court at the time that he did.

20           Second of all, Your Honor, with regards to the vote  
21 tally and the vote was not taken, Your Honor, that was  
22 absolutely used as a sword in the underlying Brown Act  
23 proceeding because the City of Los Angeles made that  
24 representation that the -- a vote tally, like a vote did not  
25 have to be disclosed because no vote was taken.

1           And I understand the City is going to jump up here  
2 and they're going to say, and Your Honor, that's why we can't  
3 move forward with this, because that was related to the Brown  
4 Act. But, Your Honor, we're not talking about the vote tally  
5 as a sword in these proceedings. We're talking about what  
6 gives rise to the skepticism of the City's representation that  
7 the City Council approved the encampment reduction plan.

8           Your Honor, the City says we're not calling any  
9 witnesses who are going to attest that the encampment reduction  
10 plan was not approved. Your Honor, that's because no one from  
11 the City will get up here and testify about what happened  
12 during the January 31st, 2024 meeting. They're not going to  
13 testify that it wasn't approved, nor are they going to testify  
14 that it was approved -- well, I mean, they will testify that it  
15 was approved because the City will allow them to testify that  
16 it was approved.

17           But when asked about the process, when asked about  
18 what gave rise to that approval, they won't testify to it.  
19 They will -- I submit that they will do exactly what Mr. Marcus  
20 did, that despite an order from this Court that the City had  
21 waived attorney/client privilege, Mr. Marcus continued to  
22 assert attorney/client privilege in spite of Your Honor's  
23 ruling.

24           This suggestion, Your Honor, that the City has not  
25 waived anything by representing to the Court numerous aspects

1 of what occurred in the closed session completely ignores the  
2 City's position and the ways in which they are skirting the  
3 line relative to that position. Either, Your Honor, the City  
4 doesn't have to testify or either the Brown Act prevents  
5 disclosure of anything, Your Honor, and that bell has already  
6 been rung or Your Honor is well within his authority to ask  
7 questions about the process related to that.

8 And, Your Honor, I think the City's position that the  
9 Brown Act prevents them from disclosing what occurs, the City  
10 of Los Angeles has disclosed what occurred during that meeting.  
11 The City Council's position is the Brown Act does not allow the  
12 disclosure of anything that occurred during the January 31st  
13 meeting. And yet on numerous occasions in this court and in  
14 other proceedings the City has, in fact, represented what  
15 occurred during those proceedings.

16 So to the extent that the City is claiming that it  
17 would subject them to misdemeanors and prosecution, Your Honor,  
18 then Mr. Marcus made that representation in violation of the  
19 Brown Act then. And, Your Honor, that's exactly the position  
20 that we're in here.

21 So that's what we would say, the City is, in fact,  
22 using these representations as a sword and has used them in  
23 these proceedings as a sword, and now they are using the Brown  
24 Act to shield or they're using the Brown Act and  
25 attorney/client privilege to shield themselves from any sort of

1 interrogation and to the very, very basic question about what  
2 process the City of Los Angeles used.

3           And the last point that I will make, Your Honor, is  
4 that while Mr. Marcus made representations that the City could  
5 approve things, the City Council could approve things by a  
6 discussion or unanimous consent and the suggestion that  
7 unanimous consent does not equal a vote, the City has not  
8 pointed to, nor could Mr. Marcus point to anything in the City  
9 Council charter or the rules that supported his position. That  
10 was his opinion related to that, but the City has not come  
11 forward with any sort of representation that that is actually  
12 the case. So thank you, Your Honor.

13           **MS. MITCHELL:** May I be heard briefly, Your Honor?

14           **THE COURT:** Certainly.

15           **MS. MITCHELL:** As to Ms. Myers' last point, when  
16 there is a consent vote in City Council, that is recorded by  
17 the clerk as a unanimous vote. So the minutes reflect a  
18 unanimous vote, so they do reflect a vote.

19           So any time something is placed on the consent  
20 calendar, again that's recorded by the clerk as a unanimous  
21 vote and that's reflected in any of the minutes that are  
22 reviewed.

23           But I think separately regarding the in camera review  
24 process, counsel is absolutely right, that the California cases  
25 addressing the in camera review of a closed session recording

1 or interrogation of the facts is all in the Brown Act context.  
2 But I think it is relevant here to bring up because an in  
3 camera review is something that federal courts frequently do  
4 when there are conflicting interests, particularly regarding  
5 privilege. And it is a way to maintain and acknowledge and  
6 respect to the privilege while still getting to the truth of  
7 the matter.

8 It's commonly done, for example, when there's -- in  
9 civil litigation when there's a work product or an  
10 attorney/client privilege claim over a document and the other  
11 side says I think that we're entitled to it. Oftentimes,  
12 courts will do an in camera review to determine privilege.

13 And I do think that that is an appropriate balanced  
14 solution here to the Court's consideration. Thank you.

15 **THE COURT:** City.

16 **MS. KUMAR:** Thank you, Your Honor. I will endeavor  
17 to be brief and respond.

18 Ms. Myers' position is that by saying that the  
19 encampment reduction plan was approved by the City Council, the  
20 City has waived. Your Honor, we've already given examples of a  
21 criminal plea and what we do day in and day out as lawyers, but  
22 I would point the Court also to the Brown Act.

23 The Brown Act does provide that under certain  
24 circumstances, which are not applicable here, but under certain  
25 circumstances that the City Council must report out actions

1 taken after a closed session has been completed.

2 Under Ms. Myers' theory reporting on a reportable  
3 action as is required by California law, would be waiving what  
4 happened in the closed session in every instance. That is  
5 like -- it's just absurd, Your Honor.

6 The idea that the representation of what happened,  
7 general conclusion as this Court said, not discussions, but  
8 facts, that is not a waiver. It is not a tenable position,  
9 Your Honor.

10 She also said that the reason that no one's going to  
11 walk into this courtroom and contradict the purported  
12 misrepresentation is that no one's being allowed to testify to  
13 it. False. Mr. Marcus already testified that it was approved.  
14 I can represent to the Court that the two remaining witnesses  
15 will also testify that it was approved. No one is walking into  
16 this courtroom and saying it wasn't approved.

17 Instead what we're hearing is a procedural argument,  
18 contorting ourselves into various shapes to try to argue under  
19 City Council charter -- the City charter and the City Council  
20 rules that it had to have happened by a vote, and that  
21 otherwise it's somehow procedurally defective.

22 First of all, it doesn't make the representation  
23 false even if Ms. Myers is right. More importantly, she is not  
24 right. Mr. Marcus testified to that. I anticipate if the  
25 Court insists there will be more testimony to that and we can

1 brief the question.

2 But most importantly, the Court shouldn't be  
3 inquiring into the City municipality -- like deciding whether  
4 things were done according to the City charter and the City  
5 Council rules. It's running right into the abstention  
6 doctrine. You should not -- the Court should not be doing  
7 that, Your Honor. It's not appropriate and more importantly  
8 it's irrelevant because there's no basis to believe there was a  
9 misrepresentation. There was none.

10 Your Honor, again, and to the question if we're going  
11 to go down to there has to be a vote, I point the Court to what  
12 Mr. Marcus said which is Section 272 of the City charter that  
13 specifically calls for a discussion of litigation, no mention  
14 of vote, mention of client direction, no mention of a vote, no  
15 requirement of a vote.

16 And the portion that Ms. Myers constantly wants to  
17 refer to is Section 244, which says, except as otherwise  
18 provided by this charter, as otherwise provided, for example,  
19 although there are others, Section 272 which provides for  
20 client direction and no requirement of a vote.

21 Your Honor, on that I would submit.

22 **THE COURT:** All right. Anyone want to respond?

23 **MS. MYERS:** I'd just like to make one quick point  
24 about the Brown Act, Your Honor.

25 **THE COURT:** Please. I want to make sure all of

1 you've had as much time as you need for your arguments.

2           **MS. MYERS:** Your Honor, we would be more than open to  
3 briefing on the issue of how the City -- whether the City  
4 properly approved the encampment reduction plan if the City  
5 would just tell the Court how the City approved the encampment  
6 reduction plan. Otherwise it's entirely hypothetical and there  
7 is nothing to brief. I think that's what's frustrating about  
8 all of this colloquy going back and forth, about whether --  
9 about how the -- how it was approved. There's nothing to  
10 brief, Your Honor, if we don't know how it was actually  
11 approved, that's the very straight forward problem.

12           Also I would just say, Your Honor, that the back and  
13 forth related to the Brown Act in these court proceedings it is  
14 misrepresenting what the Brown Act actually says, left and  
15 right, Your Honor. The Brown Act says that certain things have  
16 to be disclosed. Your Honor, whether or not this is the type  
17 of thing has to be disclosed is actually an issue that was  
18 litigated in the Brown Act case and the Court found that it was  
19 something that would have to be disclosed, Your Honor, but that  
20 is separate and apart from this.

21           I just didn't want to let the City's representation  
22 about what the Brown Act says and what it requires to stand  
23 because it's simply inaccurate both in terms of the facts, the  
24 law and Judge Kin's ruling on this particular issue.

25           But, Your Honor, you don't have to go down that path.

1 We do not have to go down the path of the Brown Act. We can  
2 simply focus on the very straight forward issue of how the City  
3 Council approved it. And again, we would be more than open to  
4 briefing on the issue if the City would simply represent what  
5 the process was, and then we can brief it if Your Honor finds  
6 it necessary about whether that process is consistent with the  
7 charter.

8           And the last point that I will make is the provision  
9 that the City wants to keep pointing to which is direction and  
10 litigation is not what this was. This -- the City did not  
11 represent to the Court that they instructed the City Attorney's  
12 Office to enter into an agreement. They represented that the  
13 City Council approved it.

14           And if the representation had been that the City  
15 Council instructed counsel as to a litigation issue, then  
16 perhaps the provision of the charter would apply. But that's  
17 not the representation that was before the Court. The  
18 representation before the Court was that the City Council  
19 itself approved the plan and that is what has opened this  
20 entire proceeding to interrogating that particular point.

21           **THE COURT:** Are all counsel satisfied with their  
22 arguments?

23           **MS. KUMAR:** Yes, Your Honor.

24           **THE COURT:** Counsel?

25           All right. I want to share with you some thoughts

1 I've had since last week and first, the City is continuing to  
2 object to me broadening the scope of this contempt hearing and  
3 this objection seems to be largely based on the City's belief  
4 that this hearing somehow interferes with Judge Kin's case over  
5 in the Superior Court. And I don't think so because Judge Kin  
6 and I are concerned about two different things.

7 I know that Judge Kin will deal with the potential  
8 Brown Act violation in his own time and make whatever rulings  
9 he believes are warranted, but I've asked counsel to keep me  
10 apprised of Judge Kin's proceedings.

11 The Brown Act is not my concern in this contempt  
12 hearing. My concern here is that the possibility that an  
13 unauthorized representative -- strike that. That an  
14 authorized, I'm sorry, that an authorized representative of the  
15 City of Los Angeles may have made an intentional  
16 misrepresentation of a material fact to this Court. Those are  
17 two very different things.

18 I'm confident that we can answer that question  
19 without intruding into Judge Kin's jurisdiction and I think the  
20 only way I can figure out what happened is to hear testimony  
21 about it. So we'll continue with that process today.

22 Next, I think I need to remind everyone about the  
23 extraordinary history of this case, which dates back six years  
24 to 2020. Some of you were not with us back then. And in 2020,  
25 the COVID pandemic had just begun and there was a different

1 administration in City Hall, that administration was Mayor  
2 Garcetti's administration.

3           Our work in this case was just beginning and on March  
4 19th of 2020, I presided over an unusual hearing, I believe in  
5 this courtroom. Attending that hearing included the Mayor of  
6 Los Angeles at the time, his counsel, members of the Los  
7 Angeles City Council, and their counsel and the President of  
8 that Council, members of the Board of Supervisors, it actually  
9 also included Los Angeles District Attorney at the time and the  
10 Fire Chief.

11           There were mayors of different cities present, but we  
12 had to limit the attendance because of COVID, we were separated  
13 by six feet. And we had to restrict this to 50 attendees at  
14 the time or this place would have literally overflowed with  
15 mayors, council people, not just throughout the city, but Los  
16 Angeles, we actually had to restrict the attendance.

17           There's a transcript of that hearing that you all can  
18 read and I'll docket it today. In open court and on the record  
19 we discussed my involvement in this case and the fact that I  
20 felt that I needed the flexibility to have ex parte  
21 communications with various people as the case moved forward.

22           And thereafter as I said in open court many times,  
23 I've spoken to hundreds and hundreds of people. There were no  
24 objections. No one objected. No elected officials, no  
25 counsel, and to the contrary at one point Mayor Garcetti said,

1 it's great to be here at the first convening of the Judge  
2 Carter fan club Los Angeles chapter and we all laughed.

3           The -- later, however, I had said, if you get rid of  
4 me, it's no problem at all. The Mayor replied we don't want  
5 that and so it went back and forth. I also had multiple  
6 meetings with every member of the Los Angeles City Council.  
7 Almost every member of the Los Angeles Board of Supervisors, I  
8 was transparent with that throughout the record as counsel,  
9 Ms. Myers, you were here, Carol Sobel was here, Brook Weitzman  
10 were here, Ms. Mitchell, you were here. Mr. Marcus who's in  
11 the back was here.

