

RESOLUTION NO. 2016-10

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ACCEPTING THE INDEPENDENT INVESTIGATIVE REPORT REGARDING
ALLEGATIONS OF BROWN ACT VIOLATIONS BY THE CITYWIDE
PARKING COMMITTEE AND ADOPTING THE RECOMMENDATIONS
CONTAINED IN THE REPORT**

WHEREAS, the City of Los Altos City Council conducts its business adhering to the provisions of the Ralph M. Brown Act (the “Brown Act”); and

WHEREAS, the City Council is committed to open and transparent government operations; and

WHEREAS, in January 2015 the City Council adopted a “POLICY OF THE CITY OF LOS ALTOS REGARDING OPENNESS IN CITY GOVERNMENT”; and

WHEREAS, said policy states that “All meetings of City policy bodies (City Council, Commissions, and Committees) shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.). The Brown Act serves as a floor, not a ceiling, for transparency and openness. Policies are provided here that go beyond the minimum requirements of law to instill public confidence and increase transparency”; and

WHEREAS, In May 2015 the City Council adopted Resolution No. 2015-09 requiring certain advisory subcommittees and/or ad hoc committees of the City to be more open and accessible to the public; and

WHEREAS, the City-wide Parking Committee (“Committee”) was required to comply with the Brown Act; and

WHEREAS, on February 9, 2016, Friends of Los Altos (“FOLA”) hand-delivered a formal complaint to the City Council alleging that the Committee and its use of subcommittees violated the Brown Act; and

WHEREAS, on March 22, 2016, FOLA hand-delivered a supplement to its formal complaint dated February 9, 2016, to the City Council; and

WHEREAS, in response to the allegations made by FOLA, the City suspended the Committee and its subcommittees; and

WHEREAS, the City Attorney took all necessary actions to preserve the records for an investigation of the allegations made by FOLA; and

WHEREAS, the City Council retained outside counsel to conduct an independent investigation of the allegations made by FOLA (“Investigation”); and

WHEREAS, the scope and purpose of the Investigation was two-fold: (1) to determine whether past actions of the Committee or its subcommittees violated the Brown Act; and (2) to make recommendations to the City Council consistent with the results of the investigation; and

WHEREAS, counsel for Investigation soon thereafter made attempts to obtain the relevant emails and documents from the Committee; and

WHEREAS, production of documents was delayed due to technical issues and/or privacy concerns, which significantly delayed the investigation; and

WHEREAS, counsel for the Investigation also reviewed all published agendas, minutes, meeting materials and draft reports of the Committee and subcommittees; and

WHEREAS, the Investigation made certain conclusions of law based on the facts and evidence reviewed; and

WHEREAS, the Investigation also made certain recommendations to avoid the risk of future violations of the Brown Act; and

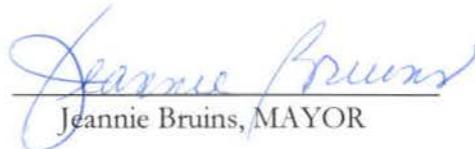
WHEREAS, this Resolution is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby adopts the “City of Los Altos Releases Results of Independent Investigation dated May 10, 2016” (“Investigation”) attached hereto as Exhibit “A” and incorporated by this reference.
2. The City Council hereby disbands the Committee.
3. The City Council hereby adopts the recommended actions as set for in the Investigation, Exhibit A, numbers 1 through 4.
4. The City Council hereby adopts the recommended measures to reduce the risk of future violations of the Brown Act as set for the in the Investigation, Exhibit A, numbers 1 through 3.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 10th day of May, 2016 by the following vote:

AYES: BRUINS, MORDO, PEPPER, PROCHNOW, SATTERLEE
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE


Jeannie Bruins, MAYOR

Attest:


Jon Maginot, CMC, CITY CLERK

City of Los Altos Releases Results of Independent Investigation:

Los Altos, California – May 10, 2016

On February 9, 2016, Friends of Los Altos (“FOLA”) submitted a letter to the City alleging that the City-wide Parking Committee (“Committee”) through the use of its subcommittees violated California’s open meeting law referred to as the Brown Act (Government Code §§ 54950-54963.) The City Council formed the Committee in February 2015 to make recommendations on parking issues facing the City. The Committee consisted of nine voting members. Mayor Jeannie Bruins and Councilman Jean Mordo also participated as non-voting members. The Committee ultimately formed the following six working group subcommittees: (1) Alternatives; (2) Parking In-Lieu Program; (3) Parking Ratios; (4) Parking Stall Standards/Layout; (5) Building Square Footage Measurement; and (6) Executive Summary.

In January 2015, the City adopted a “Policy of the City of Los Altos Regarding Openness in City Government.” In May 2015, the City adopted Resolution No. 2015-09, confirming that the Committee as comprised shall comply with the Brown Act meeting requirements. The Committee held approximately 20 noticed, public meetings between March 11, 2015 and February 3, 2016 in compliance with Brown Act meeting requirements. Following FO LA’s allegations, the City suspended further work of the Committee and on February 10, 2016, retained independent counsel, Arthur J. Friedman with the law firm of Sheppard Mullin Richter and Hampton, to investigate. The scope and purpose of Mr. Friedman’s investigation was two-fold: (1) to determine whether past actions of the Committee or its subcommittees violated the Brown Act; and (2) to make recommendations to the City Council consistent with the results of the investigation.

Members of the Committee and City staff provided Mr. Friedman with e-mails and other documents relating to their work on the Committee and subcommittees. The production of documents and e-mails by some Committee members was delayed by technical issues and/or individual privacy concerns, but ultimately completed by April 17, 2016. Mr. Friedman has concluded his investigation and his findings are summarized below:

1. Did the Committee or its subcommittees violate the Brown Act?

Yes. Mr. Friedman identified evidence of the following Brown Act violations: (1) for periods of time, the Parking In-Lieu subcommittee consisted of a majority of the voting members of the Committee; (2) a majority of the voting members of the Committee periodically deliberated privately by e-mail; (3) a majority of the voting members of the Committee periodically conducted private serial meetings regarding various issues that were the subject of multiple subcommittees; and (4) City staff periodically provided materials to a majority of the voting members of the Committee accompanied by substantive comments reflecting statements/opinions of other voting members of the Committee. Additionally, further Brown Act violations were likely based on the overlap of related topics addressed by multiple subcommittees, collectively involving a majority of voting members of the Committee.

2. The City's Response

In response to Mr. Friedman's findings, and based on his recommendations, the City is taking the following actions regarding the work and recommendations of the Committee:

1. The Committee shall perform no additional work and shall disband.
2. The City staff and/or an independent consultant hired by the City shall review, assess and make its own recommendations regarding the work and recommendations of the Committee.
3. Following City staff/independent consultant independent review of the Committee's recommendations, the City's Planning and Transportation Commission ("PTC") through noticed public hearing(s) shall review the separate recommendations of both the Committee and City staff/independent consultant, and shall make its own recommendations to the City Council.
4. Following the PTC's independent review and recommendations, the City Council shall through noticed public hearing(s) review the separate recommendations of the PTC, City Staff/independent consultant and the Committee before taking action.

To reduce the risk of future violations of the Brown Act, the City Council has directed City staff to draft Resolution(s) or take other appropriate measures to accomplish the following:

1. The City shall discontinue the simultaneous use of multiple subcommittees concerning similar or related topics.
2. The City shall expand and/or enhance Brown Act training to include Ad Hoc committee members to proactively address confusion about the Act's applicability and requirements.
3. The City shall establish procedures and guidelines for conducting deliberations and meetings consistent with the Brown Act, which shall include increased City staff oversight of committees.