

FRANK T. MARTINEZ
City Clerk

KAREN E. KALFAYAN
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
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Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

02-2794

October 26, 2005

PLACE IN FILES

OCT 28 2005

DEPUTY

Department of Neighborhood Empowerment
City Ethics Commission
City Attorney
Chief Legislative Analyst
City Administrative Officer

RE: REVISED CONFLICT OF INTEREST CODE FOR THE DEPARTMENT OF NEIGHBORHOOD
EMPOWERMENT AND THE CURRENT LEGAL FRAMEWORK APPLICABLE TO NEIGHBORHOOD
COUNCILS

At the meeting of the Council held October 25, 2005, the following action
was taken:

Attached report adopted..... X
Amending motion () adopted.....
Attached resolution adopted.....
Ordinance adopted.....
FORTHWITH..... X
Motion adopted to approve communication recommendation(s).....

Frank T. Martinez

City Clerk
jr



AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER



TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your

EDUCATION AND NEIGHBORHOODS

Committee

reports as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	

EDUCATION AND NEIGHBORHOODS COMMITTEE REPORT relative to a revised Conflict of Interest Code for the Department of Neighborhood Empowerment and the current legal framework applicable to Neighborhood Councils.

Recommendations for Council action:

1. RECEIVE and FILE the City Ethics Commission report relative to a revised Conflict of Interest Code for the Department of Neighborhood Empowerment to include Neighborhood Councils, inasmuch as Ordinance No. 176477 exempts Neighborhood Councils from adopting Conflict of Interest Codes (Council File 02-2794-S1) and, as such, no Council action is required.
2. NOTE and FILE the City Attorney's report relative to an Analysis of Legal Framework Applicable to Neighborhood Councils, Part One: The Political Reform Act , inasmuch as the report is submitted for information only and no Council action is required.
3. NOTE and FILE the City Attorney's report relative to an Analysis of Legal Framework Applicable to Neighborhood Councils, Part Two: The Brown Act , inasmuch as the report is submitted for information only and no Council action is required.

Fiscal Impact Statement: Not applicable.

Summary:

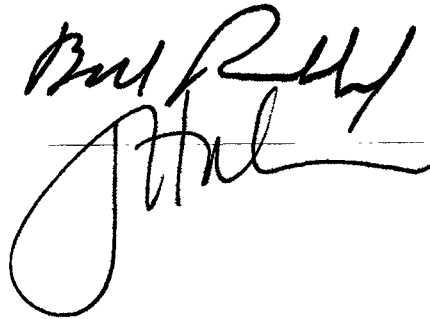
At its meeting of October 12, 2005, the Education and Neighborhoods Committee considered a City Ethics Commission report relative to a revised Conflict of Interest Code for the Department of Neighborhood Empowerment to include Neighborhood Councils, and two City Attorney reports relative to the applicability of the Political Reform Act and the Brown Act to Neighborhood Councils.

After some discussion, the Committee recommended to receive and file the City Ethics Commission report, inasmuch as the report is obsolete due to Council adoption of Ordinance No. 176477, which exempts Neighborhood Councils from adopting Conflict of Interest Codes. In addition, the Committee recommended to note and file the City Attorney reports relative to the Political Reform Act and the Brown Act, inasmuch as the reports are for information only and no

Council action is required. This matter is now forwarded to Council for its consideration.

Respectfully submitted,

EDUCATION AND NEIGHBORHOODS COMMITTEE



MEMBER
ROSENDAHL:
HAHN:

VOTE
YES
YES

PYL
10/19/05
#022794a.wpd

Rept
ADOPTED

OCT 25 2005

LOS ANGELES CITY COUNCIL

FORTHWITH

COUNCIL VOTE

Oct 25, 2005 11:39:54 AM, #8

ITEM NO. (24)

Voting on Item(s): 24

Roll Call

CARDENAS	Yes
GARCETTI	Yes
GREUEL	Yes
HAHN	Yes
LABONGE	Yes
PARKS	Absent
PERRY	Yes
REYES	Yes
ROSENDAHL	Yes
SMITH	Yes
WEISS	Yes
ZINE	Yes
*PADILLA	Yes
VACANT	Absent
VACANT	Absent

Present: 12, Yes: 12 No: 0

**EDUCATION AND NEIGHBORHOODS COMMITTEE
SUGGESTED NOTIFICATION OF COUNCIL ACTION**

Council File No. 02-2794

- ☐ Council Member(s) _____
- ☐ Interested Department _____
- ☐ Mayor (with/without file) _____
- ☒ Chief Legislative Analyst _____
- ☒ City Administrative Officer _____
- ☐ Controller _____
- ☐ City Clerk _____
 - ☐ City Clerk, Chief Administrative Services _____
- ☐ Treasurer _____
- ☒ City Attorney (with blue sheet / without blue sheet) _____
- ☒ Department of Neighborhood Empowerment _____
- ☐ Department of Public Works _____
- ☐ Personnel Department _____
- ☐ Library Department _____
- ☒ ~~City~~ City Ethics Commission _____
- ☐ _____

CITY OF LOS ANGELES SPEAKER CARD

Date

10-05

Council File No., Agenda Item, or Case No.

2

I wish to speak before the _____
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal
() Against proposal
Name: Dawn A. Schwartz () General comments

Business or Organization Affiliation: _____

Address: _____
Street City State Zip

Business phone: 818-355-5665 Representing: _____

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW: ☐

Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

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CITY OF LOS ANGELES SPEAKER CARD

Date

10/12/05

Council File No., Agenda Item, or Case No.

ITEM 2 CF 02-2794

I wish to speak before the

ESN

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

() Against proposal

Name: JIM MEQUISTON

(X) General comments

Business or Organization Affiliation:

EHCA

Address:

Street

City

State

Zip

Business phone:

Representing:

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☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

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CITY OF LOS ANGELES SPEAKER CARD

Date 10/12/05

Council File No., Agenda Item, or Case No. #2

I wish to speak before the

S. Ed & Neely Parkland Committee
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal
() Against proposal
Name: Suzanne Thompson () General comments

Business or Organization Affiliation: Yeni Progressives

Address: _____
Street City State Zip

Business phone: 310 664-1142 Representing: _____

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Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

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CITY OF LOS ANGELES SPEAKER CARD

Date

10/12/2005

Council File No., Agenda Item, or Case No.

02-2794 2

I wish to speak before the

COMMITTEE ON EDUC. & NEIGHBORHOODS

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

() Against proposal

Name: DEEPA JYENGAR (X) General comments

Business or Organization Affiliation:

N/A

Address:

6535 VISTA DEL MAR #A PLAYA DEL REY

CA

90293

Street

City

State

Zip

Business phone:

N/A

Representing:

N/A

310-827-3188

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

Date

10/12/05

Council File No., Agenda Item, or Case No.

#2

I wish to speak before the

E + N

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

Name: DR Daniel Wiseman () Against proposal () General comments

Business or Organization Affiliation:

Address:

Street

City

State

Zip

Business phone:

Representing:

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW: ☐

Client Name: Phone #:

Client Address: Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

OPINION NO. 2004:8

The Honorable Education and
Neighborhoods Committee
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

**RE: ANALYSIS OF LEGAL FRAMEWORK APPLICABLE
TO NEIGHBORHOOD COUNCILS**

PART TWO: THE BROWN ACT

Honorable Members:

This office is pleased to provide the second report on the legislative and regulatory scheme applicable to neighborhood councils. This report will address The Ralph M. Brown Act, California's "open government" law, codified at California Government Code Sections 54950, *et seq.*

BACKGROUND

Local legislative bodies in California are subject to a comprehensive set of laws ensuring "open government" entitled the Ralph M. Brown Act (the "Brown Act" or "Act"), Government Code Sections 54950, *et seq.* The Brown Act provides the public with access to the deliberative process of local government with the aim of facilitating public participation and curbing secrecy. *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555. The Brown Act is liberally construed to accomplish its important purpose. *International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 294.

The Brown Act contains several distinct provisions regulating the manner in which legislative bodies conduct business. These include sections, among many others, addressing the right of the public to attend meetings and provide testimony to legislative bodies (§§ 54953.3, 54954.2, 54954.3), the requirements for meeting agendas, including their content, timing and publication (§§ 54954, 54954.2), the acceptable locations for meetings (§ 54954), the application of these "meeting" requirements to certain writings,


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CITY CLERK
BY  DEPUTY

telephone conferences and electronic mail (§§ 54952.2, 54953), as well as the limited exceptions to these requirements (§§ 54954.5, 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54956.95, 54957, 54957.1, 54957.2, 54957.5, 54957.7).

Willful violations of the Brown Act can result in criminal penalties (§ 54959), as well as substantial civil penalties for violations, even if inadvertent (§ 54960). Civil penalties include injunctive relief, as well as payment of attorneys' fees and costs to any party establishing a violation (§§ 54960, 54960.1, 54960.5).

Openness and transparency are key to the success of neighborhood councils. Recognizing this fact, the Charter framers ensured that neighborhood councils would operate in this very manner, requiring that any neighborhood council seeking certification "guarantee that all meetings will be open and public, and permit, to the extent feasible, every stakeholder to participate in the conduct of business, deliberation and decision-making" Charter § 906(a)(6), and that "neighborhood councils adopt fair and open procedures for the conduct of their business." *Id.* §904(g). However, this Charter language also suggests that its framers did not anticipate that the Brown Act would apply to neighborhood councils as this language would have been superfluous had there been an understanding that the mandates of the Brown Act would compel open meetings.

In the Fall of 2000, the General Manager of the Department of Neighborhood Empowerment ("DONE"), the City Department created to administer the system of neighborhood councils, asked this office whether the neighborhood councils would be subject to the Brown Act. In a letter dated November 16, 2000, this office advised that the Brown Act was applicable to neighborhood councils because they were created by the Charter and ordinance. In May of 2001, the City Council approved the Charter-mandated Plan for a Citywide System of Neighborhood Councils ("Plan"), which included a provision that required neighborhood councils to place in their by-laws an agreement to abide by the Brown Act in order to receive City Certification. Plan, Article III, § 2(c).