12           And we reached out, while every member of the City  
13 Council and the Board of Supervisors reached out to this Court.  
14 I've been transparent at all times about those meetings.  
15 Everyone knew about them and I even have the personal cell  
16 phones of past mayor, present mayor, they have my personal cell  
17 phone. This is all described throughout the record.

18           When Mayor Bass came in after Mayor Garcetti there  
19 were a few new Council members at the time. They also reached  
20 out to this Court and the Special Master initially and we've  
21 met on a multitude of occasions, not every one of them, there  
22 were a couple of folks we didn't meet.

23           In fact, my first meeting was actually with Mayor  
24 Bass, your client and it was on skid row and I've eluded to  
25 that at least two or three different times on the record, and I

1 also eluded to the fact that we met at the Biltmore Hotel,  
2 Denny's Restaurant, and different coffee shops on a multitude  
3 of occasions, including your new Council members.

4 This also occurred not only with your Council  
5 members, with the Governor and I've stated that on the record  
6 also, who came by to see this Court. No one ever objected.  
7 This was never an issue.

8 It's clear to me that the parties wanted me to be  
9 involved in this case, and as a result they agreed that I could  
10 do certain things that otherwise might not have been  
11 permissible, absent that agreement. And some of the arguments  
12 the City is currently making to this Court and the Circuit  
13 might be warranted, but in light of the City's agreement and  
14 the continued ex parte conversations in what is absolutely an  
15 extraordinary case, I know of no other case like this, there's  
16 no past precedent or guideline for this case, I don't think any  
17 of those objections are well taken.

18 So with that in mind, we're going to continue and if  
19 you'd call your witness who's been very polite and I think he  
20 had a 3 o'clock appointment on the other day. I think it's  
21 Mr. Fauble. Is this the next witness, counsel, I believe who's  
22 going to be called?

23 **MS. KUMAR:** Yes, I believe Ms. Myers is calling  
24 Mr. Fauble, the City is --

25 **THE COURT:** Sir, if you'd be kind enough to step

1 forward. Thank you for your courtesy. And hopefully you made  
2 your 3 o'clock appointment Friday or last Wednesday.

3 **MR. FAUBLE:** I did make it, thank you.

4 **THE COURT:** Thank you. If you'd raise your right  
5 hand, sir.

6 **STREFAN FAUBLE, INTERVENOR'S WITNESS, SWORN**

7 **THE COURT:** Thank you, sir. Would you please be  
8 seated here in this box.

9 **MS. MYERS:** Thank you, Your Honor. If I can have  
10 just a minute to get the technology set up.

11 **THE COURT:** Be careful. There's a slight  
12 indentation.

13 **THE WITNESS:** Thank you, sir.

14 **THE COURT:** And, sir, after being seated would you  
15 face the parties and state your full name please. Sir, would  
16 you state your full name please.

17 **THE WITNESS:** Oh, Strefan Fauble.

18 **THE COURT:** And would you spell your last name, sir?

19 **THE WITNESS:** F-A-U-B-L-E.

20 **THE COURT:** Just one moment, please. Would you spell  
21 your first name for me also?

22 **THE WITNESS:** S-T-R-E-F-A-N.

23 **THE COURT:** Thank you. Counsel, direct examination.

24 **MS. MYERS:** Yes, Your Honor. If I can have just one  
25 moment to get the technology set up. Thank you.

1 (Pause)

2 DIRECT EXAMINATION

3 BY MS. MYERS:

4 Q Good morning. Shayla Myers on behalf of the  
5 intervenors. Thank you, Mr. Fauble for coming this  
6 morning. Can you tell us what your position is? First of all,  
7 are you employed by the City of Los Angeles?

8 A Yes.

9 Q Can you tell us what your position is?

10 A I'm an assistant city attorney.

11 Q And how long have you worked in the City Attorney's  
12 Office?

13 A 11 years.

14 Q And what is your primary position within the City  
15 Attorney's Office? Is there a specific department that you're  
16 in?

17 A So I'm the compliance branch chief.

18 Q And what does the compliance branch chief do?

19 A I oversee a number of different aspects of the City  
20 Attorney's Office under several other people. I deal with city  
21 council and Brown Act, Public Records Act, investigations, and  
22 recently the administrative citation enforcement program.

23 Q And how long have you had that position?

24 A Approximately a year.

25 Q And prior to obtaining this position, what position did

1 you have within the City Attorney's Office?

2 A So I was -- prior to becoming the branch chief, I was  
3 still an assistant city attorney and my primary assignment was  
4 both the Public Records Act and staffing and advising the city  
5 council.

6 Q Can you tell us what you mean by staffing and advising the  
7 city council?

8 A So as you -- I believe you saw a video of one of the  
9 meetings before, there's typically somebody sitting in a chair  
10 that has a sign, city attorney, in front of him or her. That  
11 person is providing legal advice and to some degree guiding the  
12 administration of the meeting, as well as providing Brown Act  
13 advice and other advice as may be appropriate. Or connecting  
14 people, connecting the members or the chair to other experts if  
15 there are specific issues.

16 Q So when you're providing legal advice to the city, to the  
17 city council, is that during the city council meetings?

18 A Yes, but not exclusively.

19 Q Okay. During the city council meetings when you're  
20 providing that legal advice, is that in the open session?

21 A It's sometimes an open session.

22 Q Okay. And so then you as the attorney for the city of Los  
23 Angeles are providing that legal advice in the course of an  
24 open session related to issues that may arise in the course of  
25 that meeting, correct?

1 A Sometimes, yes.

2 Q And what kinds of issues have you dealt with over the past  
3 11 years in that? Well, first of all, how long have you  
4 been -- were you in that particular position?

5 A So I think I was in that position for at least nine years.  
6 I'm not sure how much longer than that it was. So examples, it  
7 could be issues relating to the Brown Act. That would be very  
8 common. It could be any of a number of matters. I don't claim  
9 to be a subject matter expert on most issues because the city  
10 deals with myriad things, but certain baby questions in other  
11 areas I'll answer. But if you delve too deeply, for example,  
12 into CEQA, what I'm probably going to do is find somebody who  
13 knows more than I do.

14 Q Fair. We're not going to get into CEQA here. But how  
15 about the city council rules? Are you familiar with the rules  
16 of the Los Angeles City Council?

17 A Yes, I'm familiar with them.

18 Q And is part of your job then to advise the city council  
19 about the operative city council rules in the course of  
20 meetings?

21 A Yes, not exclusively, but yes.

22 Q And are you familiar with the Los Angeles City Charter?

23 A Yes.

24 Q And is part of your job then to advise the city council of  
25 the applicable charter provisions in the course of meetings?

1 A In the course of meetings, yes.

2 Q And that advice often comes up in open meetings, correct?

3 A Often, yes.

4 Q Okay. And under what circumstances -- well, never  
5 mind. I will strike that. Were you the -- were you in this  
6 position in January of 2024?

7 A In January -- well, tell me what you mean by this  
8 position.

9 Q In the position of advising the city council related to  
10 compliance with the various provisions that we've talked about.

11 A Yes.

12 Q And were you in that position in May of 2024?

13 A Yes.

14 Q Okay. When the city convenes in closed session and you  
15 are the -- you are the city attorney that is staffing a city  
16 council meeting, are you in that closed session?

17 A If I'm staffing it, definitely.

18 Q Do you know if you were staffing a city council meeting on  
19 January 31st, 2024?

20 A I was not.

21 Q Okay. Do you know if you were staffing a city council  
22 meeting on May 2nd, 2024?

23 A I do not know.

24 Q Okay. Do you know who had the role that you frequently  
25 take up on January 31st, 2024?

1 A Yes.

2 Q Who was that?

3 A Jonathan Groat.

4 **THE COURT:** I'm sorry, Jonathan what?

5 **THE WITNESS:** Groat, G-R-O-A-T.

6 **THE COURT:** I'm sorry. Would you spell that more  
7 slowly?

8 **THE WITNESS:** Yes. G-R-O-A-T.

9 **THE COURT:** Thank you.

10 **BY MS. MYERS:**

11 Q How many individuals in the city council -- in the City  
12 Attorney's Office have that particular position that you had in  
13 terms of staffing city council meetings?

14 A There are, with rare exceptions, only three of us that  
15 would be doing that.

16 Q Are you familiar with the term a roll call?

17 A Yes.

18 Q What is a roll call?

19 A It's a type of vote.

20 Q And can you describe what that type of vote is?

21 A Yes. So it's -- during the actual vote, be it oral or  
22 otherwise, it's taking the name of the member and then  
23 indicating whether that member is voting yay or nay on the  
24 matter before him or her.

25 Q And so it's an individual identification of the specific

1 vote by council member; is that fair to say?

2 A Yes. While the vote's going on.

3 Q Okay. And it's specific while the vote is going on?

4 A Yes.

5 Q Okay. Are you familiar with unanimous -- the term  
6 unanimous consent?

7 A Yes.

8 Q What does unanimous consent mean to you?

9 A So I see you scrolling through the rules right now.

10 Q Let me find you.

11 A Yeah. If you find rule 49, I think.

12 Q Yes. Getting there.

13 A You'll find that it uses the phrase unanimous approval.

14 Q Yes. I'm asking specifically about the term unanimous  
15 consent. So I'll get to unanimous approval in a minute. But  
16 can you -- are you familiar with the term unanimous consent?

17 A Yes.

18 Q What does that mean to you?

19 A It's a form of voting in which there is typically in order  
20 for the chair saying, does anybody object to the following  
21 proposed action? And if there's sufficient time to object and  
22 nobody does, then eyes are spread across the roles on the  
23 members, but it's not a roll call vote.

24 Q What's the difference between then the unanimous consent  
25 and a roll call vote?

1 A I think the roll call vote is while the vote is going on,  
2 we ascribe a yay or nay to each person. Whereas unanimous  
3 consent is if there is no sufficient objection, it's deemed  
4 that everybody has voted yes.

5 Q Okay. So in that case, it's a form of voting that just  
6 simply does not require the individual tabulation of each of  
7 the council members votes, correct?

8 A While the vote is going on. Yes.

9 Q Okay. And so if there is an action by the city council  
10 that does not require a roll call vote, how else could a vote  
11 be taken?

12 A So, well, a vote, I think, could only be taken as far as  
13 I'm aware, by a roll call vote or by unanimous consent.

14 Q And you mentioned unanimous approval.

15 A Yes.

16 Q And that's a phrase that appears in Section 49, which is  
17 the these are the -- are you familiar with these -- the  
18 document in front of you?

19 A Yes.

20 Q And can you tell the Court what this document is?

21 A Sure. It's the -- I assume it's the current edition, but  
22 an addition of the rules of the Los Angeles City Council.

23 Q Are you familiar with prior versions of the city council  
24 rules?

25 A Some of them to some degree.

1 Q Do you know when the last time the city council rules were  
2 changed?

3 A Oh, gosh, I think it was a couple of years ago.

4 Q Okay.

5 A If you go to the beginning of the document, it would  
6 refresh my memory and I could tell you for sure.

7 Q Are you aware of what the change was the last time the  
8 rules were changed?

9 A So I believe the last change was regarding use of certain  
10 racial and other epithets in the council rules.

11 Q And are you aware of any changes that were made to Chapter  
12 8 before you, the voting?

13 A Chapter -- I don't recall there being any.

14 Q Okay. Okay. So going back to number 49, which is in  
15 front of you, where it says the last line, it says on other  
16 matters, if opportunity is given and no objection is raised,  
17 the presiding officer may announce a unanimous approval of an  
18 item under consideration and the clerk shall so record. And  
19 that particular line where it says unanimous approval, is that  
20 the same to you as unanimous consent?

21 A I believe it is.

22 Q Are you aware of the term unanimous consent appearing in  
23 the charter other than -- well, first, are you aware of the  
24 term unanimous consent appearing in the charter?

25 A Not that I recall.

1 Q Okay. And are there any other provisions that you're  
2 aware of that discuss this unanimous approval voting process?

3 A Not that I recall.

4 Q Okay. Are there other provisions of the city rules that  
5 you recall that discuss how the city council can approve items?

6 A Yes.

7 Q What provisions are those?

8 A Well, Rule 25 comes to mind.

9 Q Let's go to Rule 25. Okay. So this is Rule 25 of the  
10 city council rules. And it says ten members of the city  
11 council shall constitute a quorum. Is this the provision that  
12 you were just -- that you just identified?

13 A Yes.

14 Q And what is your understanding of what this -- when this  
15 provision applies?

16 A When it applies, it applies whenever. Well, there are  
17 different parts of this provision. So the first sentence talks  
18 about a quorum for transaction of business. So that tells you  
19 when there's a quorum. Right. And when business can be  
20 transacted. Second sentence says that except as otherwise  
21 required by the charter or other law or by these rules, we're  
22 not inconsistent therewith, action by the council shall be  
23 taken by a majority vote of the entire membership, which I  
24 think is fairly self-explanatory, or at least I shouldn't say  
25 that. That's what it says. Right? It says a majority vote

1 for action is required.

2 Q And when is your understanding that this provision  
3 applies?

4 A Whenever council takes an action by a vote, it requires a  
5 majority of the membership, which would be eight votes.

6 Q And when -- are there times when the city council can take  
7 actions without a vote?

8 A An action? No, I don't believe so.

9 Q When you use the term action, what do you understand that  
10 term to mean?

11 A I think it's -- I'm not sure that I can define it. I  
12 think it's a legal term of art. I don't think it's equivalent  
13 to the council doing something. Right. So it -- I hesitate to  
14 characterize it more than that because I don't think I have a  
15 definition at my fingertips.

