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I served two times [on the Audit Committee].¹ I really don't have any problem with the city budget. OK. I really. I want to move the motion to recommend the Mayor Tabatabai to have this position [on the Audit Committee].

---Tony Wu, Mayor Pro Tem

West Covina City Council Meeting, February 6, 2024

Agenda Item 2. Appointment of Council Members to Advisory Boards, Committees

The Brown Act: The Mayoral Appointment Process

The appointment of council members to external advisory boards, subject to confirmation by the City Council as a whole, is an official duty of West Covina's mayor. The process tends to be fairly routine and often, but not always, confirmed without discussion. The 2024 appointment was an exception.

This year, Mayor Pro Tem Tony Wu objected to Mayor Calderón Tabatabai assigning him to West Covina's Audit Committee instead of the San Gabriel Valley Council of Governments (COG). It was an informative discussion focusing on "changes" to the appointment process itself as well as who should serve—Mayor Calderón Tabatabai or Mayor Pro Tem Tony Wu—on the "COG" and the Audit Committee.

Apparently, instead of a phone call from the mayor as Tony Wu and Letty Lopez-Viado explained they had done, an email was sent from staff to council members asking their interest and availability. That email was initially ignored. A public discussion regarding who should serve on these two committees occurred during the council meeting.²

As the council majority discussed and modified the mayor's appointment, it became apparent the council majority no longer follows the process the city previously used, a process designed to prevent Brown Act violations. This paper reviews the mayor's appointment process. A companion paper, *The Brown Act: Public vs. Private City Council Discussions*, explains serial meetings, a Brown Act violation.

- ***Process Meets Brown Act Requirements:*** City Council meeting minutes and discussions with individuals familiar with the mayoral appointment processes indicate that although the appointment process is ultimately the mayor's responsibility, city staff are typically very much involved with the first step in the process—identifying council member interest and availability—in order to avoid Brown Act violations. The basic process involves three steps:
 1. The appointment process starts with staff, in consultation with the mayor, emailing each city council member indicating the mayor is getting ready to make the annual appointments and asking which boards/committees each council member is interested in and what, if any, time constraints the council member may have.
 2. Council members respond to staff who then compile a list showing each council member's interest and availability.

ANNUAL APPOINTMENT OF CITY COUNCIL REPRESENTATIVES TO EXTERNAL ADVISORY BOARDS

The City of West Covina is a member of various organizations dedicated to serving the interests of local government in the region, in the State of California, and in the nation. West Covina is also a member of a number of joint powers agencies and other entities, which require an appointment of a member to their governing bodies. Annually the Mayor appoints members to the advisory bodies and boards as necessary.

Basic Statement Included on
City Council Meeting Agendas and Minutes from 2016 to 2024

3. The mayor makes appointments using the list staff compiled and the item is placed on the City Council agenda for confirmation by the city council. If disagreement on an assignment to a specific board should happen, and it sometimes does, that discussion takes place in public during a regular council meeting. A council majority can vote to override the mayor's appointment. Any required resolution is prepared and filed to reflect the council's vote.
- **Process Does Not Meet Brown Act Requirements:** When the mayor contacts and asks each council member directly which committees he or she would like to serve on, a Brown Act violation occurs once the third council member—a council majority—is contacted. This process is a serial meeting, a Brown Act violation. The serial meeting process is what Councilwoman Letty Lopez-Viado and Mayor Pro Tem Tony Wu, both former mayors, described that they and former Mayor Dario Castellanos used when they made mayoral appointments.

Our Concern

The discussion about who—Tony Wu or Brian Calderón Tabatabai—should serve on the COG is valid but is beyond the scope of this paper. *For ease of reference, Wu and Tabatabai's views are summarized in the box at the right.* ²

What is relevant to this paper is the ease in which council members discussed how they violate the Brown Act with "off-line" (private) meetings. The discussion confirmed what residents have been complaining about since the Wu council majority took over in 2019--Brown Act violations, aka "secret meetings".

Following the Brown Act is the responsibility of each council member. Discussions with individuals familiar with the city processes prior to 2019 indicate previous council members were careful about not violating the Brown Act. If, for instance, a conversation started to go into a non-agenda topic, they stopped the conversation and placed it on a future meeting agenda. The results of an actual vote, a former council member noted, was unknown until the vote occurred.

COUNCIL OF GOVERNMENT (COG) SERVICE VIEWPOINTS SUMMARIZED ²

Mayor Pro Tony Wu stated his work on the COG was not done with SB 1383 (Statewide Mandatory Organic Waste Collection) and Athens; with synchronizing traffic signals on Azusa Ave. from the City of Azusa to the City of Industry; and getting more Measure H (Homeless) funds for the city. (*Wu has been on the COG since 2019.*)

Mayor Brian Calderón Tabatabai explained Mayor Wu had been on the COG for years; that the COG is a collaborative body; that West Covina is a large city that is not collaborating with surrounding cities or L.A. County; that West Covina's relationship with surrounding cities and the County is frayed; and that Wu's approach is to have an "isolated" city. He indicated he, along with Councilman Cantos as the alternate, would bring different approach to the COG.

The Mayor's appointment of Wu to the Audit Committee instead of the COG was overridden by the council majority on a 3-2 vote (Yes: Diaz, Lopez-Viado, Wu | No: Cantos, Calderon Tabatabai)

Changes We Would Like to See

The West Covina City Council must return to following the Brown Act—California's Open Meeting Act. Simply stated, it is good governance and the law.

Notes

- ¹ Mayor Pro Tem Tony Wu served one time, not two times on the Audit Committee as he stated. Council member board and committee service from 2016 to 2024 is shown in the table Mayoral Appointments to Various Advisory Boards and Committees.
- ² City of West Covina. (February 6, 2023) City Council Meeting. Agenda Item 2. Consideration of Appointments of Council members to Serve on Various Advisory Boards and Committees. YouTube. Approximate Timestamp of Council Discussion: 50:21 <https://youtu.be/idBs48XE6M4?si=CIqsMPhOrNvyU47J&t=3021>
 - Mayor Pro Tem Wu's view on why he should remain on COG: Approximate Timestamp: 1:11:54
 - Mayor Calderón Tabatabai's view on why a different approach is needed: Approximate Timestamp: 1:14:36