DONE reports that questions regarding Brown Act compliance are the most frequent inquiries it receives. While neighborhood councils have embraced the purpose and spirit of the Act, there have been complaints that at least some of the requirements of the Act unnecessarily impede neighborhood council operations without conferring the corresponding benefits the Act is meant to achieve. In other words, the Act is often viewed as overly burdensome and impractical in light of the fact that neighborhood councils are volunteer advisory bodies with little or no staff, and that neighborhood councils do not have an established work headquarters, but instead are geographically dispersed among residences, schools and businesses throughout the community. Accordingly, limitations on electronic communication, as well as posting and notice requirements for subcommittee meetings have been cited as particularly problematic for neighborhood councils.

For example, most of the City's preparatory work is done by staff that meet in private to discuss and develop proposals and, when completed, send them to the commission or the City Council for public discussion and action. However, in the case of neighborhood councils, the board members quite often are their own staff. If a neighborhood council board tasks its subcommittee on housing matters to develop a proposal for consideration by the board, unlike City staff and virtually any other group, the subcommittee must notice every working meeting in compliance with the Brown Act and refrain from using e-mail to exchange ideas or comment on drafts; something the City takes for granted in its own working environment.

Additionally, the Brown Act imposes certain limitations on the ability of neighborhood council members to meet with their City legislators.¹ These limitations do not similarly apply to groups whose interests in neighborhood councils may be competing against, such as individual businesses, non-city government entities, developers and their lobbyists.

Given these limitations, neighborhood councils do not always enjoy access to City Hall equal to that enjoyed by special interests, or even a level playing field with City government itself.

QUESTIONS PRESENTED

1. Are neighborhood councils subject to the requirements of the Brown Act?
2. What attributes of neighborhood councils trigger application of the Brown Act?
3. What steps, if any, may be taken to create an exemption for neighborhood councils from all or certain requirements of the Brown Act if the City's policymakers so desire?
4. If measures are adopted to remove neighborhood councils from the ambit of all or certain provisions of the Brown Act, what replacement measures could be employed to ensure that work conducted by the neighborhood councils remains transparent and open to all stakeholders?

¹ For instance, the Brown Act could be interpreted to prohibit neighborhood council members from meeting with a quorum of the Council or any of its subcommittees, in one meeting or through a series of meetings to advocate a certain position or provide information on any matter within the Council's jurisdiction.

SHORT ANSWERS

1. Yes. Neighborhood councils are considered “legislative bodies,” subject to the requirements of the Brown Act.
2. The Brown Act defines “legislative bodies” broadly to include any entity, even an advisory entity, which is formed by formal governmental action. The Charter’s creation of the system of neighborhood councils, the City’s certification of neighborhood councils that meet established criteria, the role designated for neighborhood councils and the funding provided by the City to neighborhood councils, together, if not singularly, constitute formation by “formal action” sufficient to impose the Brown Act on neighborhood councils.
3. If it were decided that neighborhood councils should be exempted from all or some of the requirements of the Act, there are two potential avenues that may be pursued. The first is to require a comprehensive restructuring of the system of neighborhood councils through amendments to the City Charter and related ordinances. The restructuring would require voluntary reconstitution of neighborhood councils independent from City Hall as non-profit corporations under the Internal Revenue Code. This would enable neighborhood councils to avail themselves of an existing legislative exemption for non-profit corporations that do not perform any delegated government functions.

A second avenue is state legislation securing a statutory exemption to the Brown Act or certain of its requirements. There is precedent for such an exemption, as one exists in the California Education Code for certain advisory school councils.

4. The Brown Act is not the only way to ensure that neighborhood councils conduct business in an open and inclusive manner. Indeed, the legislative exemption for certain school advisory councils contains substitute requirements that mirror the most fundamental components of the Brown Act (the agenda and meeting notice requirements) without extensive elaboration. If such a legislative exemption is secured for neighborhood councils, we recommend that similarly simple and straightforward open meeting requirements be required for neighborhood councils.

DISCUSSION

I. Neighborhood Councils Are Subject To The Brown Act Because They Are “Legislative Bodies” Within The Meaning Of The Brown Act

The Brown Act is applicable to all “legislative bodies” of local government. Section 54952(b) of the Government Code defines a “legislative body” as:

“A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.”

Cal.Gov’t Code §§ 54952(b).

The courts have interpreted this section to apply to **any** body created by formal action of a legislative body, regardless of the composition of its membership. *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799, 803-805; 1997 Cal. AG LEXIS 70. However, a private corporation created by a legislative may not be subject to the Brown Act. Cal.Gov’t Code § 54952(c). See, *infra*, section III A., for a discussion of § 54954(c).

Hence, the relevant question is whether neighborhood councils were “created by” Charter or other formal City action. Arguably, neighborhood council boards are not “created” by the Charter or the Plan. In a sense, neighborhood councils are self-selecting groups of stakeholders who avail themselves of the opportunity afforded by the Charter to organize, become certified and formalize the channel through which they communicate with their elected, governing officials. However, under existing interpretations of the Brown Act, the City’s action in creating a framework in its Charter and its role in certifying and funding neighborhood councils together, if not singularly, are sufficient to bring neighborhood councils within the ambit of the Brown Act.

The term “created by” has been defined to include a legislative body’s adoption of procedures for creating an advisory committee. *Frazier v. Dixon Unified School Dist.*

(1993) 18 Cal.App.4th 781, 792-793. Even a “for profit” corporation that is actually created by a vote of its own shareholders was held to be subject to the Brown Act in a circumstance where governmental approval was given to the role of the corporation in assisting with a governmental function. *International Longshoremen’s and Warehousemen’s Union, et al. v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 299.

Similarly, in *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799, 805 the court held that the Brown Act applied to a committee formed by formal action of a City Council as a result of the City Council’s action to designate who could serve as members of the committee, along with setting the agenda for the committee of interviewing candidates and making recommendations to the City Council.

In the case of *Epstein v. Hollywood Entertainment District II Business Improvement Dist.* (2001) 87 Cal.App.4th 862, the court held that the Brown Act was applicable to a private, non-profit property owners’ association (“POA”) because it had been “created” by the City of Los Angeles. The City adopted an ordinance establishing a business improvement district in the Hollywood area (“BID I”) pursuant to the Property and Business Improvement District Law of 1994 (codified at Sections 36600 *et seq.* of the Streets and Highway Code) and called for the creation of a non-profit association to administer its functions. Shortly thereafter a POA filed articles of incorporation and the City entered into a contract with the POA to administer the BID I. Subsequently, the City expanded the boundaries of BID I and created a second business improvement district (“BID II”). The POA continued to administer the assessments collected from the property owners in the larger BID II. Pursuant to statute and common law, the City retained the ability to overturn the POA’s decision. Cal.St. & Hy. Code § 36642. *See also, International Longshoremen’s, supra*, 69 Cal.App.4th at 300; 81 Ops.Cal.Atty.Gen. 281.

The *Epstein* court rejected the City’s arguments that the POA was created by and administered by the local property owners and that it would be unfair to interfere with the property owners’ private business activities in running their POA. *Id.* at 865. In concluding that the City had “created” the POA, the court made several findings. *Id.* at 865-866. It held the POA could not create the BID itself because a private corporation does not possess the power of taxation. *Id.* at 865. Further, it held that the City had in essence created the POA because it had created the BID by an ordinance which required that the BID be run by a POA. *Id.* Thus, the court stated that the City’s formation of the BID was the “*raison d’être*” for the POA. *Id.* Additionally, the *Epstein* Court noted that pursuant to the law of delegation, the City could only delegate authority to the POA if it retained the authority to overturn the POA’s actions. *Id.* Lastly, in dismissing the argument that the POA was a group of self-organized business persons administering their own affairs, the

Epstein court observed that membership in the BID was not necessarily voluntary, but included all businesses within the BID boundaries.

“Needless to say, if local business people want to form property owners associations to try to improve their local community, they are free to do so. They may hold their meetings in secret, by invitation only, or may invite the general public, limited only by whatever laws, if any, are applicable to such groups. However, participation in such purely private, purely voluntary organizations differs dramatically from participation in a BID. For example, membership in a private business owners’ organization is voluntary, and, presumably, membership can be terminated at will. In contrast, “membership” in a BID may be involuntary for a majority of the property owners within the BID. . . .” *Id.* at 866.

The California Attorney General also has addressed the issue of what constitutes sufficient governmental involvement in the formation of an entity at issue to constitute “creation” by a legislative body. The Attorney General examined the status of an academic senate to determine whether it had been “created by” the State Board of Governors of the California Community Colleges, a legislative body under the Brown Act. State statutes required the Board of Governors to form and consider the input of advisory academic senates composed of community college faculty representatives. Cal. Admin. Code § 53201. The California Administrative Code also set out the procedures to be followed in the formation of senates and mandated that the Board of Governors “recognize” the senates once formed and establish additional procedures for the senates after formation. Cal. Admin. Code § 53202. The State Attorney General dismissed the proposition that the senates were self-created by a vote of the faculty of the community colleges themselves, noting that the Board of Governors was required by the Administrative Code to ensure the senate’s formation, recognition and establish election procedures. *Id.* Accordingly, the State Attorney General held that the senates were “created by” the Board of Governors and were subject to the Brown Act.

Undoubtedly, the City will be deemed to have created neighborhood councils under the applicable cases and State Attorney General opinions interpreting section 54952(b) of the Government Code. As in the *Epstein* case, the City plays a pivotal role in the formation of neighborhood councils by setting out the framework and certification process for recognition. Both the *Frazier* case and the State Attorney General Opinion on academic senates demonstrate that the City “created” neighborhood councils by granting official certification for neighborhood councils that organize according to City established criteria. L.A. Charter §§ 901(b), 904 and 906; Plan Art. IV. The City intervenes in the operations of

neighborhood councils, as was the case in the *Joiner* decision, by mandating diversity of membership, regular communications, open meetings and even term limits for governing body members. *Id.* The City bestows on certified neighborhood councils a mechanism for systematic communication with City officials through the Early Notification System. L.A. Charter § 907. Like the case of *International Longshoremen's*, the City establishes the role for neighborhood councils of conducting hearings, monitoring City services, providing advice (including budgetary advice) in advance of decisions by public officials and recommending improvement projects for City expenditures. L.A. Charter §§ 908-910. Plan Art. VIII. The City funds the operations of the neighborhood councils. L.A. Charter § 911; Plan Art. VIII. Accordingly, the City “created” neighborhood councils and, hence, they are subject to the Brown Act.

II. **Attributes Of Neighborhood Councils That Trigger Application Of The Brown Act**

A. **Creation Of Neighborhood Councils By Legislative Action**

The attributes of neighborhood councils were established in part directly by the Charter and in part indirectly by the Charter in directing the City Council to adopt the Plan for neighborhood councils.