16 Q When you say that the council can do something other than  
17 taking an action, what are those some things that the council  
18 can do?

19 A Well, I don't know that I have an exhaustive list, but it  
20 can instruct somebody. It can express agreement or approbation  
21 to a plan, for example. So those are two -- two things it  
22 does.

23 Q So tell me about instructing. Who can the city council  
24 instruct?

25 A Well, the one that comes to mind, unsurprisingly, given my

1 job is it can instruct the city attorney.

2 Q And what do you mean by instruct the city attorney?

3 A I mean, instruct the city attorney. I'm not quite sure  
4 how else to explain it. Giving us indications of what it would  
5 like us to do.

6 Q And when the city council does that, is it your position  
7 that the city council does not have to vote on that?

8 A It does not have to. That's correct.

9 Q Why is that your position?

10 A Why is it my position? Because I think nothing prevents  
11 them from instructing us. And indeed, one of the council rules  
12 actually talks about instructing the city attorney or the  
13 charter, I should say.

14 Q Do you know what provision of the charter that is?

15 A I don't remember offhand. I suspect you do.

16 Q Does it specifically say that the city council can  
17 instruct the city attorney without a vote?

18 A It does not say that. It says it may instruct the city  
19 attorney.

20 Q And what does it mean for the city council to instruct the  
21 city? I know we're getting into -- we're getting into very  
22 specifics here, but I want to understand when you say the city  
23 council can instruct, how many members of the city council are  
24 there?

25 A Fifteen.

1 Q Okay. So when you say that the city council can instruct  
2 the city attorney, how would the city council instruct the city  
3 attorney to take a particular action without a vote of the  
4 body?

5 A So without referring to any particular closed session,  
6 there could be a discussion and it could be just very clear  
7 that the council wants us to do thus and such. It's the same  
8 way if you were talking to a group of -- a client that had  
9 multi members and you talk to them and you go away  
10 understanding perfectly what they've instructed you to do, but  
11 there's no vote.

12 Q And when that happens, how would that -- you would  
13 understand that to be an instruction to the City Attorney's  
14 Office, correct?

15 A Yes.

16 Q And that's -- that is the verb. It would be an  
17 instruction to the city attorney to do something, correct?

18 **MS. KUMAR:** Objection, Your Honor. Mischaracterizes,  
19 argumentative.

20 **THE COURT:** Overruled.

21 **THE WITNESS:** Can you ask the question again, please?

22 **BY MS. MYERS:**

23 Q Sure. When you were discussing this process, the city  
24 council coming to an agreement, the verb that you would use  
25 then is you instruct the city attorney to take a particular

1 action, correct?

2 A I might use that verb. I don't know.

3 Q What other verbs would you use?

4 A Told us. For example.

5 Q Okay.

6 **THE COURT:** I'm sorry, the word?

7 **THE WITNESS:** Told us. A very common English word.

8 **BY MS. MYERS:**

9 Q And then the understanding is then that would be then the  
10 City Attorney's Office or the city's lawyers would then take a  
11 subsequent action, correct?

12 A Presumably.

13 Q Okay. And you just said you said approbation of a plan.  
14 What do you mean by that?

15 A Expressing liking of it. Right.

16 Q But what circumstances would the city council like express  
17 like of a plan?

18 **MS. KUMAR:** Objection, Your Honor. I direct the  
19 witness not to answer to the extent it's any specifics. He can  
20 speak in generalities, but he can't obviously reveal what  
21 happens in closed sessions or is otherwise protected by the  
22 attorney/client privilege.

23 **THE COURT:** Overruled. You can answer that question.

24 **THE WITNESS:** Okay. And I -- indeed, I think the  
25 question is answerable. It's sort of a hypothetical in

1 generalities.

2           So perhaps I can give you an example. Again, this  
3 would be a hypothetical. But imagine that the head librarian  
4 from the city is in front of city council and he's presenting  
5 his plans at what he's going to do with the library and what  
6 kind of services he's going to provide. And it's clear during  
7 the course of the discussion that the -- clearly, certainly a  
8 majority of the council members are expressing approbation or  
9 liking of what he's planning to do. Right. So they're clearly  
10 approving of what he's suggesting through discussion. There's  
11 no vote.

12 **BY MS. MYERS:**

13 Q     And under that -- under those circumstances in which the  
14 members of the city council like what is being presented to  
15 them, in your example, it is the head librarian that is taking  
16 a particular action, correct?

17 A     That was my example.

18 Q     Okay. Are there real world instances that you can recall  
19 from your 11 years of staffing city council meetings in which  
20 the city council liked something that was presented to them?

21           **MS. KUMAR:** Objection, Your Honor. Same objection.  
22 Nothing -- only as to open session can the witness respond?

23           **THE COURT:** Overruled.

24           **THE WITNESS:** So the answer is, I can't think of a  
25 particular case, but I know that it happens, you know, not

1 infrequently. Right. It's not unusual at all.

2 Q And it's not unusual at all that the city council likes  
3 things that are presented to them and expresses that like  
4 through discussion. Is that your testimony?

5 A That's what I said. Yes.

6 Q Okay. And you would consider that -- would you consider  
7 that to be an action taken by the city council?

8 A No. Not in the sense of Charter Section 25.

9 Q Okay. What other examples do you -- can you give us any  
10 other examples of the city council liking something and  
11 expressing their like of someone presenting to them taking a  
12 particular action?

13 A So as I've told you, I really can't think of any specific  
14 examples where they've -- there was clearly an expression of,  
15 you know, approbation of what was being suggested. But again,  
16 it's not unusual. This would be a lot like if you asked me to  
17 dredge up a memory of buying celery at the market. I know I've  
18 done it many times. I can't think of a specific instance.

19 Q And so how would the -- would the expressing like through  
20 discussion be recorded anywhere as an official action of the  
21 city council?

22 A I don't think so.

23 Q And how would the public know that the full city council  
24 liked something?

25 **MS. KUMAR:** Objection, Your Honor. Relevance.

1           **THE COURT:** Overruled.

2           **THE WITNESS:** So if it were -- if this occurred in  
3 open session, a member of the public could watch the video or  
4 listen to it and understand perfectly well what occurred.

5 **BY MS. MYERS:**

6 Q       Okay. And where in the city charter does the approbation  
7 of a plan occur? Or where in the city charter does it refer to  
8 that process of liking something through discussion?

9 A       So it doesn't -- it's not referenced in the charter. I'm  
10 worried that you may be misunderstanding the nature of the  
11 charter, however.

12           **THE COURT:** So like is not mentioned in the city  
13 charter?

14           **THE WITNESS:** It's not. But the confusion that I  
15 think -- I suspect where Ms. Myers is going is that she's  
16 suggesting that if something is not called out as allowed in  
17 the charter, we don't have authority to do it. That's to  
18 misunderstand the nature of the charter. The charter is not a  
19 document of authorization. It's a document of limitation.

20           And so I would point, for example, to charter Section  
21 25, where it says actions are taken unless otherwise, you know,  
22 exempted are taken by a vote. That doesn't mean that anything  
23 that the charter -- that the council does, which isn't an  
24 action, you actually use the word official action at one point,  
25 requires a vote. I just think otherwise would be

1 misunderstanding what the kind of -- what the charter is.

2 **BY MS. MYERS:**

3 Q So just to clarify, you said charter. I believe you mean  
4 Council Rule 25?

5 A Yeah. Sorry. Council rule. There's a similar charter  
6 section.

7 Q Yeah. So you're referring to Council Rule 25.

8 A Yeah. Thank you.

9 Q So the charter is about limiting the power of the city  
10 council, correct? That's your testimony?

11 A Yes.

12 Q And is it about limiting the power of the city council to  
13 take actions pursuant to specific procedural requirements?

14 A So if there's a procedural requirement in it, I think that  
15 would be telling us how we have to do it, to put it that  
16 way. And if it doesn't say how we have to do something, then  
17 we're allowed to do it under the charter.

18 Q So when you say, and I'm going to go to the city council  
19 Rule 25 that I think you were referring to. So where it says,  
20 except as otherwise required by the charter or other law or by  
21 these rules, where not consistent therewith, action by the city  
22 council shall be taken by a majority vote of the entire  
23 membership of the council, are you suggesting that there are  
24 other ways that are not outlined in these rules, the charter or  
25 applicable law that would allow the city to take actions? Is

1 that what you're representing about the city council rules?

2 A So insofar as you're talking about an action, other than  
3 possibly unanimous consent, because I'm not sure whether rule  
4 25 is talking about a roll call vote, I would say no.

5 Q You previously testified that a roll call vote and  
6 unanimous consent are two ways to achieve a vote, correct?

7 A That's right. So maybe in light of what you said, maybe  
8 the answer to the question is no. Council can't take an action  
9 outside of a majority vote or if a higher percentage is  
10 required, of course.

11 Q And so then the question rests on what an action is then.

12 A Yes.

13 Q And so it's your testimony -- again, what do you  
14 understand an action to be?

15 A So I don't think I have a definition. You used the phrase  
16 official action at one point, which I don't know that's in the  
17 rules or the charter anywhere, but maybe captures the idea. So  
18 I can give you a non-exhaustive list. Voting on an ordinance  
19 is an action. Voting on a resolution is an action. Voting on  
20 the budget is an action. I can probably give you a non-  
21 exhaustive list of non-actions, instructing the city attorney,  
22 expressing approbation or disapprobation to a planned course of  
23 action. So those are some examples. But I'm not prepared and  
24 it's very difficult to create definitions for fairly common  
25 English words on the spot. I don't think I can do it.

1 Q Perhaps hit on what's happening here is questions about  
2 specific words and what they mean. But your job is to  
3 interpret the rules and advise the city council related to  
4 those rules, correct?

5 A Part of my job.

6 Q Yeah. And so the city council routinely approves reports  
7 from committees, correct?

8 A Yes.

9 Q And is that an action taken by the council?

10 A Well, actually, it votes on them. So, yes, I'm quite  
11 sure. And they have recommendations in the reports, usually,  
12 that are very specific. I can give you hypothetical examples  
13 if you want.

14 Q So if there was a report from the Transportation Committee  
15 that went in front of the city council, the city council would  
16 vote on that to express approbation, liking that report,  
17 correct?

18 A I think to say that they vote to express approbation is a  
19 very strange phrase. I wouldn't use that.

20 Q Neither would I.

21 A A vote is a performative act, and they vote on the  
22 recommendations in the report.

23 Q Yes. And they frequently use the votes in that vote to  
24 instruct specific departments to take actions, correct?

25 A Yes.

1 Q And that is, in fact, a large part of what the city  
2 council does, right, is that they instruct various city  
3 departments to take specific actions, correct?

4 A So they tend to -- so I'm not quite sure that's right.  
5 They instruct departments through, usually, maybe entirely,  
6 passing ordinances. Other than that, it's usually a  
7 departmental report or recommendations where the department is  
8 asking for something. For example, please approve this  
9 contract that's for five years, and then the council votes to  
10 approve the contract.

11 Q So it's your position that the city council does not  
12 routinely instruct departments to take specific actions through  
13 voting to approve reports?

14 A I think the answer is -- I think that's what I'm  
15 saying. I think they instruct departments through  
16 ordinances. I'm trying to think of examples.

17 Q Sure.

18 A And the ones that are coming to mind are usually --  
19 something that you would think of is not an ordinance where  
20 maybe you're characterizing as instruction. The department  
21 sends a report in, and, for example, it would say, you know,  
22 we'd like to enter into this contract for a five-year period  
23 for this building project and to have the controller transfer  
24 funds. I suppose the controller instructions are instructions  
25 of the controller, and council votes on that. So if you have

1 specific examples, it may help me.

2 Q Sure. We'll come back to that, specific instructions of  
3 the city council instructing departments to take specific  
4 actions.

5 A Thank you.

6 Q I'm going to go back to the -- I'm going to show you  
7 what --

8 A Actually, can I add to the previous testimony? I think  
9 there are examples. I'm trying to think of examples. I think  
10 they're examples of instructions as I'm thinking through many  
11 past agendas. But if you had examples, that would help.  
12 Anyway, sorry, continue.

13 Q And what you're now saying you are aware of, and those  
14 would be city council actions, the purpose of which is to  
15 instruct city departments, other entities to take specific  
16 actions, correct?

17 A I think that's right. But, again, if you have examples at  
18 your fingertips, that would help me.

19 Q Sure. We'll come back to that in just a minute. And in  
20 those instances, the city council votes on it, correct?

21 A Yes.

22 Q And a vote is recorded?

23 A At least in some cases, maybe all cases.

24 Q And how would you be able to distinguish some cases versus  
25 all cases? What instances can you imagine the city council

1 instruct the department to take action?

2 A Well, again, the simplest example, which I'm very familiar  
3 with, is they instruct the city attorney to do something.

4 Q Okay. We'll come back to why the city council feels it  
5 can do that without a vote. I'm going to go to Section 244.

6 First of all, are you familiar with this document?

7 A It's the charter of the City of Los Angeles.

8 Q Okay. And what is the charter of the City of Los Angeles?

9 A It's the main governing document. It's a bit like a  
10 constitution for the city.

11 Q And so, as you previously testified, it limits the  
12 authority of various entities within the city, correct?

13 A Yes.

14 Q Okay. And it's one of those entities that it limits the  
15 city council?

16 A Yes.

17 Q Okay. So I'm going to show you Section 244. And then --  
18 so I'm going to tell you where it's in the middle of the  
19 paragraph. It starts where it says, except. Except as  
20 otherwise provided in the charter, action by this council shall  
21 be taken by a majority vote of the entire membership of the  
22 council. Are you familiar with that particular provision?

