



AGENDA REPORT SUMMARY

Meeting Date: Tuesday, February 22, 2022

Subject Los Altos City Council Legislative Subcommittee

Prepared by: Councilmember Neysa Fligor and City Attorney Jolie Houston

Approved by: Gabriel Engeland, City Manager

Purpose: To Discuss and decide on the structure of the Legislative Subcommittee

A. BACKGROUND

In December 2019, the Los Altos City Council created a Legislative Subcommittee that would consist of 2 Councilmembers. This creation resulted from Council's discussion and consideration of hiring a lobbyist for the City. The City Council decided that it would prefer to establish a Legislative Subcommittee instead of hiring a lobbyist. The format of the Subcommittee to date has been for the 2 Subcommittee members to meet informally and then bring proposed legislative bills, initiatives, or ballot measures ("Bill") to Council to discuss and decide if the Council wished to take a position on the Bill. The format of the Council discussion and the types of materials provided for those discussions have varied. It appears that the intent of the City Council was to establish the Legislative Subcommittee as a standing committee as it would continue from year to year, but it was not formalized as a standing committee. On September 14, 2021, for instance, the City Council updated its Norms and Procedures and identified some of the existing Council standing subcommittees. Although Council is not required to list all the different Council standing subcommittees in its Norms and Procedures, it should be noted that the Legislative Subcommittee was not identified as a standing committee. As a result, at the January 25, 2022, Council meeting, Councilmember Fligor led the discussion on the different ways Council could structure the Legislative Subcommittee.

This February 22, 2022, agenda item covers the different areas raised by Councilmembers at the January 25th meeting and seeks to formalize the structure of the Legislative Subcommittee.

B. QUESTIONS FOR COUNCIL

1. **Should the Legislative Subcommittee be a Standing or Ad Hoc Subcommittee?**
 - a. Differences between Standing and Ad Hoc Committees

City Manager

GE

Reviewed By:

City Attorney

JH

Finance Director

JF



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Legislative Bodies

The Ralph M. Brown Act (Brown Act), Government Code §54950 *et seq.* requires all meetings of “legislative bodies” of local agencies to be open and public. Govt. Code §54953(a). The California Constitution recognizes, “[t]he people have the right of access to information concerning the conduct of the people’s business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.” Cal. Const. art I, §3(b)(1). This requires that statutes, court rules, and other authorities must be broadly construed if they further the people’s right of access and narrowly construed if they limit the right of access. Cal. Const. art I, §3(b)(2).

The application of the Brown Act is not limited to City Council meetings. It also applies to a variety of committees and advisory boards determined to be “legislative bodies” under the Brown Act. The term “legislative body” under the Act means the following:

- The governing body of a local agency (including those of charter and general law cities) or any other local body created by state or federal statute. Govt. Code §54952(a).
- Any permanent or temporary advisory or decision-making commission, committee, board, or other body created by charter, ordinance, resolution, or formal action of a legislative body. Govt. Code §54952(b).
- Standing committees, regardless of their composition, that have either:
 - Continuing subject matter jurisdiction; or
 - A meeting schedule fixed by charter, ordinance, resolution, or other formal action of the legislative body. Govt. Code §54952(b).
- Standing Committees must abide by all of the Brown Act notice and agenda requirements, as well as be open to the public and allow public comment.

The Less-Than-a-Quorum Exception (Ad Hoc Committee)

The term “legislative body” **excludes** less-than-a-quorum advisory committee, also known as an ad hoc committee, are composed solely of members of the legislative body, provided they are not standing committees that have continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body. Govt. Code §54952(b). See also *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 CA4th 1123, 1127. To be an ad hoc committee exempt from the Brown Act, the body should have (1) a defined task and (2) be of limited duration. 79 Ops Cal Atty Gen 69 (1996).



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However, if the ad hoc committee membership includes persons other than members of the parent legislative body, or a quorum of any legislative body, then it is a legislative body for purposes of the Brown Act. Govt. Code §54952(b). If less than a quorum of one legislative body meets with less than a quorum of another legislative body (or with any other person who is not a member of the legislative body), and if all of those members act together as a single committee, they will be found to be a “unitary body” subject to the Brown Act. *Joiner v. City of Sebastopol* (1981) 125 CA3d 799, 802.

- 2. How to format the Legislative Subcommittee’s presentation to the full Council?**
 - a. Provide materials at least 72 hours in advance of the scheduled meeting
 - b. Provide arguments in favor and against a Bill, unless information is not available
- 3. How non-Legislative Subcommittee members may ask that the Legislative Subcommittee consider a Bill?**
 - a. Make request during Future Agenda Items on Council Agenda
 - b. Non-Legislative Subcommittee Councilmember can request a Bill be added as an urgency item at the Council meeting. If a Councilmember opts to do so, the Councilmember should also be prepared to provide arguments in favor and against the Bill, if available.
- 4. Can the Legislative Subcommittee take a position on a Bill on behalf of the City Council if the full Council has not taken a position on that Bill?**
 - a. Yes, with certain parameters, or No.
 - b. If No, then other options for the Legislative Subcommittee to consider:
 1. Add it to the Council Agenda as an Urgency item
 2. Councilmembers can take a position in their individual capacity provided that’s clearly stated in the communication
- 5. Do we want to establish any criteria for the type of Bills the Legislative Subcommittee should consider?**
 - a. Only bills that directly impact Los Altos
 - b. Only housing bills
 - c. All bills the Legislative Subcommittee deems relevant even if they don’t directly impact Los Altos
- 6. Any other related questions that Council should consider?**

C. PROPOSED ACTIONS FOR CITY COUNCIL

1. Confirm that the Legislative Subcommittee should be a Standing Subcommittee and ensure compliance with applicable laws
2. Confirm format for Legislative Subcommittee’s presentation to the full Council
3. Confirm process to make requests to the Legislative Subcommittee



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4. Confirm authority of the Legislative Subcommittee if full Council has not taken a position on a Bill

Confirm criteria for the types of Bills the Legislative Subcommittee should consider