The Charter established the concept and legal framework for the system of neighborhood councils. Charter §§ 901-914. The Charter states under the heading “Purpose” the following about the system of neighborhood councils: To promote more citizen participation in government and make government more responsive to local needs, a citywide system of neighborhood councils, and a Department of Neighborhood Empowerment **is created.**” (L.A. Charter § 900, emphasis added).

The Charter, through the creation of a DONE as a new City department provided a formal mechanism for the City to assist neighborhood councils in their formation and operations. The Charter specified that DONE would have the authority “to administer” the new system of neighborhood councils. The Charter created a DONE Board of Commissioners (“BONC”), vested responsibility for policy, oversight, contracting, leasing and promulgation of rules and regulations in a DONE Board of Commissioners. Charter § 902. The Charter also created the position of General Manager/Chief Administrative Officer of DONE with the authority and responsibilities outlined in Section 510 of the Charter. Charter § 903.

DONE is required by the Charter to assist neighborhood councils with electing officers, training and various other matters. L.A. Charter § 901.

The Plan established additional responsibilities for DONE, as follows:

- 1) assist the neighborhood councils with ordinances and laws pertaining to them;
- 2) provide training in civic outreach;
- 3) assist with certification petitions;
- 4) facilitate meetings and communications;
- 5) organize a bi-annual conference of neighborhood councils;
- 6) facilitate communication between the neighborhood councils and City government;
- 7) assist neighborhood councils with the election of their governing bodies;
- 8) provide operational support including meeting space, administrative support and supplies;
- 9) create and maintain a central, informational data base;
- 10) act as an information resource;
- 11) create an "Early Notification System" between the City and the neighborhood councils;
- 12) ensure equal opportunity to form neighborhood councils by education, assistance with the certification process and mitigation of barriers to inclusion;
- 13) prepare an annual report on the state of the system of neighborhood councils;
- 14) prepare a quarterly report on the status of certification efforts;
- 15) train the officers and staff of neighborhood councils; and
- 16) provide adequate staffing to neighborhood councils.

Plan Art. VI.

B. The Charter And Plan Specify Requirements With Which Neighborhood Councils Must Comply To Receive "Official" City Certification

The Charter and the Plan also establish a procedure for the City to "certify" neighborhood councils in accordance with specified mandates. L.A. Charter §§ 901(b), 904 and 906; Plan Art. IV. In order to be certified, a neighborhood council must petition for certification and demonstrate compliance with Charter and Plan requirements. These mandates address several aspects of neighborhood council composition and function, including:

- 1) Acceptable Boundaries and Population Totals. L.A. Charter §§ 901(b), 904(c); Plan Article III, § 2(a);
- 2) Membership Outreach Efforts and Signature Requirements. Plan Article III, § 2(b);
- 3) Diversity of Membership. L.A. Charter Section 900; Plan Article II, Section 2;
- 4) Officer Selection and Term Limits. L.A. Charter § 906(a);
- 5) Open Conduct of Business, Including Mandatory Compliance with the Brown Act. L.A. Charter §§ 904(g), 906(a)(6). Plan Article II, § 3; Plan Article III, § 2(c)(iii);
- 6) Regular Communication with Shareholders. L.A. Charter § 906(a)(3);
- 7) Financial Accountability. L.A. Charter § 906(a)(5).

The process by which a neighborhood council obtains official City certification requires a neighborhood council to meet the criteria established in the Plan. Plan Arts. III, IV. DONE reviews a neighborhood council's application for compliance. Plan Art. IV, § 1. DONE forwards the application to BONC for consideration. Plan Art. IV, § 3. DONE may make a recommendation to BONC on the application. § 2(b)(iii). BONC acts on the application at a regularly noticed, public hearing. Plan Art. IV, §§ 3-8. In the case of competing applications that have identified overlapping boundaries, BONC makes the determination of how the boundaries shall be drawn. Plan Art. IV, § 7. BONC's denial of certification may be appealed to the City Council. Plan Art. IV, § 9.

A certified neighborhood council may be involuntarily de-certified for violation of the Plan, if an attempt to remedy the violation is unsuccessful. Plan Art. V, § 5. BONC presides over noticed, public hearings regarding de-certification. Plan Art. V, § 5. A certified neighborhood council also may petition upon approval by three-quarters of the governing body of the neighborhood council for voluntary de-certification. Plan Art. V, § 6. After approval by BONC of an application for voluntary de-certification, a neighborhood council must return all unexpended City funds and resources. Plan Art. V, § 6.

C. Formalization Of Notice To And From Certified Neighborhood Councils Through An "Early Notification System"

The Charter provides that a neighborhood council may provide input to City officials before their decisions are made through an "Early Notification System" ("ENS"). L.A. Charter § 907. The Plan elaborates on the details of the ENS. The ENS is to be available to certified neighborhood councils and is to be a supplement to all other forms of notice and information the City is otherwise obligated to provide by law to the general public. Plan Art. VII. The Plan requires DONE to establish an ENS website that will provide information to certified neighborhood councils with information on the business conducted by the City Council and its committees. Plan Art. VII, § 2. Each certified neighborhood council is entitled to engage in direct e-mail communications with City departments and agencies through an officially designated e-mail address in such a manner as to ensure its receipt by City officials before decisions are made. Plan Art. VII, §§ 4-6. The City is to provide computers to each certified neighborhood council and training to access the ENS website. Plan Art. VII, § 1.

D. Functions Established For Certified Neighborhood Councils

The Charter describes in general terms that neighborhood councils "shall have an advisory role on issues of concern to the neighborhood." Charter § 900. However, the Charter devises other more substantive roles for neighborhood councils:

1) Delegation Of Council's Public Hearing Authority

Under the heading "Powers of Neighborhood Councils," the Charter provides that the City Council "may delegate its authority to neighborhood councils to hold public hearings prior to the City Council making a decision on a matter of local interest." Charter § 908. To date, the City Council has not made a delegation of its hearing authority to any Neighborhood Council on any matter.

2) Budget Advice And Counsel

The Charter states that each neighborhood council “may present to the Mayor and Council an annual list of priorities for the City Budget.” Charter § 909.

3) Monitoring of City Services

The Charter states that “Neighborhood councils **shall** (emphasis added) monitor the delivery of City services in their respective areas and have periodic meetings with responsible officials of City departments, subject to their reasonable availability.” Charter § 910.

E. Funding By The City For Neighborhood Councils

The Charter required that the Mayor and the Council appropriate funds for the startup and functioning of neighborhood councils for the first two years after the Charter’s adoption. L.A. Charter § 911. Thereafter, the Charter directs the Mayor and the Council to appropriate funds for DONE and neighborhood councils at least one year in advance of each subsequent fiscal year. § 911.

The Plan also addresses City funding for certified neighborhood councils both through the budget appropriations process and through grant process. Plan Art.I VIII, §§ 1 and 2. As amended on November 8, 2002, the City dictates the acceptable uses for City funds, which fall into two categories. First, certified neighborhood councils may use funding for their functions and operations, including procuring office space, equipment, supplies and the cost of communications. Plan Art. VII, § 1. Second, a certified neighborhood council, with the approval of DONE, may designate all or part of the money it receives to be used for neighborhood improvement projects. *Id.*

Currently, certified neighborhood councils receive \$50,000 per year in funding. Although this amount is not significant in isolation, when aggregated to include all current and future certified neighborhood councils, the total amounts to a substantial expenditure of governmental funds.

III. Options For Removing Neighborhood Councils From The Purview Of The Brown Act

If the City’s policymakers were to determine that neighborhood councils should be exempted from all or portions of the Brown Act, two alternatives may be pursued. The first would involve amending the Charter and City ordinances to eliminate the certification process and the legal framework for neighborhood councils, withdrawing any delegated

authority, and allowing them to reconstitute as private, non-profit corporations under Section 501(c) of the Internal Revenue Code on their own volition in order to fall within the existing legislative exemption of Government Code Section 54952(c). The second method would involve securing a legislative exemption for neighborhood councils from the Brown Act without altering their current framework. The details of these two distinct strategies are discussed in detail below.

A. Reconstituting Neighborhood Councils As Non-Profit Corporations

Governments often establish, interact with, and fund private corporations, usually non-profit corporations formed under Internal Revenue Code Section 501(c). Despite the relationship between some private corporations and government, unless they meet the criteria established in Section 54952(c)(1), private corporations are not subject to the Brown Act.

Section 54952(c)(1) specifies two distinct types of private corporations that must comply with the Brown Act. First, a corporation that is created by a legislative body and exercises authority delegated to it by the legislative body, is subject to the Brown Act. § 54952(c)(1)(A). Second, a corporation that receives funding from a legislative body and includes on its board as a voting member a representative of a legislative body is subject to the Brown Act. § 54952(c)(1)(B).²

² The Brown Act criteria to establish whether private corporations fall within the definition of "legislative body" for compliance purposes is as follows:

As used in this chapter, "legislative body" means:

(c)(1) A board, commission, committee, or other multi member body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multi member body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

Cal. Gov't Code § 54952(c)(1).

Stated another way, the Brown Act **does not** apply to a private corporation even if it is created by a legislative body so long as the corporation does not exercise delegated authority. § 54952(c)(1)(A). The Brown Act also **does not** apply to a private corporation even if it is funded by a legislative body so long as the corporation's board does not have as a voting member a representative of the legislative body funding it. § 54952(c)(1)(B). See, e.g., 80 Op. Atty Gen. Cal. 270 (1997) (the Santa Cruz Farm Bureau, a "nongovernmental" private corporation formed in 1933, which is one of 53 such farm bureaus that are part of the California Farm Bureau Federation, a nongovernmental, non-profit corporation, that received no government funding was not subject to the Brown Act even though the legislature gave the Bureau a role in filling vacancies on the Pajaro Valley Water Management Agency).

As outlined in Section IA. and IIA., *supra*, the City is deemed to have "created" the neighborhood councils for purposes of the Brown Act. If, however, the neighborhood councils were non-profit corporations that exercised no "delegated authority" they would be exempt from the Brown Act notwithstanding the City's role in their creation. Cal. Gov't Code § 54952(c)(1)(B). The Plan even contemplates that some neighborhood councils might opt to organize themselves as tax exempt entities or non-profit corporations. Plan Article II, § 4. Thus, an examination of what constitutes "delegated authority" is necessary to determine whether modifications could be made to the role established for neighborhood councils that will enable them to avail themselves of the private corporation exemption.