23 A Yes.

24 Q And is it your understanding that that's where the rule  
25 for the city council is derived from, is this provision of the

1 charter?

2 A I don't know if it's derived from it. It mirrors it.

3 Q Okay. Were there other provisions of the charter that,  
4 it's your testimony, dictate how the city council can take  
5 specific actions other than through a vote?

6 A I haven't testified to that. No.

7 Q So as you sit here, you're testifying then that you're not  
8 aware of any other provisions that dictate how the city council  
9 can take actions.

10 A That's all that's coming to mind right now.

11 Q Okay. Are you familiar with any other provisions of the  
12 city charter that allow for approbation through discussion?

13 A Well, again, the city attorney can be instructed. And I  
14 don't think that requires an action or a vote. So yes.

15 Q And so when you're referring to the city council's  
16 instruction to the city attorney, do you know what provision  
17 you're referring to?

18 A I don't remember the number.

19 Q If I showed you, would you know what that provision is?

20 Let me just show you Section --

21 A Yeah, I think it's 272 now that you have that there.

22 Q Yeah. Is this the provision that you're referring to?

23 A I believe so.

24 Q And where does it say that the city council can instruct  
25 the city attorney without a vote?

1 A Oh, I'll have to read it. Let's see.

2 Q Okay. Tell me if you need me to scroll.

3 A Yes, please. If you direct me to the sentence, that may  
4 speed us along.

5 Q No, I'm asking you.

6 A Okay. Right. So the third sentence, I think, the city  
7 attorney shall manage all litigation of the city subject to  
8 client direction in accordance with this section. That, for  
9 example.

10 Q So that's the provision that says that the city council  
11 can instruct the city attorney without a vote?

12 A And can you scroll down, please?

13 Q Sure.

14 A Make sure there's nothing else. I believe that's it.

15 Q So that's the provision that you're referring to that  
16 gives rise to your understanding that the city council can  
17 instruct the city attorney without a vote?

18 A Yes. Although, again, it's a document of limitation. Or  
19 excuse me, the charter is a document of limitation, so I  
20 don't -- your question seems to have a false premise in it,  
21 which is that we can't do it unless you find a provision here  
22 that says that we can.

23 Q That like, for example, that says, unless otherwise  
24 authorized, the city shall -- the city council shall take a  
25 particular action, like that?

1 A For example.

2 Q For example. Okay.

3 **MS. MYERS:** Your Honor, would it be possible to take  
4 just a short recess?

5 **THE COURT:** Absolutely.

6 **MS. MYERS:** Thank you.

7 **THE COURT:** So, counsel, about 15, 20 minutes. Okay?  
8 Thank you very much. Have a good recess. Sir, you may step  
9 down. Thank you. Then we're in recess.

10 **(Recessed at 10:19 a.m.; reconvened at 10:38 a.m.)**

11 **THE COURT:** Thank you for your courtesy, if you'd be  
12 seated, we're back in session, all counsel are present. This  
13 is continued direct examination by Ms. Myers on behalf of the  
14 intervenors.

15 **MS. MYERS:** Thank you, Your Honor, for your courtesy  
16 for a recess, I'm going to go over a couple of documents. I  
17 think we're on Exhibit 577, is that correct, do we know?

18 **THE COURT:** Why don't you put it up and let's see if  
19 we all agree, 577.

20 **MS. MYERS:** Okay, that sound right?

21 **MS. KUMAR:** It may be, but -- could you go?

22 **MS. MYERS:** Let's go 580, how about that, is that  
23 safe enough?

24 **MS. KUMAR:** Could we do 590?

25 **MS. MYERS:** 590, sure, yeah, 100 percent we will do.

1 We can go 600 if you want, that's fine. Okay, we'll go with  
2 590 then.

3 **DIRECT EXAMINATION (CONTINUED)**

4 **BY MS. MYERS:**

5 Q Okay, Shayla Myers with the Legal Aid Foundation of Los  
6 Angeles on behalf of the intervenors. Before we broke for a  
7 recess, you said -- you asked if there were examples that I  
8 could give related to instructions, and so are you familiar  
9 with this document?

10 A It appears to be an agenda for the LA City Council from  
11 February 17th, 2026.

12 Q And when is February 17th relative to today?

13 A I think it was yesterday.

14 Q Okay, so based on this document, is it fair to say this is  
15 the City Council agenda for the meeting yesterday?

16 A It looks like it.

17 Q Okay, and I'm going to mark this as Exhibit 590.

18 **THE COURT:** 590, not 577?

19 **MS. MYERS:** No, 590, Your Honor.

20 **THE COURT:** 590, thank you.

21 **(Exhibit Number 590 marked for identification)**

22 **BY MS. MYERS:**

23 Q Are you familiar with city council agendas?

24 A Yes.

25 Q And what's the purpose of a city council agenda?

1 A It's to provide notice to the public of what is going to  
2 be discussed or acted on or whatever.

3 Q And the city council agenda lists items that are to be  
4 voted on by the city council, correct?

5 A Among other things, yes.

6 Q Okay. So I'm going to show you what is the agenda from  
7 yesterday's city council meeting. So it is a 65-page document,  
8 so we're not going to walk through the entire thing.

9 A Thank you.

10 Q Apologies for that. Not sure what just happened. Okay.  
11 So items noticed for public hearing. What is an item noticed  
12 for public hearing on the agenda?

13 **MS. KUMAR:** Objection, Your Honor. I'm going to  
14 object to relevance to the relevance of a February 17th, 2026  
15 city council meeting.

16 **THE COURT:** Overruled.

17 **THE WITNESS:** It's exactly what it suggests, which is  
18 there are certain items which had been -- notices had been sent  
19 out, and they are separated out from other parts of the agenda.

20 **BY MS. MYERS:**

21 Q Okay. And so on the agenda, then, it lists items that the  
22 city council is going to be considering, correct?

23 A Yes, among other things.

24 Q And then it also lists actions for the city council to  
25 take; is that correct?

1 A Yes, among other things.

2 Q Okay. And part of when listing the actions that the city  
3 council can take, those actions require a vote, correct?

4 A The actions require a vote.

5 Q Okay. So looking at item number one on the city council  
6 agenda from yesterday, it says recommendations for council  
7 action, correct?

8 A Yes.

9 Q Okay. And so then it says number one is to acknowledge,  
10 correct?

11 A Yes.

12 Q Okay. Number two is review and consider.

13 A Yes.

14 Q Number three is find.

15 A Yes.

16 Q Number four is concur.

17 A Yep.

18 Q Five and six, seven, eight, nine, ten are find.

19 A Yes.

20 Q Eleven is adopt.

21 A Yes.

22 Q Twelve is authorize. And those are the actions when the  
23 city council voted on this item, those were the actions that  
24 the city council was voting on taking, correct?

25 A I assume so. I wasn't at the meeting. Unless this was

1 amended, yes.

2 Q Okay. So I'm going to go down to item number three, which  
3 is a motion and resolution relative to the issuing of bonds.  
4 The recommendation for council action subject to approval of  
5 the Mayor, number one is to consider, correct?

6 A Correct.

7 Q Number two is to adopt?

8 A Yes.

9 Q So when the city council approved that item, if they did,  
10 then the actions they were taking were considering and  
11 adopting, correct?

12 **MS. KUMAR:** Objection, Your Honor. Calls for a legal  
13 conclusion, relevance.

14 **THE COURT:** Overruled. Overruled.

15 **THE WITNESS:** Yes.

16 **BY MS. MYERS:**

17 Q Okay. So I'm going to go down to number six. And this is  
18 Council File 26-0054. So recommendation for council action  
19 subject to the approval of the Mayor, same question. What's  
20 listed are the actions that the city council is to take,  
21 correct?

22 A Yes. Or what's being presented to them for possible  
23 action, yes.

24 Q And to take these actions, they would vote on that,  
25 correct?

1           **MS. KUMAR:** Objection, Your Honor. Speculation,  
2 calls for a legal conclusion.

3           **THE COURT:** Overruled.

4           **THE WITNESS:** Yes, they would typically vote on  
5 these.

6 Q       Okay. So number one is to adopt?

7 A       Yes.

8 Q       Number two is to approve?

9 A       Yes.

10 Q       Number three is to present and adopt?

11 A       Yes.

12 Q       So when the city council voted on this item, that is what  
13 they were -- those are the actions they were voting to take,  
14 correct?

15 A       Assuming they voted on it, yes.

16 Q       Okay. And then you asked for a specific example of an  
17 instance in which the council was instructing the Department.  
18 So I'm going to show you Council File 25-1257, documents from  
19 that council file. What is your understanding of what a  
20 council file is?

21 A       Oh, gosh.

22           **MS. KUMAR:** Objection, Your Honor. Relevance.

23           **THE COURT:** Overruled.

24           **THE WITNESS:** So a council file is a bit like the  
25 name suggests. It's a file that has usually a number of

1 documents, not always, it could be one, related to a specific  
2 item that is potentially coming to the city council.

3 **BY MS. MYERS:**

4 Q And that council file is assigned by the Clerk's Office,  
5 is that correct?

6 A Yes.

7 Q And it's just a way to identify the documents that are  
8 related to a specific action by the city council, correct?

9 A I think that's a fair characterization.

10 Q Okay. And are you familiar with council files?

11 A Yes.

12 Q And that's part of your, in the course of your work over  
13 the last 11 years in compliance with the City Attorney's  
14 Office, correct?

15 A Yes.

16 Q Okay. I'm going to show you what I will mark as Exhibit  
17 591.

18 **(Exhibit Number 591 marked for identification)**

19 At the top of the document it says File Number 25-  
20 1257. Is that the structure of a council file as you  
21 understand it to be?

22 A So this is -- well, it's not the structure of a council  
23 file. What's in front of me appears to be a report.

24 Q Let me just clarify. I trailed off. The structure of a  
25 council file number.

1 A Oh, yes.

2 Q Apologies.

3 A Thank you.

4 Q That is on me. Okay.

5 **THE COURT:** Just a moment. That's the 25-1257,  
6 correct?

7 **MS. MYERS:** Yes.

8 **BY MS. MYERS:**

9 Q So I'm showing you what is a document from Council File  
10 Number 25-1257. Are you familiar with this particular  
11 document?

12 A No.

13 Q Okay. Are you familiar with documents of this type?

14 A Yes.

15 Q What is this, as you review it? What is your  
16 understanding of what this is?

17 A It appears to be a report which would be drafted by the  
18 Clerk's Office of a Public Safety Committee meeting.

19 Q And that would be a Public Safety Committee of the city  
20 council, is that correct?

21 A That's correct.

22 Q And so this is a report that would have been passed by the  
23 Public Safety Committee, is that correct?

24 A The report isn't passed by it. This is the Clerk's  
25 summary of the meetings and the recommendations going from the

1 committee to the council, which would be agendized, presumably,  
2 for a later council meeting.

3 Q Okay. And out of that city council committee came a,  
4 based on this council file that you're looking at, and this  
5 specific report prepared by the Clerk, out of that Public  
6 Safety Committee came a recommendation for council action, is  
7 that correct?

8 A It appears to be the case, yes.

9 Q Okay. And what does the third paragraph say?

10 A And this is a very useful example. Yes, instruct the, and  
11 I'll summarize, CAO in coordination with the Department of  
12 Transportation, Police Department, and the City Attorney to  
13 implement an assembly bill, which I assume was passed.

14 Q And so the operative action there is to instruct a  
15 specific city department to take a specific action, correct?

16 A Yes. Thank you very much for the example.

17 Q No problem. Okay. So I'm going to show you another  
18 document from the same council file. And this is City, it says  
19 City of Los Angeles, California, has the City seal at the top,  
20 and I'm going to mark this as Exhibit 591.

21 **THE COURT:** The last exhibit was --

22 **MS. MYERS:** 592. Thank you.

23 **THE COURT:** -- 591, is this 5 --

24 **MS. MYERS:** It's the number I had in my head.

25 **THE COURT:** Just a moment, counsel, 59 what?

1 MS. MYERS: 592, Your Honor.

2 THE COURT: 592, okay, thank you.

3 (Exhibit Number 592 marked for identification)

4 MS. MYERS: Thank you.

5 BY MS. MYERS:

6 Q And so here this lists Council File Number 25-1257.

7 That's the same council file as the Public Safety Report we  
8 just saw, correct?

9 A Yes.

10 Q Okay. And so this -- what is this document, if you're  
11 familiar with these types of documents?

12 A So it appears to be, I'll call it a report, of the -- by  
13 the City Clerk, recording the action of the city council on  
14 this particular council file on a particular date.

15 Q And based on this document, it appears that the city  
16 council adopted the Public Safety Committee report, correct?

17 A Yes, it does.

18 Q Okay, and so does that mean that the city council then --  
19 the action from the city council, was then to instruct --

20 A Yes.

21 Q -- the CAO's office?

22 A Correct.

23 Q And then at the bottom it says a council vote.

24 A Yes, that's a roll call vote. Yes.

25 Q Okay, and so this would be an example of a roll call vote,

1 correct?

2 A Yes.

3 Q And it's a -- you know it's a roll call vote, how?

4 A Well, so I -- well, I know it has to be a roll call vote  
5 because Council President Harris-Dawson has marked as a no. So  
6 it couldn't have been unanimous approval. So it was, as I  
7 would have suspected, voted on during the meeting.

