



Special City Council Meeting Agenda

General Session - 8:15 a.m.

Tuesday, August 11, 2026, 8:15 AM
EXECUTIVE CONFERENCE ROOM - 3RD FLOOR
1 Civic Center Circle
Brea, CA 92821

Cecilia Hupp, Mayor

Marty Simonoff, Mayor Pro Tem

Christine Marick, Council Member

Blair Stewart, Council Member

Steven Vargas, Council Member

This agenda contains a brief general description of each item that the Council will consider. The City Clerk has on file copies of written documentation relating to each item of business on this agenda available for public inspection. Contact the City Clerk's Office at (714) 990-7756 or view the agenda and related materials on the City's website at <https://www.cityofbrea.gov/1857/Meetings-and-Agendas>. Materials related to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 1 Civic Center Circle, Brea, CA during normal business hours. Such documents may also be available on the City's website, subject to staff's ability to post documents before the meeting.

Procedures for Addressing the Council

The Council encourages interested people to address this legislative body by making public comments. Public comments may be made during public hearing items or during designated agendized and non-agendized public comment periods. Public comments are limited to five (5) minutes per speaker, unless a different time is announced by the Mayor/presiding Chair.

The Council encourages free expression of all points of view. To allow all persons the opportunity to speak, please keep your remarks brief. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. State law generally prohibits the City Council from responding to or acting upon matters not listed on this agenda. Council rules prohibit clapping, booing, or shouts of approval or disagreement from the audience.

In-Person Option – Members of the public can provide in-person comments in the Council Chambers. Speakers who wish to address the Council must do so by submitting a speaker card. Members will be called on in the order that cards are received, and all in-person public comments will be heard prior to virtual public comments.

Virtual Option – Members of the public may provide live comments during the designated public comment period by Zoom or conference call. To join by Zoom, click the following link or enter it into your web browser <https://cityofbrea-net.zoom.us/j/85167723074> Meeting ID: 851 6772 3074. To join the conference call, dial (213) 338-8477 and when prompted, enter the Meeting ID followed by "#". You will be prompted by the City Clerk when it is time for each comment period and you may request to speak by raising your hand on Zoom or dialing *9 from your phone.

Written Comments – Written comments may be submitted in advance of the meeting by emailing cityclerksgroup@cityofbrea.gov. Written comments received by 3 p.m. on the day of the meeting will be provided to the Council, made available to the public at the meeting, and included in the official record of the meeting.

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 990-7757. A notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

Important Notice

The City of Brea shows both live broadcasts and replays of City Council meetings on Brea Cable Channel 3 and over the Internet at www.cityofbrea.gov. Your attendance at this public meeting may result in the recording and broadcast of your image and/or voice as previously described.

Reminder: Please silence all cell phones and other electronic equipment while the Council is in session.

1. GENERAL SESSION - EXECUTIVE CONFERENCE ROOM 3RD FLOOR - 8:15 A.M.

1.A. Call to Order/Roll Call

1.B. Pledge of Allegiance

1.C. Public Comment - Agenda Items

The City Council will address comments on agenda items during this section and speakers will be called in the order received. Comments relating to public hearing items will be heard during the public hearing.

1.D. Response to Public Inquiries

2. ADMINISTRATIVE ITEM

This agenda category is for City Council consideration of a wide variety of topics related to the City's operations. Public comments regarding items in this section should be presented during "Public Comment - Agenda Items."

2.A. Unconditional Commitment Response to Brea4All / Shute, Mihaly & Weinberger Cease and Desist Demand Letter

- 1. Approve an unconditional commitment response to the cease and desist demand letter received from Brea4All through its law firm Shute, Mihaly & Weinberger.
- 2. Authorize the Mayor to send the response letter on behalf of the City.

3. PUBLIC COMMENT - NON-AGENDA ITEMS

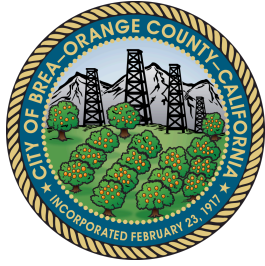
The City Council will address comments on non-agenda items during this section and speakers will be called in the order received.

3.A. Public Comment - Non-Agenda Items

4. ADJOURNMENT

4.A. Meeting Adjournment

Date Posted: August 6, 2026



CITY *of* BREA

City Council Special Meeting
Communication
August 11, 2026
Item No. 2A.

Unconditional Commitment Response to Brea4All / Shute, Mihaly & Weinberger Cease and Desist Demand Letter

TO	PREPARED BY
Honorable Mayor and City Council Members	Terence Boga, City Attorney
DEPARTMENT HEAD APPROVAL	CITY MANAGER APPROVAL
Jason Killebrew, Assistant City Manager/Community Development Director	Kristin Griffith, City Manager

RECOMMENDATION

Staff recommends that the City Council take the following actions:

1. Approve an unconditional commitment response to the cease and desist demand letter received from Brea4All through its law firm Shute, Mihaly & Weinberger.
2. Authorize the Mayor to send the response letter on behalf of the City.