In *Joiner v. City of Sebastopol*, *supra*, 125 Cal.App.3d at 805, the Court held that the delegation by the City Council of its responsibility to fill vacancies on a planning commission to a committee charged with interviewing candidates and making recommendations was held to constitute a sufficient delegation of authority to warrant application of the Brown Act.

The State Attorney General has also addressed the issue of what constitutes a "delegation of authority" for purposes of section 54952(c) of the Brown Act. In 85 Op. Atty Gen. Cal. 55 (2002), the State Attorney General examined a situation in which the City of Thousand Oaks granted Cablevision a franchise to install and operate in the City in exchange for Cablevision setting aside a channel for educational use and to operate the channel until the City established a non-profit corporation to assume control. Cablevision gave \$25,000 to a consortium of educators chosen by the City to purchase television production equipment. Thereafter, a non-profit corporation ("Corporation") was formed and designated as the entity responsible for programming and managing the educational access channel. The City designated the Corporation as the recipient of the \$25,000, plus additional funding. No members of the City served on the Corporation's board, although the school district did appoint members. The City retained the right to review and approve

the Corporation's guidelines concerning the use of the channel and retained the right to terminate the authority delegated to the Corporation.

The California Attorney General concluded that the corporation was a "legislative body" for purposes of Government Code section 54952(c)(1)(A) because the City "played a role" in bringing the Corporation into existence because it: 1) granted a franchise to Cablevision; 2) required Cablevision set aside an educational channel; 3) designated the Corporation as the entity to operate the channel; and 4) indirectly provided the Corporation with its initial capitalization of \$57,000.00. *Id. citing Epstein, supra*, 87 Cal.App.4th at 870; *International Longshoremen's, supra*, 69 Cal.App.4th at 295. See also, *Epstein, supra*, 87 Cal.App.4th 862 (City's delegation to a private corporation of the authority to administer a business improvement district was a sufficient delegation of governmental authority to subject the corporation to the Brown Act.)

Moreover, the California Attorney General held that the authorization given by the City of Thousand Oaks to a non-profit corporation to operate an educational access channel, coupled with the City's reservation of a right to review and approve any guidelines was a delegation of a governmental function, sufficient to trigger the application of the Brown Act to the corporation. 85 Op. Atty Gen. Cal. 55 (2002). See, *also* 80 Op. Atty. Gen. Cal. 308 (1997) (delegation to a committee by the board of trustees of a school district of the ability to interview candidates for the office of district superintendent and make recommendations to the board constituted a delegation of governmental authority); 70 Op. Atty Gen. Cal. 57 (1987) (prior to the enactment of 54952(c), the Attorney General concluded that a private corporation that formed in order to acquire property for and build a sports complex with the ultimate goal of vesting ownership of the complex in the City of Oakland and the County of Alameda was a "legislative body.")

In order to fit neighborhood councils within the existing legislative exemption in Section 54952(c) of the Brown Act, certain Charter and ordinance amendments would be required. The first required Charter change would be withdrawal of Charter Section 908. Section 908 allows the City Council to delegate broad, undefined hearing authority to neighborhood councils. L.A. Charter § 908. This section creates an express though undefined "delegation of authority" from the City to the neighborhood councils. Although the City Council has not yet delegated any hearing authority to a neighborhood council, the existence of a Charter provision giving the City Council the ability to do so may be considered in determining whether and which government restrictions apply. *Cunningham v. Municipality of Metropolitan Seattle* (W.D. Wa. 1990) 715 F. Supp. 885, 889-890 (for purposes of analyzing whether an entity empowered to operate a mass transit system and pollution abatement facilities conducted a "governmental function," the court held that in "determining whether an entity has 'governmental powers,' it is necessary to evaluate not

only powers that the entity has actually exercised but also those that the entity possesses but has not yet exercised.”).

Further, when a government entity, through contract or delegation, transfers its lawfully delegable duties to another entity, even a private corporation, that entity is required to comply with the same laws applicable to the government entity itself. See, *International Longshoremen’s, etc., supra*, 69 Cal.App.4th at 297-298 (where a community redevelopment agency contracted with a non-profit corporation to administer housing activities, the non-profit corporation was required to comply with the open meeting laws, public bidding and prevailing wage statutes applicable to the community redevelopment agency).

Other Charter provisions that would need to be repealed to clarify that the neighborhood councils are purely advisory, with no delegated duties, include Sections 909 (giving neighborhood councils the express authority to present an annual list of budget priorities) and Section 910 (which uses the word “shall” and therefore may be interpreted as requiring neighborhood councils to perform the duty of monitoring City services, a task that arguably is the responsibility of the City). Additionally, to the extent that an effort to detach neighborhood councils from the Brown Act requires Council to transfer any power, duty or function of DONE to any other department, office or agency pursuant to Section 514 of the Charter, no such transfer may be accomplished without a Charter change until at least May 30, 2006. The reason is that Section 913 of the Charter prohibits a change in DONE’s powers, duties and functions for the first five years after implementation of the Plan. The Plan was adopted on May 30, 2001, the earliest date on which implementation could have begun. L.A. Charter § 913.

To change the City Charter, the City Council would be required to comply with the election process established by the California Constitution (Article XI, Sections 3 and 5), the California Elections Code (Sections 9255, *et seq.*) and Government Code Section 34458. These laws enable the City to submit the proposed charter amendments to the voters at either a special election or a regularly scheduled election with at least eighty-eight days of notice.

Certain provisions of the Plan passed through ordinance and which may be amended by ordinance, may also require revision. At a minimum, the provision requiring neighborhood councils, as a condition to certification, to provide in their bylaws that they will comply with the Brown Act, should be eliminated. Plan Art. III, § 2(c)(iii)(2). Also, the funding provision of the Plan that grants discretion to each neighborhood council to designate, with the approval of DONE, that all or part of the funds it received may be used for certain neighborhood improvement projects would have to be repealed. Plan Art. VIII, § 1.

This office suggests that if the Council decides to make a significant change to the neighborhood council system, that an advisory opinion be sought from the State Attorney General to confirm that neighborhood councils -- reconstituted as non-profit corporations with the proposed Charter and ordinance amendments discussed above -- would be exempt from the Brown Act under Section 54952(c).³

It should also be noted that tax regulations on 501(c) corporations may limit the lobbying activities of neighborhood councils. This limitation should be explored before any action is taken to change the neighborhood council system.

B. Sponsoring A Legislative Exemption To The Brown Act For Neighborhood Councils

Perhaps a more feasible route the City may pursue if it wishes to change the application of the Act to neighborhood councils, is an amendment to the Act itself or other legislation to accomplish the same purpose.

Models for exempting entities from the Brown Act can be found in the legislative treatment of school advisory councils and committees formed under Education Code Sections 52012 (School Improvement Program involved in disbursement of funds for school operation and performance), 52065 (the American Indian Early Childhood Education Program), 52176 (the Chacon-Moscone Bilingual-Bicultural Education Act of 1976), 52852 (the School-Based Program Coordination Act, designed to coordinate categorical aid programs), 54425 (the McAteer Act, dealing with compensatory education programs for disadvantaged students), 54724 (the School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act), and 11503 (Programs to Encourage Parental Involvement), as well as Title 20 U.S.C., Section 7421 (the Federal Indian Education Program). Cal.Educ.Code § 35147.

These advisory councils and committees resulted from statutes establishing programs that provided a significant source of funding. The enabling statutes required schools participating in the funding programs to establish school site councils or advisory committees to assist in the administration of the program's substantial funding. Hence, they serve a function for schools similar to the advisory role originally envisioned for neighborhood councils. L.A. Charter § 900.

³ Advisory opinions by the State Attorney General are afforded great weight but are not binding on a court. *Wenke v. Hitchcock* (1972) 6 Cal.3d 746, 751-752. *Moore v. Parish* (1982) 32 Cal.3d 535, 544; *Farron* (1989) 216 Cal.App.3d 1071, 1076.

IV. Replacement Safeguards Ensuring Neighborhood Councils Remain Open And Inclusive Should Be A Part Of Any Effort To Create A Brown Act Exemption

The City's original vision for neighborhood councils included a requirement that neighborhood councils conduct their operations inclusively and transparently. L.A. Charter §§ 904(g) and 906(a)(6). The Charter states that certification for a neighborhood council was conditional on a guarantee that "all meetings will be open and public, and permit, to the extent feasible, every stakeholder to participate in the conduct of business, deliberation and decision-making." L.A. Charter § 906(a)(6).

The City should continue to require that neighborhood councils work inclusively and openly. This requirement will continue to ensure the integrity of the input the City receives from the neighborhood councils.

Additionally, the City's effort to secure an exception for neighborhood councils is more likely to be successful if the City continues to require rules amounting to a Brown Act substitute promoting open neighborhood council meetings. By imposing substitute "open government" requirements on neighborhood councils, the City will also fulfill the intent of the Charter framers and ensure that the advice received from the neighborhood councils retains the integrity of recommendations formed in a transparent and inclusive environment.

The educational councils listed in Section III. B. above, are exempted from the Brown Act, but are subjected to more generalized, easily administered open meeting mandates:

[A]ny meeting of the councils or committees specified in subdivision (b) is exempt from . . . the Ralph M. Brown Act. [¶]

(b) The councils and school site advisory committees established pursuant to Sections 52012, 52065, 52176, and 52752, subdivision (b) of Section 54425, Sections 5444.2, 54724, and 62002.5, and committees formed pursuant to Section 11503 or Section 2604 of Title 25 of the United States Code, are subject to this section. [¶] Any meeting held by a council or committee specified in subdivision (b) shall be open to the public and any member of the public shall be able to address the council or committee during the meeting on any item within the subject matter jurisdiction of the council or committee. Notice of the meeting shall be posted at the school site, or other appropriate place accessible to the public, at least 72 hours before the time set for the meeting. The notice

shall specify the date, time, and location of the meeting and contain an agenda describing each item of business to be discussed or acted upon. The council or committee may not take any action on any item of business unless that item appeared on the posted agenda or unless the council or committee members present, by unanimous vote, find that there is a need to take immediate action and that the need for action came to the attention of the council or committee subsequent to the posting of the agenda"

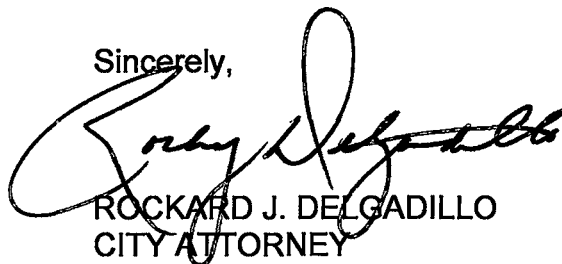
Cal.Educ.Code § 35147

A similar mandate should continue to apply to neighborhood councils.