8 Q Just to clarify for the record for Council President  
9 Harris-Dawson, I believe it's Council Member Hernandez.

10 A Okay, you are correct. Thank you. Thank you.

11 Q And so Council Member Hernandez is voted -- is approved --  
12 is listed as voting no, as is Council Member Soto Martinez.

13 A Thank you. Just those two, it appears. Yes.

14 Q But because there were no votes, that's how you know that  
15 there was a roll call, correct?

16 A Correct.

17 Q And if it had been a unanimous vote, through unanimous  
18 approval, what would be -- it would still list out all of the  
19 council members, correct?

20 A Yes.

21 **MS. KUMAR:** Objection, Your Honor, relevance. This  
22 has nothing to do with the January 2024 session.

23 **THE COURT:** Overruled.

24 **THE WITNESS:** Yes.

25 //

1 **BY MS. MYERS:**

2 Q And that would -- it would still record those as  
3 votes. It would just be that all of them would be yes votes,  
4 correct?

5 A I believe that's correct.

6 Q Okay.

7 **MS. MYERS:** Okay. I have no other questions for this  
8 witness at this time, Your Honor.

9 **THE COURT:** Counsel, do you want me to turn to LA  
10 Alliance next?

11 **MS. KUMAR:** I have no questions, Your Honor.

12 **THE COURT:** Then back to the City, please.

13 **MS. MITCHELL:** Your Honor, can we just take a few  
14 minutes so I can confer with my colleagues?

15 **THE COURT:** Certainly, please. Take your time.  
16 Would you like -- so you're not rushed, why don't I get off the  
17 bench?

18 **MS. MITCHELL:** Okay. Thank you, Your Honor.

19 **THE COURT:** Thank you.

20 **(Recessed at 10:50 a.m.; reconvened at 11:00 a.m.)**

21 **THE COURT:** Counsel, we're back on the record and the  
22 City's cross-examination.

23 **MS. KUMAR:** Thank you, Your Honor. Poonam Kumar on  
24 behalf of the City.

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**CROSS EXAMINATION**

**BY MS. KUMAR:**

Q Mr. Fauble, as part of your employment with the City Attorney's Office it has become clear, but if you could repeat for us, have you sat in on City Council meetings?

A Yes.

Q How many would you estimate?

A Thousands.

Q And have you sat in on or participated in closed sessions of the City Council?

A Yes.

Q Without reference to any particular session or meeting, how many would you approximate you've sat in on or participated in?

A At least many dozens, probably into the hundreds.

Q Based on your personal experience and your experience and employment in the City Attorney's Office and in participating in these sessions and meetings and without reference to any particular session or meeting, could you describe to us the ways that the City Council can approve something?

A Sure. So I don't know if this is an exhaustive list, but without reference to any particular meeting, there could be a vote, there could be unanimous approval, there could be sort of generalized agreement what I've called approbation to what's being proposed. There could be -- well, that would be

1 approval. So I -- those are the ones that are coming to mind  
2 off hand.

3 Q In your experience, does the City Council only approve  
4 things by vote?

5 A No.

6 Q And in your experience, is it unusual for the City Council  
7 to approve things not by vote?

8 A It's not unusual.

9 Q Ms. Myers in her questioning of you seemed to imply that  
10 the City Council must take a vote every time it does anything.  
11 Do you believe that to be accurate?

12 A I do not.

13 Q I'd like to direct your attention to the City Charter,  
14 we'll mark that Exhibit 577 unless it's been marked previously.

15 **MS. MYERS:** It was.

16 **MS. KUMAR:** Was it.

17 **THE WITNESS:** I believe there was specific  
18 provisions. No, these are the specific provisions.

19 **MS. KUMAR:** Oh, okay, these are the specific  
20 provisions. So maybe we can get that in, is that okay?

21 **MS. MYERS:** That was marked the whole charter but --

22 **MS. KUMAR:** Okay.

23 **(Exhibit Number 577 previously marked for identification)**

24 //

25 //

1 **BY MS. KUMAR:**

2 Q We can mark the entire charter as Exhibit 577, but I'll  
3 direct your attention to Section 244 which is on the screen  
4 before you. Do you see that, Mr. Fauble?

5 A I do, yes.

6 Q Okay. And this is the same provision that Ms. Myers  
7 directed you to during her direct examination; is that right?

8 A That's correct.

9 Q I'm going to direct your attention to the third sentence,  
10 which reads, except as otherwise provided in the charter,  
11 action by this Council shall be taken by a majority vote of the  
12 entire membership of the Council. Do you see that?

13 A I do.

14 Q What do you understand that to mean?

15 A It means that except as otherwise provided, so possible  
16 exceptions, the Council takes an action by a majority vote and  
17 the entire membership being 15, means that it needs to be a  
18 vote of 8, unless for example, this would be the except part, a  
19 higher percentage is required.

20 Q Okay. And when you earlier testified that action is a  
21 term of art, a legal term of art, I know that you said it was  
22 difficult to define, but when you say it was a legal term of  
23 art, what do you mean by that?

24 A I don't mean that -- I think it's narrow or different in  
25 meaning from the way people sometimes use action in other

1 contexts. So, for example -- it's not an example. I think  
2 people sometimes use action as synonymous when anything happens  
3 or anything is done. I don't know anything -- I don't think  
4 everything that Council does is an action for purposes of this  
5 section.

6 Q Okay. So there could be things that the Council does that  
7 are short of action as it is used in this section; is that  
8 right?

9 A That's correct.

10 Q And if it is something short of what is referred to in  
11 this section, does that mean in your opinion, that whatever  
12 Council did didn't actually happen?

13 A No, not at all. And again I --

14 Q Okay. Does it mean that the thing that Council did was  
15 somehow invalid?

16 A No.

17 Q Do you believe that this provision means that the City  
18 Council can only do anything by vote?

19 A No, I believe contrary to that.

20 Q Now, you described that the charter was a limiting  
21 document. Could you just explain that a little bit more?

22 A Yes. So can you imagine two kinds of documents. One is a  
23 document of authorization. It says, you're allowed to do the  
24 following things in only the following ways. And if we don't  
25 provide for it here, you're not allowed to do it.

1 A document of limitation would be something where the  
2 understanding is that subject to state or federal law, you have  
3 plenary authority to do anything. And what we've got in this  
4 document is telling you what you can't do, so it's a document  
5 of limitation.

6 Q Okay. I'd now like to direct your attention to Section  
7 272 of the City Charter. This is the section entitled control  
8 of litigation, this was also shown to you by Ms. Myers. Do you  
9 recall that?

10 A Yes, I do.

11 Q Okay. So in the third sentence it says the City Attorney  
12 shall manage all litigation of the City subject to client  
13 direction in accordance with this section. Do you see that?

14 A I do.

15 Q It doesn't use the word action, does it?

16 A No.

17 Q It uses the word direction, correct?

18 A Correct, correct.

19 Q And it says that direction -- does it say anywhere that  
20 direction must happen by vote?

21 A No.

22 Q Now, there are certain things that the City Attorney may  
23 bring to the attention of the City Council in the course of  
24 litigation that do require a vote; isn't that right,  
25 Mr. Fauble?

1 A Yes.

2 Q So, for example, the approval of a settlement.

3 A That would require a vote.

4 Q Okay. And just to be clear, this -- the City Attorney's  
5 Office, that's your office; isn't that right?

6 A That's correct.

7 Q And you frequently have meetings with the City Council  
8 that are pursuant to these -- this particular section; isn't  
9 that right?

10 A Yes.

11 Q And when it says client direction, that could refer to the  
12 City Council; is that right?

13 A Yes, in this context I think it does, okay.

14 Q Okay. And it could also refer to the Mayor or other  
15 constituencies of the City; is that right?

16 A That's correct.

17 Q Okay. Speaking generally without reference to any  
18 particular meeting or session, have you, as an employee as a  
19 City Attorney received direction from the City Council with  
20 regard to litigation?

21 A Yes.

22 Q And without reference to a specific meeting or session,  
23 does that direction always come in the form of a vote?

24 A Definitely not.

25 Q Okay. Now I'd like to direct your attention to Exhibit

1 580 if we can.

2 **MS. KUMAR:** If we could turn to the second page.

3 Q Do you recognize this document, Mr. Fauble?

4 A Yes.

5 Q What is it?

6 A It's the City Council agenda for January 31st, 2024.

7 Q Okay. And -- I'm sorry, before we go to this, Mr. Fauble,  
8 Ms. Myers showed you a number of -- a different agenda for  
9 February 17th, 2026. Do you recall that?

10 A I do.

11 Q And do you recall that there were certain other things she  
12 showed you that had various verbs, adopt, recommend, et cetera,  
13 do you see?

14 A Yes.

15 Q Does the fact that someone was -- something was taken to  
16 the City Council for a vote mean that a vote was actually  
17 necessarily required?

18 A No, it would depend upon what the item is.

19 Q Okay. So there could be instances in which the City  
20 Council is asked to vote on some things that may not have been  
21 required under the City Charter for a vote; is that right?

22 A That's correct.

23 Q So this is the agenda for January 31st, 2024. If we could  
24 turn to item 22 in this agenda. Do you see that there,  
25 Mr. Fauble?

1 A I do.

2 Q Okay. And it says here, the City Council may recess to  
3 closed session pursuant to Government Code Section 54956.9,  
4 Subsection D, Subsection 1 to confer with its legal counsel  
5 relative to the case, the Alliance case here. Did I read that  
6 correctly?

7 A Yes.

8 Q Okay. Are you familiar with Government Code Section  
9 54956.9?

10 A I am.

11 Q Okay. And what is that, generally speaking, what is that  
12 code refer to?

13 A It refers to some of the bases under which we can go into  
14 closed session.

15 Q Okay.

16 A Pursuant to the Brown Act.

17 Q Okay. So it's the Brown Act, right?

18 A Yeah, uh-huh.

19 Q And it allows for certain instances in which a closed  
20 session is permissible; is that right?

21 A That's right.

22 Q And the Brown Act was -- is a statute; is that right?

23 A Yes.

24 Q Passed by the California legislature.

25 A Correct.

1 Q And D-1, do you recall off hand what that exception refers  
2 to?

3 A Oh, it refers to being a party to litigation. So it's  
4 saying, in effect, you can go into closed session, you, the  
5 Council members can go into closed session with -- to confer  
6 with your legal counsel regarding litigation in this case, it  
7 named the litigation.

8 Q And so this would, for example -- this is about litigation  
9 and we saw the City Charter reference Section 272 also dealing  
10 with litigation; is that right?

11 A Yes.

12 Q Mr. Fauble, could you just tell us what is the purpose of  
13 a closed session?

14 A Well, it can have various purposes, but if you want -- let  
15 me give you two examples and then I'll give you a more abstract  
16 statement.

17 So, for example, we can go into closed session to -- we,  
18 meaning the City Council, to instruct negotiators in real  
19 estate discussions. We can go into closed session to give  
20 directions to or seek advice from the City Attorney. All of  
21 those -- those are two examples. The purpose then is more  
22 abstractly, there are cases in which in order to conduct  
23 business in the best interests of the City, it's important that  
24 certain kinds of discussions not be open to the public.

25 You can imagine what would happen if there were an open

1 session in which we had to reveal what our final offer was  
2 going to be on a purchase of a piece of property, we get a bad  
3 deal. And the state legislature has struck the balance through  
4 the Brown Act as to when it's important enough to be able to go  
5 into closed session.

6 Q Thank you, Mr. Fauble. I'd like to now direct your  
7 attention to Exhibit 581, which is a You Tube video that this  
8 Court identified on its own at the last hearing and showed the  
9 parties. If we could bring up 581 will be the entirety --

10 **(Video played)**

11 **MS. KUMAR:** Sorry. This is the video of the January  
12 31st, 2024 meeting.

13 Q Just for the record, Mr. Fauble, you stated that you  
14 didn't staff this meeting. Were you present at the meeting?

15 A I was.

16 Q Okay. I'd like to direct your attention to hour 2 minute  
17 3 second 18, if we can.

18 **(Video played)**

19 Q Mr. Fauble, we saw earlier the agenda was item 22 was the  
20 one listed as the Alliance litigation; is that right?

21 A Correct.

22 Q Do you believe based on what you saw that to be the  
23 reference that they were talking about in that clip?

24 A Yes, that's right.

25 Q So what was happening in that clip?

1 A So the then Council President Krekorian was saying to the  
2 members and the people in the room, we're going to go into  
3 closed session, which will then trigger a number of things.  
4 The Council sergeants will clear the room of the public, non-  
5 essential personnel will leave. The people, for example, the  
6 City Attorney who are relevant to the discussion will probably  
7 move to the table to speak to the Council and that would be the  
8 beginning of the closed session.

9 So I assume either where you cut it off are very shortly  
10 thereafter, the video of the live meeting at that point ended  
11 and then we were in closed session.

12 Q But then the video continues usually with like some sort  
13 of blue screen, talking about things the City is doing?

14 A Yeah, it's like promo stuff for the City and with a little  
15 something running along the bottom saying the Council is in  
16 closed session, so that the public knows the meeting isn't  
17 over, they're in closed session.

18 Q Okay. I'd now like to direct your attention to hour 4,  
19 minute 32, second 19 of that same video.

20 **(Video played)**

21 **MS. KUMAR:** We can pause that there.

22 Q Mr. Fauble, when the City Council adjourned to closed  
23 session on this January 31st, 2024 meeting, were you present in  
24 the closed session?