BACKGROUND/DISCUSSION

On July 15, 2026, Brea4All, through its law firm Shute, Mihaly & Weinberger, sent the City a cease and desist demand letter (Attachment A) alleging Brown Act violations related to the Economic Development Agreement (EDA) with Dwight Manley, as Trustee of the DVQ Revocable Trust, for Costco Wholesale Corporation. The City Attorney and staff emphatically disagree that there have been Brown Act violations in connection with the public hearing notice, agenda description, or approval of the EDA. Nevertheless, to avoid unnecessary litigation, it is recommended that the City Council approve an unconditional commitment response (Attachment B) in accordance with the Brown Act. In text that follows the statutory language, the proposed response letter provides an unconditional commitment that the City Council will cease, desist from, and not repeat the challenged past actions. Issuance of the response letter does not constitute an admission that a Brown Act violation occurred and the letter expressly denies that there was any violation. The proposed response letter also includes a reminder that it is not a Brown Act violation for staff to have separate conversations with Council Members to answer questions or provide information as long as staff does not communicate the comments or position of any other Council Member.

Attachments

[Attachment A - Cease and Desist Demand Letter](#)

[Attachment B - Unconditional Commitment Response Letter](#)

[Attachment C - Added 8-7-26 at 2 p.m. - Unconditional Commitment Response Letter \(redline\).pdf](#)

[Attachment D - Added 8-7-26 at 2 p.m. - Unconditional Commitment Response Letter \(updated\).pdf](#)



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www.smwlaw.com

JOSEPH D. PETTA
Attorney
petta@smwlaw.com

July 15, 2026

Via FedEx, Facsimile, and Electronic Mail

Victoria Popescu
City Clerk
City of Brea
1 Civic Center Circle
Brea, CA 92821
victoriap@cityofbrea.gov
cityclerksgroup@cityofbrea.gov

Re: Cease and Desist Demand Regarding Violations of the Ralph M. Brown Act (Gov. Code §§ 54960, 54960.2) – Costco Wholesale Corporation Warehouse Retail Store (APNs 320-221-24, 320-221-25)

Dear Ms. Popescu:

We write on behalf of our client, Brea4All, pursuant to Government Code sections 54960 and 54960.2, regarding violations of the Ralph M. Brown Act, Government Code section 54950 et seq. ("Brown Act"), arising from the City of Brea's ("City") consideration and approval of the Economic Development Agreement ("EDA") with Dwight Manley, for a proposed Costco Wholesale Corporation warehouse retail store, and from the City's ongoing and future consideration of the proposed development of the former Beckman Coulter campus site that Mr. Manley has purchased at 200-250 S. Kraemer Boulevard. This letter constitutes the cease-and-desist letter required by Government Code section 54960.2(a)(1) as a precondition to an action for declaratory relief regarding the City's past violations of the Brown Act described below.

I. Unnoticed Meetings of a Majority of Councilmembers Regarding the Manley Site Development

Records produced by the City in response to a California Public Records Act request include a lengthy text message chain between the City's Community Development Director and Mr. Manley. Several portions of that chain indicate that a majority of the City Council deliberated on, or reached concurrence, regarding the EDA

and related matters outside of any publicly noticed meeting – including through a series of communications relayed by the Director. Among other things, the produced messages state that “Council gave direction to move forward with the incentives . . . Full support.” (Attachment 1 at 23 & 39), that “Everyone gave the thumbs up to move forward . . . Nobody wants homes on the whole site” (Att. 1 at 49-50),” that the Director had “the verbal support from city council” (Att. 1 at 51-52), and that the Director intended to “see what the attorneys support now that we have council support” (Att. 1 at 53). Other portions of the chain suggest the Director may have used a series of one-on-one meetings with individual councilmembers to develop a collective concurrence among a majority of the Council outside a lawfully noticed meeting (Att. 1 at 73).

The Brown Act flatly prohibits this practice. Government Code section 54952.2(b)(1) provides:

A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

Section 54953(a) further requires that “[a]ll meetings of the legislative body of a local agency shall be open and public.” And section 54950 makes clear that “[t]he people of this State do not yield their sovereignty to the agencies which serve them,” and “insist on remaining informed so that they may retain control over the instruments they have created.”

Brea4All demands that, within 30 days of the date of this letter, the City provide an unconditional written commitment to cease and desist from any further violations of this kind, including from any future use of serial communications, whether directly or through the Community Development Director, other City staff, or any other intermediary, to discuss, deliberate, or reach concurrence among a majority of the City Council outside of a duly noticed public meeting regarding the proposed development of the Manley site, including the proposed Costco warehouse store and any associated entitlements, agreements, or environmental review.

II. Improperly Vague Agenda Descriptions

Government Code section 54954.2(a) requires that a legislative body post, at least 72 hours before a regular meeting, an agenda item with a “brief general description of each item of business to be transacted or discussed,” and provides that such a description

“generally need not exceed 20 words.” Although the standard is elastic, the description must still fairly apprise the public of the essential nature of the matter to be considered.