CONCLUSION

The Brown Act is currently applicable to neighborhood councils because the system was created by legislative action. In order to be exempt from the Act, neighborhood councils would have to be restructured, through changes to the Charter and City ordinances, allowing them to voluntarily reconstitute as non-profit corporations. Alternatively, the Council could pursue a legislative exemption for neighborhood councils similar to existing exemptions for school advisory committees. If neighborhood councils are exempted from the Brown Act, substitute "open government" provisions should be established to ensure the continued openness and transparency of neighborhood council operations.

Sincerely,

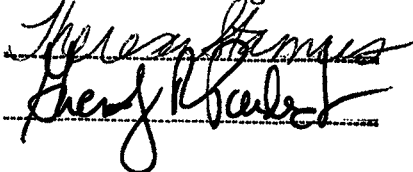


ROCKARD J. DELGADILLO
CITY ATTORNEY

RJD:VF:lee

cc: The Honorable James K. Hahn, Mayor
Department of Neighborhood Empowerment
LeeAnn Pelham, Executive Director, Ethics Commission

Assistants Concurring



AT#48238-101921-7/29/04

instructed the Ethics Commission and City Attorney to seek amendments to State legislation to change the Ethics Disclosure Forms for members of certain advisory bodies. Rules and Elections Committee referred the matter to the Education and Neighborhoods Committee for its consideration.)

Fiscal Impact Statement Submitted: No

Community Impact Statement submitted: Yes, by the Silver Lake Neighborhood Council.

DISPOSITION Continued to 6/15/04

City Atty to report re. FIRE opinion

COMMENTS FROM PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION

EN060104.wpd

Education and Neighborhoods Committee
Tuesday, June 1, 2004

EDUCATION AND NEIGHBORHOODS COMMITTEE

TUESDAY, JUNE 1, 2004

ROOM 1060, CITY HALL - 2 PM
200 NORTH SPRING STREET, LOS ANGELES, CA 90012

MEMBERS: COUNCILMEMBER JANICE HAHN, CHAIR
COUNCILMEMBER DENNIS P. ZINE
COUNCILMEMBER ANTONIO VILLARAIGOSA

(Miranda Paster - Legislative Assistant - 213-978-1076 or e-mail mpaster@clerk.lacity.org)

Note: For information regarding the Committee and its operations, please contact the Committee Legislative Assistant at the phone number and/or e-mail address listed above. The Legislative Assistant may answer questions, provide materials, and provide notice of matters scheduled before the City Council. Assistive listening devices are available at the meeting; upon 72 hour advance notice, other accommodations, such as sign language interpretation, and translation services will be provided. Contact the Legislative Assistant listed above for the needed services. TDD available at (213) 978-1055.

FILE NO.

SUBJECT

(1)

03-1945 Continued from May 4, 2004
Bureau of Street Lighting to report relative to the Street Lighting Task force review of the ballot process, assessment ballots, and application notification process, language requirements, and outreach efforts for street lighting, pursuant to Motion (Hahn-Smith).

Fiscal Impact Statement Submitted: No

DISPOSITION _____

(2)

02-2794 Continued from May 4, 2004
City Attorney to report and Ethics Commission report relative to the revised Conflict of Interest Code for the Department of Neighborhood Empowerment (DONE) and various issues related to the applicability of ethics laws on neighborhood councils. (December 2, 2003 - Rules and Elections Committee adopted the revised Conflict of Interest Code and

Education and Neighborhoods Committee
Tuesday, June 1, 2004



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

OPINION NO. 2004:7

MAY 28 2004

VM
The Honorable Education and
Neighborhood Committee
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

**RE: ANALYSIS OF LEGAL FRAMEWORK APPLICABLE TO
NEIGHBORHOOD COUNCILS**

PART ONE: THE POLITICAL REFORM ACT

Honorable Members:

Pursuant to your request, this is the first in a series of reports addressing the legislative and regulatory scheme applicable to neighborhood councils as a result of their relationship to City government. This report will address the Political Reform Act, codified at Sections 87100, *et seq.* of the California Government Code (hereinafter the "Act"), directed at preventing government conflicts of interest and sets forth the requested options for the Council to consider in addressing issues raised by neighborhood councils.

BACKGROUND

California's Political Reform Act strives to ensure that government operates fairly, without regard to the wealth of constituents, or the financial or campaign contribution interests of officials. Cal. Gov't Code § 81001(b). The Act is the most powerful conflict of interest law in California. See, *Ethics Orientation for State Officials presented by The California Attorney General's Office and the Fair Political Practices Commission* (1999) <http://ag.ca.gov/ethics/accessible/conflicts.htm>. The Act is liberally construed to accomplish its purpose. Cal. Gov't Code § 81003.

The Act prohibits "public officials" from making or influencing any government decision if it is reasonably foreseeable that the decision will have a material financial impact on his or her economic interests. Cal. Gov't Code §§ 87100 and 87103. The Act

RULES & ELECTIONS

AT#48260

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imposes reporting requirements on “public officials” to safeguard against the influence of conflicts of interests on decision-making. Cal. Gov’t Code §§ 87300, *et seq.*; 2 Cal. Code of Regs. § 18351. Each public agency is required to establish a Conflict of Interest Code containing substantive conflict prohibitions as well as specifying “designated employees” within the agency who must file disclosure statements. Cal Gov’t Code § 87300, 87302. Statements and reports filed pursuant to the Act are available for inspection by the public. Cal. Gov’t Code § 81008.

The Act imposes both civil and criminal penalties for violations. Civil liability is imposed on every person who intentionally or negligently violates the reporting requirements of the Act. Cal. Gov’t Code § 91004. Liability for violations of the Act applies, jointly and severally, to all persons who are responsible for the violations. Cal. Gov’t Code § 91006. All reports and statements filed pursuant to the Act must be signed by the filer and subject the filer to prosecution for perjury for a knowingly false statement. Cal. Gov’t Code § 81004.

The administrative and financial implications of an application of the Act to neighborhood council board members is substantial. Current FPPC regulations are approximately 500 pages in length. The Act would impose a responsibility on the City to ensure that neighborhood council board members comply with the Act. The Act would require each board member to file a Statement of Economic Interests, Form 700. 2 Cal. Code of Regs. § 18351. The City would be required to supply necessary forms and manuals to filers, determine whether required forms have been filed, review the forms to determine if they are complete, report violations and maintain records relating to the forms. Cal. Gov’t Code § 81010; 2 Cal. Code of Regs. § 18115. Charter section 901(e) imposes on the City the obligation to “arrange training for neighborhood council’s officers and staff.” L.A. Charter § 901(e). Moreover, the Plan requires the Department of Neighborhood Empowerment (“DONE”), the City entity charged with assisting the neighborhood councils in their development, “to oversee [neighborhood council] compliance with City ordinances and regulations.” Plan Art. VI, § 1. Continuing education would be required as membership changes from year to year. Indeed, the Plan sets term limits for neighborhood council board members prompting changes in leadership. Plan Article III, § 2(c)(ii)(b).

DONE has considered the implications of the Act to neighborhood councils. If all of the neighborhood council board members were required to file Form 700 statements, DONE would be required to process 2,300 statements annually. By comparison, approximately 5,000 statements are filed citywide on an annual basis. The burden of the 5,000 filings citywide, however, is spread over numerous departments. The first filing year actually would result in twice the number of neighborhood council board member filings, as most board members would be required to do an initial and annual filing. Numerous

personnel would be needed to administer not just the forms, but the questions relating to the forms and their filing.

A Conflict of Interest Code has been developed but not yet adopted by the City Council. The proposed Code is pending before this Committee. The Committee has heard public testimony expressing concern that the invasive and complex filing requirements of Form 700 may chill participation in neighborhood councils.

QUESTIONS PRESENTED

1. Are neighborhood councils considered to be “local governmental agencies” subject to the Act?
2. What attributes of neighborhood councils could trigger application of the Act?
3. Would neighborhood council board members deemed to be “public officials” for purposes of the Act?
4. What options, if any, exist to create an exemption from the Act or certain requirements of the Act for neighborhood councils?

SHORT ANSWERS

1. Neighborhood councils probably would be considered “local governmental agencies” subject to the requirements of the Act.
2. The FPPC has developed a four-part test to determine whether an entity is a “local governmental agency” for purposes of the Act:
 - a. Did the impetus for the formation of the entity at issue originate with a government agency?
 - b. Does the entity receive substantial funding from government?
 - c. Does the entity perform functions typically performed by government?
 - d. Do other laws applicable to government agencies apply to the entity?

Neighborhood councils probably would meet all four prongs of the test. The impetus for the creation of neighborhood councils originated in the City Charter. The neighborhood councils receive \$50,000 per year in funding from the City. Some of the functions established for neighborhood councils in the Charter and the Plan, such as holding hearings and monitoring the delivery of city services, are

services which government can perform. Several laws directed at government entities apply to neighborhood council by virtue of their quasi-governmental nature, including the Ralph M. Brown Act, and the disqualification laws of Section 1090 of the Government Code. Accordingly, neighborhood councils probably would be considered "local governmental agencies," under the FPPC's four-part test absent an applicable exception.

3. The Act requires financial interest disclosures from "members" of entities local governmental agencies possessing decision-making authority. For purposes of the Act, decision-making is defined to include the power to make a final governmental decision, the power to initiate or veto a governmental decision, or the power to make substantive recommendations to other persons or entities covered under the Act which, over time, are regularly approved as submitted.

Under applicable FPPC advice letters, even the seemingly administrative acts of hiring staff, contracting for office space, paying bills and purchasing supplies are deemed to constitute government decisions. The Plan grants neighborhood councils the ability to decide upon and spend budgeted funds on precisely these items. Plan Art. VII § 1. Further, the Plan allows neighborhood councils to use budgeted funds for neighborhood improvement projects. *Id.* Thus, neighborhood council members appear to have the authority to make "government decisions" and would be required to comply with financial disclosure obligations in the absence of an exception applicable to neighborhood councils.