25 A Yes.

1 Q And when they came back, you heard Mr. Krekorian, who was  
2 then City Council President say, after a lengthy closed session  
3 discussion. Did you hear that?

4 A I did.

5 Q Okay. And then he had a colloquy with the City Attorney,  
6 the person who was sitting at the City Attorney --

7 A Yeah.

8 Q -- marker. Could you describe to us what was happening?

9 A So the Council President was asking whether there was  
10 any -- whether any action occurred in the closed session that  
11 pursuant to the Brown Act would have to be reported out. The  
12 City Attorney said no. Then it's clear that the Council  
13 President realized he had to do the roll call to make sure  
14 there was a quorum there, he did that, and then he asked again  
15 and he got the same answer.

16 Q And so when Mr. Krekorian, the City Council President  
17 asked if there was anything to report from the closed session,  
18 you said that was pursuant to the Brown Act. Could you explain  
19 that?

20 A Yes. So there's a section of the Brown Act that explains  
21 the circumstances under which actions that occur in closed  
22 session need to be reported out. And if it's not listed there,  
23 I don't think you need to report it out.

24 Q And so that is -- let's talk about -- let's show you  
25 Exhibit 582, Section 54957.1, is that the section of the Brown

1 Act you're talking about?

2 A Yes, it is.

3 Q Okay. So if the City Attorney on the video saw that there  
4 was no reportable action coming out of the City Council  
5 meeting, does that mean nothing happened?

6 A No, not at all.

7 Q Okay. It just means that something that needed to be  
8 reported according to this didn't happen; is that right?

9 A That's correct.

10 **MS. KUMAR:** Hold on one second, Your Honor.

11 Nothing further at this time, Your Honor.

12 **THE COURT:** Thank you. Redirect?

13 Well, first of all, is there any further objection to  
14 this exhibit? There was an objection by the City, to its  
15 introduction on the last occasion. I didn't want to take the  
16 time to have Mr. Marcus look at the three or four hours of  
17 this.

18 **MS. KUMAR:** Your Honor, just for the purposes of  
19 explaining what we think the Court's misunderstanding of that  
20 was, that's why we did the video --

21 **THE COURT:** Well, counsel --

22 **MS. KUMAR:** -- since it's in the record.

23 **THE COURT:** -- that's a speaking objection. Let's do  
24 this again, okay? Let's do this properly. Is there any  
25 objection foundationally to this exhibit being received?



1 A Yes.

2 Q Did you -- so you wrote the statement that says the --  
3 under the heading post closed session disclosure requirements  
4 regarding the January 31st, 2024 closed session, no settlement  
5 or agreement was voted on or approved. Did you write that  
6 statement?

7 A Yes.

8 Q And you were present at the closed session.

9 A Yes.

10 Q And so this was a representation of your observations  
11 about what occurred during that closed session; is that  
12 correct?

13 A Yes.

14 Q Okay. And when you said, in fact, no vote was taken, is  
15 that a representation of what occurred during that closed  
16 session?

17 A Yes.

18 Q Okay. And then I'm going to show you really quickly, I'm  
19 going to mark this as --

20 **MS. MYERS:** Are we at 593?

21 **MS. KUMAR:** Yes.

22 **THE COURT:** And this is exhibit what, counsel?

23 **MS. MYERS:** 593, Your Honor.

24 **THE COURT:** 593, thank you.

25 **(Exhibit Number 593 marked for identification)**

1 **BY MS. MYERS:**

2 Q First of all, you testified in response to the City's  
3 questions that there are things that the City can do, that the  
4 City Council can do that don't require votes, correct?

5 A Yes.

6 Q What are those -- can you give us examples of those  
7 things?

8 A Well, it can instruct someone to do something. It can  
9 express approval of something. It can express disapproval of  
10 it. So those are some examples.

11 Q And so it's your position and those are things the City  
12 can do, the City Council can do without Council vote?

13 A Yes.

14 Q Those are -- the City Council can instruct individuals to  
15 do things without a Council vote?

16 A I think so, yes.

17 Q And what is the basis of your representation that the City  
18 Council can instruct departments and other entities to do  
19 things without a Council vote?

20 A Well, again I feel like I'm retestifying over the same  
21 material. So I gave an example, using the city librarian  
22 before, which could be an example of there's no vote, but the  
23 Council members are clearly in favor of something that he's  
24 proposing or maybe they want to change to what he's proposing  
25 and there's clear agreement, there's no vote, but it's obvious,

1 let's say everyone is in favor of it. And again, this is a  
2 hypothetical, the Council President could say something like,  
3 okay, do you understand where we are with this and the  
4 librarian could say, yeah, I do, thank you. And I think that  
5 would be using -- a competent English speaker would describe  
6 that as an instruction.

7 Q And that is -- so an action like that or I'm sorry a thing  
8 like that, to use the Council's term, a thing like that, that  
9 instruction, would that appear on an agenda?

10 A So what would probably be on the agenda would be something  
11 like, again this is a hypothetical, report from, you know,  
12 librarian on services available at the Central Library. Again,  
13 I'm making this up.

14 Q Uh-huh.

15 A On the Central -- if this were an oral report, the city  
16 librarian would be at the table in front of the Council  
17 describing what he's planning to do in the library and the  
18 programs he has and the Council members could be asking  
19 questions and expressing views on it, and again, what I as a  
20 competent English speaker would describe as instructing the  
21 librarian on something, or giving them approval of something.  
22 There's no vote there.

23 Q So that instruction, for which there is no vote, would  
24 that appear as on an agenda?

25 A No. The general item of business which would be report,

1 you know again I'm going to make this up, but you know, report  
2 by city librarian on, you know, planned services available to  
3 Central Library. So that would be what's on the agenda, for  
4 example.

5 Q And so the instruction would not be on the agenda, the  
6 approval would not be on the agenda, but the City Council would  
7 instruct and approve --

8 A Yes.

9 Q -- even though it's not on the agenda?

10 A It might not be on the agenda.

11 Q Okay.

12 A Right.

13 Q If it's on the agenda, though, you testified that that  
14 would be voted on, correct?

15 A It could be voted on, yes. So there could be a  
16 recommendation, for example, from the librarian that would be  
17 on the agenda. I would expect that would probably be voted on  
18 unless there's a motion to amend it.

19 Q But if it's on the agenda and it says instruct, it was  
20 previously your testimony that that would be voted on by the  
21 City Council, correct?

22 A I think you may be -- so, yes, but I think you're  
23 misconstruing my testimony. Right --

24 Q The record will certainly speak for itself, but --

25 **MS. KUMAR:** Objection, Your Honor, if the witness

1 could finish his answer.

2 **THE COURT:** Finish your answer, sir.

3 **THE WITNESS:** So I think, Ms. Myers, you're creating  
4 the impression that unless it's on the agenda -- that any  
5 instruction has to be on the agenda and voted on.

6 **BY MS. MYERS:**

7 Q Yes.

8 A That was not my testimony and it is not my testimony.

9 Q So it's your -- just so we're clear, it is your testimony  
10 that the City Council can instruct and approve things even  
11 though they don't appear on the agenda without a vote?

12 A Correct.

13 Q Okay. Where in the charter is that allowed?

14 **MS. KUMAR:** Objection, Your Honor, asked and answered  
15 several times now.

16 **THE COURT:** Overruled.

17 **THE WITNESS:** So again I would point for example to  
18 Section, I think it's 244 of the charter that says actions  
19 require a vote, and then I would again point out to you that  
20 the charter is a document of limitation, so it's telling you  
21 that things that require, in your characterization, official,  
22 you know, approvals require a vote. But that doesn't mean that  
23 everything does.

24 //

25 //

1 **BY MS. MYERS:**

2 Q Yeah. And putting aside your use of the term official,  
3 not that I concede that I use that, let's take the word  
4 official out of the records, since we're not using the word  
5 official, it doesn't appear in the charter, we're talking about  
6 actions, right, we're talking about actions by the City  
7 Council, correct?

8 A Yes.

9 Q Yes, okay. And so it's your position that there are  
10 things the City Council does, like instruct and approve that do  
11 not appear on the agenda and do not require a vote but are  
12 instructions and approvals by Council; is that correct?

13 A So the -- I don't think I can give you a simple yes or no  
14 to that because there's a little bit of nuance. Except for --  
15 the Brown Act allows for certain things to be taken up that are  
16 not on the agenda. So put those to the side.

17 Everything else is on the agenda, whether the specific  
18 approval of a plan say is on their called out, it may not be.  
19 That doesn't mean that the general item of business isn't. So  
20 again, my example was the head librarian is on the agenda, is  
21 plans for services at the Central Library. The -- it doesn't  
22 call out on the agenda what the specific services would be, but  
23 the head -- but it's sufficient for Brown Act purposes that the  
24 head librarian could talk about those. And the City Council  
25 could approve of what he's suggesting.

1 Q And they would do that -- they would express approval how?

2 A Through discussion.

3 Q Okay.

4 A Right, the same way if you get together with a group of  
5 people and you're discussing something, you without a vote, can  
6 understand perfectly well they've approved what you're  
7 proposing. It's normal human communication.

8 Q And that's allowed under the charter, it's your testimony  
9 that's --

10 A Yes, my testimony is that --

11 Q -- allowed?

12 A -- normal human communication is allowed under the  
13 charter.

14 Q Well, that's not what I'm asking, Mr. Fauble. Let's just  
15 be clear here what I'm asking. Under the charter of the City  
16 of Los Angeles it is your testimony as you sit here today as a  
17 representative of the City Attorney's Office, that it is  
18 allowed for the City Council to instruct and approve things via  
19 discussion.

20 A Some things, yes, those that don't require a vote.

21 Q And how do we know what requires a vote?

22 A So I don't know if I have a perfect answer for you.

23 There's certain things that are called out on the charter that  
24 require votes, ordinances, resolutions.

25 Q Actions?

1 A Actions require a vote, but the question here is what's an  
2 action I think is what you're getting at. Certain kinds of  
3 findings are required under state law, so you need to make CEQA  
4 findings for example. So I don't think I can give you a  
5 formula. I'd have to go through and see whether there's an  
6 actual obligation to vote on a particular issue.

7 Q Okay. And your job duty is to instruct the City Council  
8 about the Brown Act, correct?

9 A I advise the City Council on the Brown Act, among other  
10 things.

11 Q And the City Charter, correct?

12 A Yes, depending on what the section is, there are parts of  
13 it that other people know far better than I do.

14 Q But compliance with the City Charter.

15 A Yes.

16 Q And compliance with the city rules.

17 A Yes. Again, depends upon the particular circumstance, but  
18 yes.

19 Q Okay. And you've been doing that for 11 years?

20 A Approximately, well not quite, but at least nine.

21 Q Okay. So I'm going to show you what is marked as Exhibit  
22 593. This is a submission to this Court, Document 1040, filed  
23 10/3, 2025. This was a notice of submission of the defendant  
24 City of Los Angeles' updated bed plan. Are you familiar with  
25 this? Are you familiar with the City's updated bed plan and

1 milestones?

2 A I know of it. I don't really know it in any detail.

3 Q Okay. I'm going to ask you specifically about the Council  
4 approval process. So I'm going to show you page 2 of 19 of the  
5 documentary, which is a report from Matthew Szabo to the City  
6 Council, it's -- the subject is the Alliance settlement  
7 agreement ASAP, which is the bed plan and strategy.

8 What is a report like this, as you understand it, for  
9 purposes of the Council file?

10 **MS. KUMAR:** Objection, Your Honor, this postdates the  
11 meeting at issue and this has no relevance on to the purported  
12 misrepresentation that the Court is reviewing.

13 **THE COURT:** Overruled.

14 **THE WITNESS:** Well, it appears to me to be a -- I  
15 mean, it's titled interim departmental correspondence, I think  
16 in effect it's a letter from Matt Szabo, the CAO to the City  
17 Council.

18 **BY MS. MYERS:**

19 Q Okay. And it has a Council file number on it, right, 23-  
20 1022-S18?

21 A Correct.

22 Q And the S18, what does the S stand for?

23 A It's a subfile.

24 Q So is it sub or supplement?

25 A So I thought -- I think it's a sub file 18, but I won't

1 swear to that.

2 Q Okay. I'm going to show you now -- I'm going to scroll  
3 down and apologies for moving the documents so fast. I'm going  
4 to show you page -- which is Exhibit B, it's Document 10040-2  
5 and this is file -- same Council file, correct?

6 A Yes.

7 Q And you know that because of the Council number on the  
8 top?

9 A Yep.

10 Q And this has the same structure as the previous Council  
11 file that you -- Council file report that you identified,  
12 correct?

13 A This appears to be a -- I assume it's a clerk document,  
14 it's a report from Housing and Homelessness Committee.

15 Q And so you previously testified that these reports are  
16 prepared by the City Clerk but they -- to memorialize actions  
17 taken by the specific committees, correct?

18 A Yes.

19 Q Okay. And so the second line of this, I'm sorry the  
20 second paragraph says, recommendations for Council action,  
21 subject to the approval of the Mayor, correct?

22 **MS. KUMAR:** Objection, Your Honor, the witness  
23 already said he doesn't know this document, isn't familiar with  
24 it, asking him to testify would be inappropriate, lacks  
25 personal knowledge, foundation.

1                   **THE COURT:** Overruled.

2                   **THE WITNESS:** That's what the document says.

3 **BY MS. MYERS:**

4 Q       And the first item is to approve the proposed bed plan for  
5 2,130 beds for the Alliance settlement agreement, correct?