The agenda item the City posted for the December 16, 2025 hearing on the EDA – Item 4.C – described only that the Council would “[c]onduct a public hearing ... to consider adoption of an Economic Development Agreement between the City of Brea and Dwight Manley... for Costco Wholesale Corporation” and “[a]pprove the Agreement.” The description did not disclose that the EDA would require the City to share, over a fifty-year term, the sales and use tax revenue generated by the project, or any other material financial terms of the agreement – information plainly necessary to apprise the public of the essential nature of the matter under consideration.

Additionally, the Public Hearing Notice published November 25, 2025 was misleading and insufficient. It describes consideration of “an economic development subsidy for establishment and operation of a warehouse retail store.” The vague phrasing appears designed to not attract attention and was a wholly inadequate descriptor for what the City of Brea knew to be a plan for the largest Costco store in the State of California.

Brea4All demands that, within 30 days of the date of this letter, the City provide an unconditional written commitment to cease and desist from posting public notices and agenda item descriptions – for any future matter concerning the Manley site development or associated CEQA review – that fail to adequately disclose the essential nature and material terms of the action under consideration, consistent with Government Code section 54954.2(a).

III. Notice of Intent to Seek Further Relief

Pursuant to Government Code section 54960.2, if the City does not provide the unconditional written commitments demanded above within 30 days of the date of this letter, Brea4All reserves the right to commence an action for declaratory relief to determine the applicability of the Brown Act to the City’s past actions described above, and to pursue all other remedies available under law, including recovery of attorneys’ fees and costs pursuant to Government Code section 54960.5.

We reserve the right to supplement this letter with additional demands and identify further violations.

Victoria Popescu
July 15, 2026
Page 4

Please direct any response to my attention at the address above.

Very truly yours,

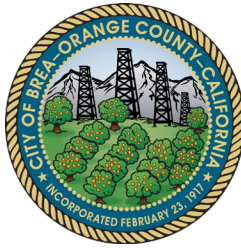
SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in blue ink, appearing to read 'J Petta', with a stylized flourish at the end.

Joseph "Seph" Petta, Attorney

JDP

2093287.3



VIA E-MAIL AND U.S. MAIL

_____, 2026

Joseph D. Petta
550 California Street, Suite 1200
San Francisco, CA 94104
petta@smwlaw.com

RE: Response to Cease and Desist Letter

Dear Mr. Petta:

The Brea City Council has received your cease and desist letter, dated July 15, 2026 and addressed to City Clerk Victoria Popescu, alleging that past actions of the City Council or the City of Brea violated the Brown Act as follows:

- A majority of the City Council allegedly deliberated on, or reached concurrence, regarding the Economic Development Agreement (“EDA”) with Dwight Manley and related matters for a proposed Costco store at 200-250 S. Kraemer Blvd.
- The agenda item description for the December 16, 2025 public hearing on the EDA allegedly was misleading and insufficient for not disclosing the EDA’s financial details.
- The public hearing notice published on November 25, 2025 for the EDA agenda item allegedly was misleading and insufficient because of vague phrasing.

In order to avoid unnecessary litigation and without admitting any violation of the Brown Act, the Brea City Council hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past actions as described above. In particular, the City Council unconditionally commits that: (i) the Council will not discuss, deliberate, or reach concurrence among a majority of Council Members outside of a duly noticed public meeting regarding the proposed development of the subject site, including the proposed Costco store and any associated entitlements, agreements, or environmental review; and (ii) the City will not post public notices and agenda item descriptions for future matters concerning development of the subject site or associated CEQA review that fail to adequately disclose the essential nature and material terms of the action under consideration. As a reminder, it is not a Brown Act violation for City staff to have separate conversations with Council Members to answer questions or provide information as long as staff does not communicate the comments or position of any other Council Member.

The Brea City Council may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as “Rescission of

Cecilia Hupp
Mayor

Marty Simonoff
Mayor Pro Tem

Christine Marick
Council Member

Blair Stewart
Council Member

Steven Vargas
Council Member

Brown Act Commitment.” You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to Government Code Section 54960(a). That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Sincerely,

Cecilia Hupp
Mayor

cc: Terence Boga, City Attorney



VIA E-MAIL AND U.S. MAIL

_____, 2026

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In Pursuant to Government Code Section 54960.2(c)(1), in order to avoid unnecessary litigation and without admitting any violation of the Brown Act, the Brea City Council hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past actions as described above. In particular, the City Council unconditionally commits that: (i) the Council will not discuss, deliberate, or reach concurrence among a majority of Council Members outside of a duly noticed public meeting regarding the proposed development of the subject site, including the proposed Costco store and any associated entitlements, agreements, or environmental review; and (ii) the City will not post public notices and agenda item descriptions for future matters concerning development of the subject site or associated CEQA review that fail to adequately disclose the essential nature and material terms of the action under consideration. As a reminder, it is not a Brown Act violation for City staff to have separate conversations with Council Members to answer questions or provide information as long as staff does not communicate the comments or position of any other Council Member.

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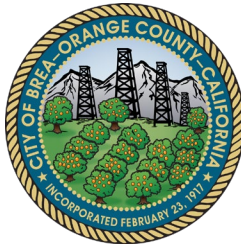
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