4. It appears that the City Council, as the designated "Code Reviewing Body" for City agencies, is statutorily authorized to create an exemption for neighborhood councils from the requirement of adopting a conflict of interest code. The FPPC, the designated "Code Reviewing Body" for certain state agencies, has created a narrow exemption for state entities that meet certain criteria. That regulation also "encourage[s]" local code reviewing bodies to create similar exemptions for bodies under their jurisdiction. The criteria established by the State for determining when the Director of the FPPC may grant an exemption for a state agency from the Act include:

- (1) The agency does not exercise regulatory, permitting or planning functions;
- (2) The agency will not acquire real estate in the foreseeable future; and
- (3) The agency's annual operating budget, exclusive of salaries is less than \$70,000.

The narrow exception is no longer available to an agency once it has placed its conflict of interest code into effect.

It is our understanding that neighborhood councils will not have any employees who make "governmental decisions." Generally, to the extent neighborhood councils hire employees, they will be clerical in nature. Neighborhood councils currently do not exercise regulatory, permitting or planning functions. Nor will they acquire real estate in the foreseeable future. Current City funding to individual neighborhood councils is only \$50,000 annually. No conflict of interest code applicable to neighborhood council board members has yet been adopted. Accordingly, it appears that neighborhood councils meet the criteria applicable to state agencies, as set out in Section 18751(d).

Because this office was not aware of any local code reviewing body that actually had enacted an exemption similar to Section 18751(d) we have requested advice from the Fair Political Practices Commission ("FPPC") on the permissibility of both enacting criteria for exempting local agencies from the conflict of interest code provisions of the Act consistent with Title 2, California Code of Regulations, Section 18751(d), as well as the applicability of the exception to neighborhood councils. A reply from the FPPC is expected shortly.

In the event that the FPPC opines that the exemption process cannot be used, there are two additional options available to the City. The first would require the passage of legislation at the State level, securing a statutory exemption. There is precedent for such an exemption, as one exists in the Streets and Highways Code for Business Improvement Districts.

The remaining alternative would be dramatic and only should be undertaken after extensive consultation with and input from neighborhood councils. This alternative would require certain Charter and ordinance amendments to revoke characteristics of the neighborhood councils that trigger applicability of the Act.

A Charter change revoking the Council's ability to delegate hearing authority to neighborhood councils would be required. Charter revisions would be required to clarify that the function of neighborhood councils is strictly advisory. Additionally, an ordinance amendment would be required to revoke the neighborhood councils' ability to designate budgeted funds for neighborhood improvement projects. An ordinance retracting the ability of neighborhood councils to contract directly for office space, hire personnel, purchase office space also would be required. If the Council creates an exemption from the Act for neighborhood councils through any means,

this office suggests that replacement safeguards be enacted through ordinance to ensure that neighborhood council actions are not affected by conflicts of interest.

Lastly, we recommend that the City Council consult with and draw on the expertise of Ethics Commission in developing a course of action.

DISCUSSION

I. **Neighborhood Councils May Constitute “Local Governmental Agencies” Subject To The Act, Unless Statutorily Exempted.**

The Act is applicable to state and local governmental agencies. The Act defines “local government agency” as a “city or district of any kind . . . or any department, division, bureau, office, board, commission or other agency of the foregoing.” Cal. Gov’t Code § 82041. The Fair Political Practices Commission has established a four-part test to evaluate whether an entity is a “local government” agency for purposes of Section 82041. *In re Siegel* (1977) 3 FPPC Ops. 62. The four factors assess these issues:

Creation By Government Action? Did the impetus for the formation of the entity originated with a government agency?

Substantial Funding From Government? Is the entity in question substantially funded by, or is its primary source of funds, a government agency?

Public Function Served? Is one of the entity’s principal purposes to provide services or undertake obligations which public agencies are legally authorized to perform or which, in fact, they have traditionally performed?

Applicability Of Other Laws? Is the entity treated as a public entity by other statutory provisions?

In re Siegel, supra, at 2-3. Although the FPPC has stated that the *Siegel* factors “were not intended to be viewed as constituting a litmus test” (*In re Vonk* (1981) 6 FPPC Ops. 1, 9), the FPPC applies these factors routinely in advice letters it has issued opining on the status of quasi-governmental entities.

An entity need not meet all of the criteria in order to be subject to the Act. “An entity will be characterized as a ‘local government agency’ if the answer to each of these questions is a ‘yes.’ But the same conclusion may result in some instances where the answer to one or more of these questions is ‘no.’” *Aleshire Advice Letter*, 1999 Cal. Fair-

Pract. LEXIS 119 (June 14, 1999). *See, e.g., Deutsch Advice Letter*, 2003 Cal. Fair-Pract. LEXIS 172 (September 22, 2003) (Act applicable to design review board established by ordinance where the board performed the public function of rendering design review decisions review decisions that were unless appealed); *Kahoe Advice Letter*, 2003 Cal. Fair-Pract. LEXIS 20 (January 21, 2003) (Act applied to non-profit corporation formed to promote water conservation even though there was no government impetus for formation, funding was a mix of private and public monies and the only other applicable law, the Brown Act, applied only because the corporation's bylaws so provided).

In the voluminous number of advice letters issued by the FPPC where the issue of the status of a quasi-governmental entity is examined, the FPPC rarely finds the Act to be inapplicable. *See, e.g., Lyddan Advice Letter*, 2003 Cal. Fair-Pract. LEXIS 212 (January 7, 2003) (agricultural land trust statutorily authorized to acquire and hold easements); *Kranitz Advice Letter*, 2003 Cal. Fair-Pract. LEXIS 208 (November 6, 2003) (water education center formed pursuant to the California Water Code); *Doi Advice Letter*, 2002 Cal. Fair-Pract. LEXIS 125 (June 25, 2002) (California commission on tax policy); *Hearey Advice Letter*, 2001 Cal. Fair-Pract. LEXIS 173 (November 27, 2001) (regional training institute, an auxiliary organization of a community college district); *Dostart Advice Letter*, 2001 Cal. Fair-Pract. LEXIS 39 (March 20, 2001) (a non-profit workforce partnership corporation, formed to administer the federal Job Training Partnership Act); *Rasiah Advice Letter*, 2001 Cal. Fair-Pract. LEXIS 35 (February 27, 2001) (the Berkeley Community Energy Services corporation); *McKinney Advice Letter*, 2001 Cal. Fair-Pract. LEXIS 145 (September 28, 2001) (resident council formed to make recommendations to the Berkeley Housing Authority); *Burgess Advice Letter*, 2000 Cal. Fair-Pract. LEXIS 49 (March 27, 2000) (Diamond Bar community foundation formed to establish an endowment fund to ease government's burden in funding public and charitable projects); *Cool Advice Letter*, 1999 Cal. Fair-Pract. LEXIS 93 (May 18, 1993) (Avila Beach Community foundation formed to administer public improvements to be funded through a settlement with UNOCAL); *Alperin Advice Letter*, 1995 Cal. Fair-Pract. LEXIS 238 (May 1, 1995) (film permit office formed by City Council); *Soldani Advice Letter*, 1994 Cal. Fair-Pract. LEXIS 80 (March 16, 1994) (Madera County Action Committee, formed to administer and conduct anti-poverty programs); *Kirkpatrick Advice Letter*, 1991 Cal. Fair-Pract. LEXIS 95 (October 18, 1991) (Berkeley Housing Development Corporation); *Knox Advice Letter*, 1990 Cal. Fair-Pract. LEXIS 291 (March 15, 1990) (California/Nevada Super Speed Ground Transportation Commission).

Examples of some entities that the FPPC did not consider to be public were: 1) an entity formed to promote a downtown business area and operation a convention bureau (*In re Leach* (1978) 4 FPPC Ops. 48); the Yosemite Visitors Bureau (*Carter Advice Letter* 2002 Cal. Fair-Pract. LEXIS 195 (September 12, 2002)); a non-profit media corporation

formed to serve as a public educational television access provider (*Stark Advice Letter* 2003 Cal. Fair-Pract. LEXIS 107 (June 6, 2003)); a non-profit think tank corporation (*Donovan Advice Letter*, 2000 Cal. Fair-Pract. LEXIS 10 (January 27, 2000)); the California Fuel Cell Partnership (*Irvin Advice Letter*, 1999 Cal. Fair-Pract. LEXIS 198 (September 22, 1999)); a private corporation formed to raise scholarship and capital improvement funds for a community college (*Stone Advice Letter*, 1998 Cal. Fair-Pract. LEXIS 21)); a non-profit corporation formed to assist businesses transition from the defense industries to other industries (*Prestidge Advice Letter*, 1995 Cal. Fair-Pract. LEXIS 86 (November 22, 1995)).

An application of the *Siegel* test to neighborhood councils suggests that neighborhood councils probably would be considered to be local governmental agencies under Government Code Section 82041.

A. Government Plays A Role In The Creation of Neighborhood Councils

The FPPC appears to place great emphasis on the “government impetus” prong of the *Siegel* analysis. *See, In re Vonk*, (1981) 6 FPPC Ops. 1, 6 (the “constitutional provenance of the [State Compensation Insurance Fund] makes it absolutely plain that the Fund is public in nature.”)

The FPPC likely would conclude that impetus for the creation of the system of neighborhood councils originated with the City, through adoption of the Charter and enactment of the Plan. The neighborhood councils can be said to have a constitutional provenance in the sense that the impetus for their formation is contained in the City’s Charter, the City’s controlling legal authority. Moreover, the City bestows official certification on neighborhood councils that organize themselves in accordance with City-established criteria. L.A. Charter §§ 901(b), 904 and 906; Plan Art. IV. The City mandates certain procedural aspect of the neighborhood councils, such as diversity of membership, regular communications, open meetings and even term limits for board members. *Id.* The City also established a role for neighborhood councils to encourage their formation, including conducting hearings, monitoring City services, providing advice on issues of neighborhood concern and recommending and implementing improvement projects. L.A. Charter §§ 908-910; Plan Art. VIII.

B. Neighborhood Councils Receive Substantial Funding From The City

The “government funding” prong of the *Siegel* analysis can be established even when an entity receives mixed funding, both private and public monies. *See, e.g., Kahoe Advice Letter*, 2003 Cal. Fair-Pract. LEXIS 20 (January 21, 2003).

