

From: Cameron Samimi <cameron@lyonstahl.com>

Sent: Monday, July 20, 2020 1:14 PM

To: Suja Lowenthal <suja@hermosabeach.gov>; City Council <citycouncil@hermosabeach.gov>

Subject: Violation of Brown Act - Cure and Correct

Presiding Officer

Members

Name of Legislative Body

Name of Local Agency

Dear City Council

*This letter is to call your attention to what I believe was a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of the action taken by **the city manager**.*

The nature of the violation is as follows: The City Manager has acted solely or without voting on the matter or hearing any comments from the members of the community. At no time was removal of the Volleyball poles which are privately owned in the city by residents ever voted on or brought to a vote. In fact no resident was made aware ahead of time of such vote and no vote took place within the city council.

*The action taken was not in compliance with the Brown Act it occurred as the culmination of a discussion in closed session of a matter which the Act does not permit to be discussed in closed session (**and/or**) there was no adequate notice to the public on the posted agenda for the meeting that the matter acted upon would be discussed, and there was no finding of fact made by the **Hermosa Beach City Council** that urgent action was necessary on a matter unforeseen at the time the agenda was posted.*

*In the event it appears to you that the conduct of the **Hermosa Beach City Council** specified herein did not amount to the taking of action, I call your attention to Section 54952.6, which defines "action taken" for the purposes of the Act expansively, i.e. as "a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a*

motion, proposal, resolution, order or ordinance.”

As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a “brief description” of each item to be discussed or acted upon, and also creates a legal remedy for illegally taken actions —namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

*Pursuant to that provision (Government Code Section 54960.1), I demand that the **Hermosa Beach City Council** cure and correct the **illegally taken action as follows: Please have all posts put back to their respective spots and provide the public the awareness and opportunity to comment of which it was deprived, e.g. the formal and explicit withdrawal from any commitment made, coupled with a disclosure at a subsequent meeting of why individual members of the legislative body took the positions — by vote or otherwise — that they did, accompanied by the full opportunity for informed comment by members of the public at the same meeting, notice of which is properly included on the posted agenda. Informed comment might in certain circumstances include the provision of any and all documents in the possession of the local agency related to the action taken, with copies available to the public on request at the offices of the agency and also at the meeting at which reconsideration of the matter is to occur.***

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would also ask the court to order you to pay my seek court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Respectfully yours,

Cameron Samimi

Hermosa Beach Resident

Cameron Samimi

First Vice President

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