6 A       It says approve the proposed bed plan, specifies the  
7 number of beds or units for the Alliance settlement agreement  
8 as detailed by the CAO and a date.

9 Q       Yeah.

10 A       And it's attached. So that's -- but all I'm doing is I'm  
11 reading it, I don't know anything other than what it says on  
12 the paper.

13 Q       But you're -- but you have familiarity with these types of  
14 Council -- City Council reports as evidenced by your prior  
15 testimony, correct?

16 A       Yes.

17 Q       And you had previously asked for examples of the types of  
18 documents that are in front of the City Council, correct?

19 A       Yes.

20 Q       Okay. And so this specific Council file, then the  
21 recommendations for Council action include 1, approve, right;  
22 2, approve; 3, instruct; 4, instruct; 5, 6, 7, 8, 9, there's a  
23 lot of instructions going on, 9, 10, 11, 12, 13, right, are  
24 instructions, correct?

25 A       I believe they were all instructions, yes.

1 Q Okay.

2 A Or the recommendation rather. Let me be more precise.  
3 According to the City Clerk's report, the -- what came -- what  
4 the Housing and Homeless Committee did was recommend the  
5 following potential actions by the City Council.

6 Q And those are to instruct and to approve, correct?

7 A Correct.

8 Q And, in fact, approve the bed plan for this case, correct?

9 A You'd have to move back up for me to see that.

10 Q Sure.

11 A Yep.

12 Q Okay. And then the last one, note and file, what does it  
13 mean to note and file something?

14 A It basically means we've accepted it, we're really not  
15 doing anything with this, thank you very much for the paper,  
16 we're putting it in the file.

17 Q And when it says the Council action, note and file, note  
18 and file is a Council action, correct?

19 A Yes.

20 Q And that requires a vote, correct?

21 A Yes.

22 Q Okay. And, in fact -- okay, I'm just going to show you  
23 the last thing which is Exhibit C, which is the official  
24 Council action. Official action of the Los Angeles City  
25 Council?

1 A Yes, it appears to be.

2 Q Okay. And what does this represent to you that the City  
3 Council did?

4 **MS. KUMAR:** Objection, Your Honor, lacks personal  
5 knowledge, foundation.

6 **THE COURT:** Overruled.

7 **THE WITNESS:** So it appears to be a report by the  
8 clerk indicating the action by the Housing -- action by Council  
9 on a certain date on a Housing and Homeless Committee report.

10 **BY MS. MYERS:**

11 Q And that would be this Housing and Homeless Committee  
12 report, correct?

13 A I think, I'm not sure, I think so.

14 Q Okay. And it indicates that there was a vote taken,  
15 correct?

16 A Yes, that's what it says.

17 Q And you know that there was a vote taken, because it says  
18 Council vote and then it lists the 15 members of the City  
19 Council and what their vote was?

20 **MS. KUMAR:** Objection, Your Honor, lacks personal  
21 knowledge and foundation.

22 **THE COURT:** Overruled.

23 **THE WITNESS:** Yes.

24 Q And this is a vote tally, correct?

25 A That's what it appears to be, yes.

1 Q I mean, based on your knowledge as working in the City  
2 Council -- for the City Council for the last 11 years --

3 A Yes.

4 Q -- this is a vote tally, correct?

5 A Yes.

6 Q Okay. Is this the kind of vote tally that would have been  
7 a unanimous vote tally, unanimous?

8 A I don't --

9 **MS. KUMAR:** Objection, Your Honor, lacks personal  
10 knowledge, foundation.

11 **THE COURT:** Overruled.

12 **THE WITNESS:** I don't think I can tell from this.

13 **BY MS. MYERS:**

14 Q And why can't you tell?

15 A Well, relating back to the prior discussion, there are no  
16 no votes on this, so there was only person who appeared to be  
17 absent, the rest are yeses, so I can't tell whether a roll call  
18 vote was taken or this was unanimous consent based on this  
19 document.

20 Q Uh-huh. Unanimous consent vote?

21 A I don't know.

22 Q And with unanimous consent vote, it would be recorded the  
23 same way though, correct?

24 A I believe so. You'd have to ask the clerk and I really  
25 should say unanimous approval because that's the language in

1 the rule.

2 Q And there's no such thing as unanimous consent, correct?

3 A I don't believe the Council rules refer to that. I think  
4 they say unanimous approval.

5 Q Okay. Are there any other -- we talked about the charter  
6 and we talked about the Council rules, are there any other  
7 documents that the Court or the parties should be looking at to  
8 dictate how the City Council conducts its business?

9 A Well, state law.

10 Q Sure.

11 A Right.

12 Q Sure. Other than that?

13 A Other than -- well, federal law, state law, including  
14 constitutions, the charter, Council rules, I think that's it.

15 Q Okay. You previously testified that the approval of the  
16 settlement requires a vote.

17 A Yes.

18 Q And why is that?

19 A I mean, I should say so settlements that require Council  
20 approval require a vote, because it specifically says I believe  
21 in the charter that a vote is required, Council action has to -  
22 - is required.

23 Q And where in the charter does it say that?

24 A I don't remember the number.

25 Q Is it 272, is that provision related to the City

1 Attorney's Office?

2 A Might be.

3 Q We'll pull that up, just so we're clear about this.

4 Apologies. Okay.

5 A Why don't --

6 Q So where in the -- is this the provision you're referring  
7 to?

8 A I think so. So move up a little bit to see what section  
9 we're in.

10 Q Okay.

11 A So we appear to be in charter Section 273.

12 Q Uh-huh.

13 A Right. And then this calls out who has authority to  
14 settle cases and let's see if we go down to B.3.

15 Q Uh-huh.

16 A I believe it says, the Council shall have authority to  
17 approve or reject settlement of litigation, falls only the  
18 payment of or receipt of money damages and it goes on.

19 Q Uh-huh.

20 A So this appears to be at least one provision that calls  
21 out the authority of the Council to approve or reject  
22 litigation settlements.

23 Q Yes. Where does it require the City Council to vote on  
24 that approval?

25 A I don't know.

1 Q Take your time, feel free. This is in front of you, take  
2 your time, read it, tell me where it says in the charter that  
3 the City Council must approve a settlement by vote.

4 A Well, it says, the Council shall have the authority to  
5 approve right there.

6 Q Yes. And so approval, your understanding, is that's by  
7 vote?

8 A So I don't think it generally means that. I've always  
9 understood it to require a vote.

10 Q Okay.

11 **MS. MYERS:** I don't have any further questions.

12 **THE COURT:** Thank you. LA Alliance?

13 **MS. MITCHELL:** No questions, Your Honor.

14 **THE COURT:** And back to the City.

15 **MS. KUMAR:** One minute, Your Honor.

16 **(Pause)**

17 **REXCROSS EXAMINATION**

18 **BY MS. KUMAR:**

19 Q Okay. Mr. Fauble, I want to just review some of the  
20 things Ms. Myers did in her questioning.

21 **MS. KUMAR:** If we could bring up Mr. Fauble's letter  
22 that Ms. Myers marked as Exhibit 575, it may be something else.  
23 It would be 584 in our records, Todd, but for the record it's  
24 Exhibit 575. Oh, sorry.

25 If we could scroll down.

1 Q Mr. Fauble, does that letter the same letter that  
2 Ms. Myers showed you, as far as you can tell?

3 A Yes, it appears to be.

4 Q Okay. If we could turn to -- and this was a letter you  
5 wrote in connection with the separate litigation pending in  
6 state court; is that right?

7 A I believe that's right.

8 Q Before the litigation was filed I believe.

9 A I think so. I think this was in response to a cease --

10 **THE COURT:** Was this in Judge Kin's court?

11 **MS. KUMAR:** Yes, Your Honor.

12 **THE COURT:** All right. Thank you.

13 **BY MS. KUMAR:**

14 Q And this -- so this was before that action was filed, but  
15 based on the same topic, as far as you understand it?

16 A I believe that's right, yes.

17 **MS. KUMAR:** If we could turn to page 2 of this letter  
18 and -- oh, sorry, it's page 3 of the exhibit, page 2 of the  
19 letter.

20 Q And if we could look at the section under post closed  
21 session disclosure requirements, that was the section Ms. Myers  
22 referred you to, Mr. Fauble.

23 A Yes.

24 Q In the second paragraph it says, regarding the January  
25 31st, 2024 closed session no settlement or agreement was voted

1 on or approved. Do you see that?

2 A Yes.

3 Q Is that -- that is a statement of what didn't happen at  
4 the meeting; is that right?

5 A That's correct.

6 Q And if a settlement or agreement had been voted on or  
7 approved, would that have been something that would have been  
8 reported out under the Brown Act?

9 A So if -- it depends. So if the settlement were -- if the  
10 Council were the final approval authority of the settlement, so  
11 in other words, the other side had already signed the document,  
12 once Council approves it, it's done. Then per the Brown Act we  
13 would report it out.

14 If the settlement were subject to further approvals by  
15 other parties, we wouldn't be required to.

16 Q Okay. But if it fell into that first category it would  
17 have been reported out as part of the Council's actions,  
18 correct?

19 A That's right.

20 Q And then the second sentence says, in fact, no vote was  
21 taken. Do you see that?

22 A I do.

23 Q Okay. So that also is describing what didn't happen; is  
24 that right?

25 A That's correct.

1 Q And then in the third sentence it says, therefore, there  
2 could not be anything to report out of the January 31st, 2024  
3 closed session; is that right?

4 A That's right.

5 Q And again, we're talking about reporting out under the  
6 Brown Act; is that right?

7 A That's correct.

8 Q Okay. Does that mean nothing happened in the meeting?

9 A No.

10 Q If we could look at Exhibit 593 marked by Ms. Myers.

11 **MS. KUMAR:** Do we have that?

12 **(Counsel confer)**

13 **MS. KUMAR:** 593. Is it 1040? Okay. Yeah, yeah,  
14 yeah.

15 Q So we're going to direct Exhibit 593, which is Docket  
16 entry 1040, okay. Do you see that document in front of you,  
17 Mr. Fauble?

18 A I do.

19 Q And you're -- you are not counsel of record in the  
20 Alliance case; is that correct?

21 A Correct.

22 Q Okay. And so you were not involved in preparing this  
23 document; is that fair?

24 A That is correct.

25 Q Okay. So if we could go to -- so you saw this is a

1 portion that Ms. Myers -- one portion, it's a letter from  
2 Mr. Szabo. Do you see that?

3 A I do, yes.

4 Q Okay.

5 **MS. KUMAR:** And then if we could go to Exhibit B,  
6 page 21, which is 1040-2 on the Docket, still part of Exhibit  
7 593. If we go to the second page.

8 Q Now again, you're not familiar with this particular  
9 report, are you?

10 A I'm not sure I'd seen it before Ms. Myers showed it to me.

11 Q Okay. And this is a report relative to the Alliance  
12 settlement agreement; is that right?

13 A That's what it appears to be.

14 Q Just if we can scan quickly, do you see any mention of an  
15 encampment reduction plan in this document?

16 A So based on Palma (phonetic) scanning before I didn't.

17 Q Okay. So that -- and then separately if the City Council  
18 votes on something, does that necessarily mean that the vote  
19 was required under the City Council rules or the City Charter?

20 A It does not mean that.

21 Q Okay. If the City Council reported out that it approved  
22 something, does that mean that the only way it could approve  
23 things is to report out that it did report something -- approve  
24 something?

25 A Sorry, can you reask that question, it was complicated.

1 Q Yeah, sure. If we go to the top of this page, number 1,  
2 approve the proposed bed plan. Do you see that?

3 A I do.

4 Q Now, Ms. -- does the fact that the City Council stated  
5 that it was -- the recommendation for the Housing and  
6 Homelessness Committee was to approve the proposed bed plan,  
7 first of all does that mean that the City Council was required  
8 to approve it necessarily?

9 A No, they're not required to approve it.

10 Q Okay. Your understanding is they were not required to  
11 approve this?

12 A I don't think they're required to approve anything.

13 Q Okay. And so they -- but the fact that they said it,  
14 right, doesn't mean that it was necessarily required; is that  
15 fair?

16 A Yes.

17 Q Okay. And so the -- and in your experience, the City  
18 Council can approve things in manner short of a vote, right?

19 A Yes.

20 Q And your experience would include attending thousands of  
21 City Council meetings; is that right?

22 A Yes.

23 **MS. KUMAR:** Nothing further at this time, Your Honor.

24 **THE COURT:** All right. Any other questions by any  
25 other counsel?

1           **MS. MYERS:** No, Your Honor.

2           **MS. MITCHELL:** No, Your Honor, thank you.

3           **THE COURT:** All right. Sir, I'm going to ask you to  
4 remain available, sir, until this portion concludes.

5           **THE WITNESS:** Thank you.

6           **THE COURT:** Thank you very much, you may step down.

7           And, counsel, why don't we go to lunch. Will 1  
8 o'clock be okay for a return?

9           **MS. KUMAR:** Mr. Szabo's here, Your Honor. He does  
10 have a hard stop at 3:30.

11           **THE COURT:** Okay.

12           **MS. KUMAR:** So I'm fine with going to lunch as long  
13 as we can all endeavor to get him off the stand today.

14           **THE COURT:** Oh, that's fair warning. But 1 o'clock,  
15 thank you, have a good lunch.

16           **MS. MITCHELL:** Thank you, Your Honor.