The City provides funding to neighborhood councils both for their start up and ongoing operations. L.A. Charter § 911. The Plan also provides funding for certified neighborhood councils through budget appropriations and grants. Plan Art. VIII. Currently, each neighborhood council may receive \$50,000 per year in funding. The City's funding of neighborhood councils probably would satisfy this prong of the *Siegel* test.

C. Neighborhood Councils Perform Some Public Functions, Although Their Advisory Role Is A Function Normally Performed By Constituents

The Charter states that neighborhood councils "shall have an advisory role on issues of concern to the neighborhood." L.A. Charter § 900. The advisory role of the neighborhood councils arguably is not a function normally performed by government. Rather, it is the type of function normally performed by constituents. The system of neighborhood councils, however, does facilitate and fund that function.

While the advisory role of the neighborhood councils may not constitute a government function, the Charter and the Plan do appear to establish public functions for neighborhood councils. Under Section 908 of the Charter, the City Council may delegate its "authority to hold public hearings prior to the City Council making a decision on a matter of local interest." L.A. Charter § 908. The Charter authorizes neighborhood councils to "present to the Mayor and Council an annual list of priorities for the City Budget." L.A. Charter § 909. The Charter also states that neighborhood councils "shall monitor the delivery of City services in their respective areas and have periodic meetings with responsible officials of City departments, subject to their reasonable availability." L.A. Charter § 910. It appears that the roles established for the neighborhood councils in the Charter, especially the delegation of hearing authority, may infuse neighborhood councils with the ability to perform government functions under the *Siegel* test.

D. Other Government Regulations Are Currently Applicable To Neighborhood Councils

Other regulations applicable to government entities are applicable to neighborhood councils. Currently, neighborhood councils are subject to the Ralph M. Brown Act (Government Code Sections 54950, *et seq.*) and the disqualification provisions of Section 1090, *et seq.* of the Government Code. Accordingly, this last factor of the *Siegel* test appears to be met.

II. **Members of Neighborhood Council Governing Boards Probably Would Be “Public Officials,” Subject To The Form 700 Filing Requirements Because They May Make “Government Decisions”**

“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.” Cal. Gov’t Code § 87100. Individuals from the public who voluntarily serve on the governing boards of neighborhood councils would be treated as “public officials” under Section 87100 (and be required to file financial disclosure statements) if they fell within the definition of a “member” of a public agency, as defined in the Fair Political Practices Commission Regulation, 2 Cal. Code of Regs 18701(a)(1) and no filing exception were applicable. That definition provides:

Member shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decision making authority. A board or commission possesses decision making authority whenever: (A) it may compel a final governmental decision; (B) it may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or (C) it makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

§ 18701(a)(1).

The Act does not apply to the actions of public officials that are solely ministerial or clerical in nature. 2 Cal. Code of Regs. 18702.4. However, the FPPC has generally treated even the seemingly administrative functions of hiring clerical staff, leasing office space, paying bills and purchasing supplies to be a government decisions rather than ministerial actions. See, *Hull Advice Letter* 2003 Cal. Fair-Pract. LEXIS 240 (December 12, 2003) (hiring of a consultant); *Moser Advice Letter* 2003 Cal. Fair-Pract. LEXIS 148 (July 23, 2003) (lease of property); *Berest Advice Letter* 2001 Cal. Fair-Pract. LEXIS 38 (March 8, 2001) (procurement of photocopy services); *Hill Advice Letter* 1997 Cal. Fair-Pract. LEXIS 424 (September 23, 1997) (payment of bills and purchase of school supplies); *Reddoch Advice Letter* No. A-92-336 (1992) (same).

The Plan expressly authorizes neighborhood councils to use budgeted amounts to fund their functions and operations, including procuring office space, equipment, supplies and the cost of communications. Plan Art. VII, § 1. More significantly, neighborhood councils can decide to spend City funds which they are allocated on neighborhood improvement projects. *Id.* Accordingly, under applicable FPPC decisions, the neighborhood councils probably would be deemed to make “government decisions.”

III. City Council Authority Regarding Form 700 Filing Requirements

The City Council appears to be statutorily authorized, as the code reviewing body for City agencies, to create and grant exemptions to the Conflict of Interest and Form 700 requirements of the Act for entities under its jurisdiction, including neighborhood councils.

Title 2, Regulation 18751, of the California Code of Regulations provides the procedures and standards for requesting an exemption from the filing requirement of the Act from the FPPC. By its own terms, Regulation 18571 applies only to entities for which the FPPC is the code reviewing body. 2 Cal. Code of Regs. Regulation 18751(a). Regulation 18751, does, however, provide that “[o]ther code reviewing bodies are **encouraged** to adopt the same or similar procedure and standards.” § 18751(a) (emphasis added).

The criteria established by the FPPC to determine whether to exercise its discretion to grant an exemption set out the following criteria:

- (d) An exemption to Government Code Section 87300 may be granted to an agency when there would be no “designated employees” within the meaning of Government Code Sections 82019 and 87302(a) because all of the following apply:
 - (1) The agency does not have regulatory, quasi-regulatory, permit, licensing or planning authority or functions;
 - (2) The agency will not acquire real property in the foreseeable future; and
 - (3) The annual operating budget exclusive of salaries for the agency is less than \$70,000.

2 Cal. Code Regs. § 18751(d).

Moreover, subpart (e) of Section 18751 allows the FPPC to grant exceptions to entities, on a case-by-case basis, even for entities that do not meet the criteria of subpart

(d). § 18751(e). *See, Weiss Advice Letter* 2001 Cal. Fair-Pract. LEXIS 207 (December 13, 2001) (FPPC granted an exemption under sub-part (e) to an entity that met all of the requirements of sub-part (d) except that its budget exceeded the \$70,000 limit of sub-part (d)(3)).

The FPPC construes the exception narrowly and grants exceptions sparingly. *Watts Advice Letter* 2003 Cal. Fair-Pract. LEXIS 225 (November 26 2003) (non-functioning power authority must continue to comply with filing requirements). *See, also, Weiss Advice Letter* 2001 Cal. Fair-Pract. LEXIS 207 (December 13, 2001) (FPPC granted an exemption to the Southern California Regional Airport Authority ("SCRAA") when its sole function was to conduct a feasibility study but revoked the exemption at the end of the five years when SCRAA no longer could demonstrate that its function was so limited).

Moreover, the exception is no longer available to an agency once is has adopted and placed its conflict of interest code into effect. *Watts Advice Letter, supra*, 2003 Cal. Fair-Pract. LEXIS 225.

The City Council is the code reviewing body for all city agencies, other than the City Council itself. Cal. Gov't Code § 82011. Therefore, it appears that the City Council may adopt procedures and standards for granting exemptions to the conflict of interest code and filing requirements of the Act for entities under its jurisdiction, including neighborhood councils, that mirror the requirements of Title 2, California Code of Regulations, Regulation 18751.

Neighborhood councils appear to meet the criteria established in Title 2 California Code of Regulations, Regulation 18751(d). The primary criteria is established in the preamble of Regulation 18751(d). It requires that the agency have no employees who make "government decisions," pursuant to Government Code Sections 82019 or 87302(a). *See, Paetzold Advice Letter* 2001 Cal. Fair-Pract. LEXIS 44 (March 9, 2001) (FPPC revoked an exemption granted in 1978 when the agency had only a secretary, after the Board hired an Executive Director with authority to make "government decisions.") It is our understanding that, to the extent, neighborhood councils hire employees, they will be clerical in nature.

As to the three other numbered criteria, the current role of neighborhood councils does not include regulatory, quasi-regulatory, permit, licensing or planning authority or functions. It is not anticipated that neighborhood councils will acquire real estate in the foreseeable future. Each neighborhood council receives \$50,000 in funding annually from the City, although individual stakeholders contribute their own resources as well. However, it appears that the \$70,000 limit would not be reached even when considering the

resources donated by stakeholders, especially because clerical employee costs, a large component of many neighborhood council budgets, is exempted from the calculation. It should be noted that, in the aggregate, the total funding to all of the City's neighborhood councils exceeds the \$70,000 limit, amounting to approximately 3 million dollars. Yet, measuring the funding criteria only as it applies to individual neighborhood councils, rather than all neighborhood councils in the aggregate, appears to be warranted. Although alliances have developed among neighborhood councils, the Plan contemplated--and from an operational standpoint is the case--that each neighborhood councils operates independently of the others.

To date, no conflict of interest code has been adopted that would apply to neighborhood council board members and, hence, it appears as if the narrow exception contemplated by Regulation 18751(d) may be a viable option.

OPTIONS

1. Require Neighborhood Councils to Comply With Political Reform Act

Pursuant to the Act, the Council may adopt a Conflict of Interest Code for Neighborhood Councils and thereby require designated filers to file Form 700 statements.

2. Obtain FPPC Advice Letter Regarding Possible Exemption Through Ordinance

This Office has requested an advice letter from the FPPC to confirm that the City may adopt and grant an exemption for neighborhood councils with respect to the Act's filing requirements consistent with the criteria set forth in Title 2, Section 18751(d) or (e). If such an option does exist, the Council may wish to develop exemption criteria.

3. If The City's Policymakers So Desire, Seek A Statewide Legislative Exemption From The Act or Certain Requirements Of The Act

The City could consider sponsoring a legislative exemption to the Act or some of its requirements for neighborhood councils. A legislative exemption exists for Business Improvement Districts operated by private, non-profit entities under contract with a city. Cal. Sts.&Hwy Code § 36614.5. Although these entities are private, their roles are similar to, if not more authoritative than, neighborhood councils to the extent they are statutorily authorized to administer and implement improvements in various districts.

4. Restructure Neighborhood Councils To Clarify Their Advisory Role

As another alternative, the City could restructure neighborhood councils to eliminate the attributes that currently trigger application of the Act. A Charter change revoking section 908 of the Charter would be required. L.A. Charter § 908. This section allows the City Council to delegate broad, undefined hearing authority to neighborhood councils. § 908. Additionally, Charter Section 909 (giving neighborhood councils the express authority to present an annual list of budget priorities) and Section 910 (stating that neighborhood councils “shall” monitor City services) should be clarified to make clear that neighborhood councils role is strictly advisory.

An ordinance retracting the ability of neighborhood councils to contract directly for office space, hire personnel, purchase office space also would be required. Plan Art. VIII. These acts have been deemed by the FPPC to constitute “government decisions” triggering disclosure requirements, rather than ministerial acts. *See, Hill Advice Letter, supra*, 1997 Cal. Fair-Pract. LEXIS 424. Also, the Plan would need to be amended to preclude the use of City funds by neighborhood councils for local improvement projects. Plan Art. VIII.