17           **(Recessed at 11:46 a.m.; reconvened at 1:04 p.m.)**

18           **THE COURT:** Counsel, good afternoon. We're back on  
19 the record. I'm sorry. Good afternoon. We're back on the  
20 record. Counsel, your next witness, please.

21           **MS. MYERS:** The intervenors call Matt Szabo to the  
22 stand.

23           **THE COURT:** Thank you. Mr. Szabo, if you'd please  
24 return to the stand. I don't think it's necessary, but you  
25 recall the oath that was administered to you previously; is

1 that correct?

2 **MR. SZABO:** Yes.

3 **THE COURT:** Thank you, sir. If you'd please be  
4 seated and watch this small --

5 **MATT SZABO, INTERVENOR'S WITNESS, PREVIOUSLY SWORN**

6 **THE COURT:** Mr. Szabo, welcome back. Counsel, for  
7 just a moment, with Mr. Szabo present, I've been thinking about  
8 how this case can move forward for the public good. I think we  
9 all want that, especially with respect to accountability and  
10 transparency. And you know that I've been calling for that a  
11 long time. The settlement that all of you agreed to was  
12 enacted in 2022 and it expires in 2027, correct?

13 **MS. KUMAR:** Yes.

14 **THE COURT:** Yes.

15 **MS. KUMAR:** Yes, Your Honor.

16 **THE COURT:** In fact, is it June or October? It's  
17 June, isn't it?

18 **MS. KUMAR:** June, I believe, Your Honor.

19 **THE COURT:** It's June. Section 7.2 of the settlement  
20 agreement calls for the appointment of a data monitor and  
21 specifically, it says, quote, the parties will engage a  
22 mutually agreed upon third party to provide data collection,  
23 analysis, comments, regular public reports on the City's  
24 compliance with the terms of this agreement. The City shall be  
25 responsible for paying all fees, if any, or for obtaining

1 grants or other private funding if needed.

2           You as the parties have presented your disagreement  
3 to the Court concerning the appointment of a monitor, and it's  
4 reflected once again in Document 1045, and I'll read the  
5 literal language from that. Quote, Plaintiffs' LA Alliance for  
6 Human Rights, et al., the Alliance, and the City of Los Angeles  
7 submit this joint report to update the Court regarding the  
8 status of the City Council's approval of the third party  
9 monitor contemplated by Section 7.2 of the settlement agreement  
10 and the Court's June 2025 order, and to request the Court's  
11 review and resolution of the issue pursuant to Section 24 of  
12 the settlement agreement. End of quote.

13           Pursuant to Section 24, I resolved these  
14 disagreements on October 14th, 2025, by appointing City  
15 Comptroller Kenneth Mejia and Daniel Garrie as the data  
16 monitors. Mr. Skolnick, representing the City, and  
17 Ms. Mitchell, representing LA Alliance, agreed to this  
18 appointment subject to approval by the City Council. A  
19 representative of the City Attorney's Office was present on  
20 that day, and assured the Court that it would have a quick  
21 response.

22           For almost a month thereafter, we waited. There were  
23 two agendized motions before the City Council to consider the  
24 appointment of the monitor. It became apparent that the City  
25 Council would not act anytime soon. The Council then referred

1 this matter to the Homeless and Housing Subcommittee. I think  
2 all of us could recognize the immense amount of time that would  
3 be taken by any such referral and any subsequent action by the  
4 Council.

5 We're now three-and-a-half years into this settlement  
6 agreement. Let me repeat that, three-and-a-half years. The  
7 provision that requires accountability, transparency, and  
8 accuracy cannot be enforced without a data monitor. It is  
9 impossible to verify the accuracy of the City's data without a  
10 monitor. And you know Michelle Martinez's report came in last  
11 week, saying basically there's procedural noncompliance  
12 regardless of any substantive non-compliance.

13 This dispute between the parties is harmful to the  
14 public and to the public good. You can break this impasse, so  
15 I'm going to ask the parties to go to the back of the courtroom  
16 in just a moment with Mr. Szabo, you're here. You're the  
17 highest representative other than the Mayor and the President  
18 of the Council. And under 7.2, you can control by agreement  
19 who the monitor will be. If you can agree on this, it may  
20 bring a new fresh start to goodwill between all of you, which  
21 has been hard to come by. And this would be for the public  
22 good. The Court, depending upon your answer and appointing a  
23 monitor, may be inclined to hold this matter in abeyance to see  
24 if there can be cooperation on other issues, because there are  
25 other issues pending.

1           The public needs the accountability and transparency  
2 envisioned in the settlement. That's an agreement you both  
3 entered into. If we can agree on a monitor, then perhaps there  
4 will be an ability to move forward in so many different areas  
5 on behalf of our public. I think our time is spent now.

6           Mr. Szabo, before we get into more of your testimony,  
7 if we can understand each of your respective positions about  
8 this monitor. And I want to ask each of you individually, when  
9 you come back, what your respective positions are. My duty  
10 right now, I think, is to try to break this impasse if  
11 possible. So, Mr. Szabo, for just a few moments, I think it's  
12 time well spent. I know also and point out to counsel that  
13 this is unending amounts of money being spent, and it's only  
14 going to increase.

15           **MS. MITCHELL:** Your Honor, may I just update the  
16 Court on the ongoing discussions between the parties? Because  
17 there have been regular meetings and consistent discussions  
18 between the parties on this exact issue with Judge Birotte.  
19 And I think I --

20           **THE COURT:** I walled myself off completely.

21           **MS. MITCHELL:** I understand that, Your Honor. It's  
22 directly relevant to the Court's instruction.

23           **THE COURT:** If all of you are together at the lectern  
24 at the same time, that's a good sign.

25           **MS. KUMAR:** Your Honor, I don't think we're revealing

1 what we talked about. We just want to advise the court that  
2 this is an issue that the parties are meeting regularly in good  
3 faith about and we have another meeting scheduled --

4 **THE COURT:** I'm asking for a decision now. You have  
5 the ability to break at least the monitor, and I have to be  
6 bound by it.

7 **MS. KUMAR:** Your Honor, I don't believe we do --

8 **THE COURT:** Hold on. Just a moment. A couple  
9 minutes doesn't hurt.

10 **MS. KUMAR:** Certainly not, Your Honor.

11 **THE COURT:** I mean, this is time well spent. This  
12 meter's going up to the public detriment, quite frankly, in  
13 trying to resolve issues, and this isn't going to be the last  
14 of the hearing or the last of the appeal. This money is better  
15 spent on the public good, quite frankly.

16 So if you would have reached this, you can tell  
17 me. Maybe that discussion has led you to an agreement. But  
18 you've had months now, and I'm three and a half years in, and I  
19 don't know what's happening with Judge Birotte, and I'm not  
20 going to go any further with that. You can resolve this  
21 literally in a couple minutes.

22 **MS. KUMAR:** Your Honor, I would just note for the  
23 record we don't believe we can.

24 **THE COURT:** Thank you very much. I'm going to go  
25 into recess. I'm going to ask you in a moment. I'm going to

1 be polite about this, but I have to be satisfied that I've made  
2 the effort to break this. And I'm trying to humbly make that  
3 effort on behalf of the public. And if I don't have some  
4 response about when this would occur, then why would I hold  
5 this in abeyance? In other words, I'm going forward, and this  
6 might be a fresh start in some of these areas at least, to take  
7 some of the sharpness off that. So that's my humble attempt,  
8 okay?

9           And if you come back and you tell me, Judge, that's  
10 it, then I'll go forward today with Mr. Szabo or whatever you'd  
11 like. But I'd really like to know just the fact that you  
12 gathered for a moment and made the attempt. And then I would,  
13 obvious question, with all these months, why haven't you been  
14 able to agree upon a monitor? Because I'm bound by that. If  
15 you both agree, I'm bound. So that seems to be the first step  
16 to maybe breaking the logjam because that's what's caused a  
17 part of the quagmire. And part of this repetition, part of  
18 this concern has been when we referred it back to the counsel,  
19 Mr. Szabo, two agendized items, and then they put it to a  
20 subcommittee.

21           **MR. SZABO:** Understood.

22           **THE COURT:** Without responding. That is a large part  
23 of possibly the pattern of practice here that the Court was  
24 concerned about, okay? So humbly, I'm the one asking, very  
25 humbly, on behalf of the public, go make the effort. And if

1 you haven't decided, then if you want me to go forward, I'm  
2 going forward with this hearing. That's why we're here. I'll  
3 certainly decide 8.2, by the way. In other words, we'll hear  
4 that no matter what. But if we're going forward on the  
5 contempt and the other matters, this is burning up a lot of  
6 public money, quite frankly, that can go to much better uses.

7 So all I'm asking you is to go back to the back. I'm  
8 asking why you can't reach a resolution. Mr. Szabo, why don't  
9 you step down?

10 **MS. MITCHELL:** Thank you, Your Honor.

11 **THE COURT:** Thank you. And by the way, if we need  
12 Judge Birotte, I'll call him down.

13 **MS. MITCHELL:** No, Your Honor.

14 **(Recessed at 1:14 p.m.; reconvened at 2:51 p.m.)**

15 **THE COURT:** I'm sorry, we're back on the record. All  
16 counsel are present. Mr. Szabo, why don't you come up and join  
17 us, sir? If you would retake the stand, I'd appreciate  
18 it. Mr. Szabo is present, all counsel are present.

19 **MS. KUMAR:** Good afternoon, Your Honor. Poonam Kumar  
20 on behalf of the City. The parties have met and discussed. We  
21 all collectively believe we've made very good progress in our  
22 sessions before Judge Birotte. We are on several outstanding  
23 issues, including the issue of the data monitor. We are  
24 hopeful we can get to an agreement. We have another session  
25 scheduled for Tuesday before Judge Birotte. We are hopeful,

1 and they'll correct me, but I vetted this with them, we're  
2 hopeful that we can get to an agreement.

3 If we reach an agreement, what I can represent is it  
4 will be agendized quickly to obviate the Court's concern about  
5 what happened the last time. It will be agendized quickly  
6 before the city council because obviously it is our position  
7 that their approval should be sought and received. And I can  
8 also attest that Mr. Szabo spoke with the council president at  
9 the break and received a similar --

10 **THE COURT:** Thank you. I was going to ask if you'd  
11 speak with the mayor and/or the council president or both just  
12 to know an opportunity for a fresh start.

13 **MS. KUMAR:** Yes. And that that if we reach an  
14 agreement with the parties, the intervenors and the Alliance  
15 that the council president agreed same, which is what I've  
16 already said, which is that it would be agendized quickly  
17 after.

18 **THE COURT:** Okay. Yeah, I just want to thank all of  
19 you. I've been really mulling this over actually for quite a  
20 while as we got deeper in this and I just wanted to make sure  
21 that the mayor and the council were aware of our conversation  
22 today through you and just hopefully an opportunity to save a  
23 huge amount of money that we could devote back. I know the  
24 City's got some financial issues, homeless citizens and maybe  
25 just a fresh start for transparency.

1           And this is the one issue I focused on for one  
2 reason. This is the issue that you control. In other words,  
3 unlike some of the other portions, this -- I'm uniquely at your  
4 pleasure if you agree. So, all right now, when do we  
5 reconvene? Because if there's a good faith effort, which I'm  
6 hearing there is, then the best thing I could do is give you  
7 some latitude and some time and your meeting is next Tuesday?

8           **MS. KUMAR:** Yes, Your Honor.

9           **THE COURT:** Okay. The week after or the early part  
10 of the next week, what is all your schedules look like? We've  
11 been here quite a while. And so as long as there's a lot of  
12 thought that goes into this, I don't want to rush in terms of  
13 time with your contact with the council or the mayor. I really  
14 do believe this could be an opportunity just for the citizens  
15 of the homeless and everyone. And I say that humbly.

16           Can I check my calendar also, get back to you with  
17 some dates, give you two or three dates, but I'm thinking  
18 probably the second week in March because we were going to  
19 reconvene anyway. I'm going to hold off Mr. Garrie, assuming  
20 we may not be going forward, having him fly in and out. And if  
21 it's acceptable, then do you want me to leave the table set  
22 just as it is today and recess? Do you want me to go forward  
23 with anything else today and why don't you two discuss?

24           **MS. KUMAR:** We've already discussed that, Your  
25 Honor. And I believe I can say that the parties would agree

1 that if we could recess and you could schedule it for the  
2 second week of March, then we hopefully would have more of a  
3 report then.

4 **MS. MYERS:** That's fine, Your Honor. I have a -- I  
5 have a conflict the second week -- the entire second week of  
6 March that I can't get out of.

7 **THE COURT:** So about the first part of the third  
8 week?

9 **MS. MYERS:** That's great for me, Your honor.  
10 Apologies.

11 **THE COURT:** Generally speaking, I'll make sure that  
12 I'm available and try to fit in all of your folks. So Matt,  
13 okay. Let's see how we can do.

14 Okay. Listen, we'll be in recess. We'll get ahold  
15 of you next week with some suggested dates. Ms. Mitchell,  
16 okay?

17 **MS. MITCHELL:** Yes. That works for us, Your Honor.  
18 Thank you.

19 **THE COURT:** Counsel? Ms. Myers?

20 **MS. MYERS:** Thank you, Your Honor.

21 **THE COURT:** All right. Let's see if we can get a  
22 fresh start then. Thanks a lot. Have a good day.

23 **(Proceeding concluded at 2:57 p.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



February 19, 2026

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Signed

Dated

*TONI HUDSON, TRANSCRIBER*