This type of significant change to the system of neighborhood councils only should be taken after consultation with and input from neighborhood councils.

5. Impose Replacement Safeguards

If Neighborhood Council’s are exempted from all or certain requirements of the Political Reform Act, this office recommends that the Council impose replacement provisions to ensure that conflicts of interest do not influence the functioning of neighborhood councils. Council should also allow any neighborhood council that so wishes to adopt disclosure requirements for its board members.

Even in the absence of disclosure obligations pursuant to the Act, it is our understanding that neighborhood council board members still will be subject to the substantive conflict of interest provisions in the Act, however, we are seeking clarification from the FPPC on this point. Additionally, neighborhood council members still will be subject to Section 1090 of the Government Code. Section 1090 applies to any person who provides advice to a government agency (the very purpose and function of neighborhood councils) and precludes a financial interest in any contract made by them. Cal. Gov’t Code § 908; *Millbrae Ass’n Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237.

6. Work In Concert With The City Ethics Commission

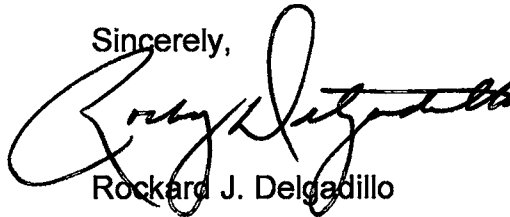
In any endeavor to exempt neighborhood councils, the City Ethics Commission should be consulted. It is the City agency vested with responsibility for ensuring compliance with the laws regulating government ethics, including the Act. Its expertise in this area would be of great assistance.

CONCLUSION

The Act probably would be applicable to neighborhood councils under the FPPC's four part test. If applicable, neighborhood councils would be required to adopt a Conflict of Interest Code and file Form 700 statements. If desired, the City Council may have the option to create an exemption for neighborhood councils from these requirements. The FPPC is currently considering this matter. If the FPPC does not authorize the exemption, the Council could either seek a legislative exemption at the State level or reconstitute neighborhood councils to withdraw their current characteristics that trigger application of the Act. Substitute safeguards should be imposed to ensure conflicts of interest do not affect the integrity of neighborhood council operations.

Please let us know if we can provide any additional information or assistance to the City Council in this endeavor.

Sincerely,

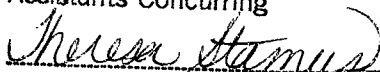



Rockard J. Delgadillo

RJD/VLF:lee

cc: The Honorable James K. Hahn, Mayor
Department of Neighborhood Empowerment
LeeAnn Pelham, Executive Director
Ethics Commission

Assistants Concurring

AT#48260

Released _____

6/1/04 Rec'd in
EN Comt

**PROCEDURE: DONE (ID NEIGHBORHOOD COUNCILS)! LL
DEMONSTRATE HOW PROPOSALS REFLECT THE CHARTER AMENDMENT**

Proposals must always list the ways in which they serve the Charter Amendment. Here is the proposed mechanism:

Apply uniform standards of due diligence

All questions that affect governance of the councils must be accompanied by due diligence that includes, at minimum, findings from two or three of the following types of independent sources, plus documentation on its progress and history:

FACTS

- How is this done in other places? (No more reinventing the wheel).
- Legal precedent

OPINIONS

- the Legislative Analyst,
- the two Charter Commissions,
- the Ethics Commission (after it has done the studying below),
- academics who offer examples to compare or contrast with:
- a citywide committee of interested residents,
- members of the City Attorney's office who have interest and time to contribute

CONFLICT OF INTEREST / ETHICS POLICY

We need to have a real discussion about conflicts of interest in relation to neighborhood councils. If there is a problem about how to not unduly burden the City Attorney's Office, let us FIRST make certain our solutions serve the Charter Amendment, then deal with how to make it easy and uniform.

First, the City's Ethics Guidelines must be made to reflect the reality of neighborhood councils. Then we need to train everyone how to identify conflicts for themselves (the existing standard is easy to understand). People have to be trained to distinguish between "interests in common" and "conflicts of interest."

The discussion needs to start with the state of California's existing definition of a conflict of interest, which includes the Public Generally Exception (which means that you don't have a conflict if your gain is no different from a large number of other people's gain).

The City Ethics Commission, the FPPC, and the City and State Legislative analysts and Attorneys need to study this part of the law and the precedent for how it applies to neighborhood councils in other cities. We need them to produce documentation that accurately reflects it. At this time last year, the FPPC booklet "Can I Vote?" did not even cover the exception process. The LA City Ethics Commission training should follow suit.

At that point, any applicable results from the Charter Commission hearings should be added, and the Commission and other experts should raise pertinent questions for discussion.

Needless to say, money must be budgeted for this research. I and others stand ready to seek independent grants where necessary.

Nancy Oppenheim
(818) 753-0362 home
nancyoppenheim@earthlink.net

6/1/04 Recvd in
EN Comf

June 1, 2004

Honorable Committee Members-

Simply- I do not agree with excepting NC from disclosure nor do I support changing the city charter to deflate our community-based purpose. Instead I wonder if there is a way to produce and authorize a simplified form 700 that would serve the purposes of disclosure and while not intimidating the avg. community member from participating in the NC process.

We are happy as a NC when we can offer funds for assisting in an improvement project, we mostly do this in the form of refreshments and outreach. We also need to be able to hire out for secretarial and translation help. Relying on DONE is causing us to be hindered in our outreach efforts, because of their workload.

I have found that the city agencies are getting used to asking us for advice and I doubt that they are questioning whether we have conflict of interest issues on our board. I think we are all assuming that we are in this for good of the community and our city.

This NC process is ripe for opportunists to take advantage of- and I am one myself- the issue is about being open and honest about it, and excusing oneself at appropriate times. I think our board deserves to know the financial interests ourselves, in order to conduct our business with fairness. I would like to give a few examples of cases where conflict of interest has occurred in our NC that we have had to deal with.

The biggest one is a board member who announces to any who ask, that he is a "land-use consultant" when actually, he works for developers seeking relief from city ordinances, his firm also designs and builds in our community, and he also owns multi-residential property. He suggests and supports efforts to undermine city ordinances without disclosing his financial gains for doing this. A few board members know this because some of us are getting to know how the city Depts. Of Planning and also Building and Safety work.

Secondly we've had a person attend our meetings and try to ingratiate himself in our by-laws committee. We became suspicious when his rantings sounded like some emails sent under several different names. Sure enough after some research was done, it turned out that we have a felon in our area with federal warrants issued for illegal impersonations and possession of fire arms.

There is also a man in the Northeast area who when losing a seat in one NC began making the rounds of the others- he admitted at a Park Advisory Board mtg that -" I want that \$50,000 because "I know what to do with it".

We have one board member who works in the office of a Councilperson, who still has not made full disclosure about the duties of their job, however when there was an issue that they were uncomfortable with, lo and behold the council person showed up at our next board meeting! But when there are issues that other board members are concerned about and calls are placed and emails sent to the council person- I'll be damned if we get such an impressive response.

We also had a situation where the community organized to keep another MacDonald's from being built in our area and some realized that at the hearing there was no way to know if board members were being paid to lobby for MacDonald's. We had our suspicions of course.

But suspicions do not breed the air of honesty and respect that we need to encourage for our NC system to work fairly.

So I would like to suggest to you, the consideration of developing a way to have a form that reveals the real property, and the ways that board members earn income within the NC boundaries that they serve, while remaining vague as to the actual monetary amounts for privacy concerns.

I appreciate this wonderful opportunity to serve our city and I appreciate all your efforts in helping us to make the Neighborhood Council process work in the interest of the greatest common good for Los Angeles.

Thank you,
Alisa Smith
Glassell Park Neighborhood Council, Secretary
By-Laws Cmt, Co-Chair

CITY OF LOS ANGELES SPEAKER CARD

Date

6/1/04

Council File No., Agenda Item, or Case No.

2

I wish to speak before the

EDUCATION + NEIGHBORHOODS COMMITTEE

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

☐ General comments

Name: LEONARD J. SHAFER

Business or Organization Affiliation:

Address: P.O. Box 570936 TARRANA CA

91356

818 Street

City

State

Zip

Business phone: 343-7721

Representing:

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

Date

6/1/04

Council File No., Agenda Item, or Case No.

2

I wish to speak before the

Education + Neighborhoods Cmt.

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

() Against proposal

(X) General comments

Name: ALISA SMITH

Business or Organization Affiliation

PN Neighborhood Council Board member

Address:

3701 CALADOR ST LA 90065

Street

City

State

Zip

Business phone: 213 910-3491

Representing:

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

3

Date

June 1, 2004

Council File No., Agenda Item, or Case No.

#2 02-2794

I wish to speak before the Education + Neighborhoods Committee
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal
() Against proposal
Name: Helene Schpak ☒ General comments

Business or Organization Affiliation: Glassell Park Neighborhood Council board member

Address: 3769 Aguilar St. L.A. CA. 90065
Street City State Zip

Business phone: 323-255-1677 Representing: self

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW: ☐

Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

4

CITY OF LOS ANGELES SPEAKER CARD

Date

6/1/04

Council File No., Agenda Item, or Case No.

ITEM 2 CF02-2794

I wish to speak before the

EN Cmte

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☐ For proposal

☐ Against proposal

☒ General comments

Name: JIM MERVISTON

Business or Organization Affiliation:

EHCA

Address:

6212 YUCCA ST

LA CA

90028-5223

Street

City

State

Zip

Business phone: 323-464-6792 Representing: EHCA

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

5

Date
06/01/2004 Tues.

Council File No., Agenda Item, or Case No.
112

I wish to speak before the Education & Neighborhoods
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal
Name: Ms. Sylvia Syne Harris () Against proposal
() General comments

Business or Organization Affiliation: _____
Address: 5215 SAN PEDRO LA-CA
Street City State Zip

Business phone: _____ Representing: _____

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW: ☐

Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

6

Date

6/1/04

Council File No., Agenda Item, or Case No.

03-1945

I wish to speak before the ED & NEIGHBORHOODS COMMITTEE

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

() Against proposal

Name: NANCY OPPENHEIM (x) General comments

Business or Organization Affiliation: self

Address: 10240 CAMARILLO ST. #108 TOLUCA LAKE CA 91602
Street City State Zip

Business phone: 818 753 0362 Representing: _____

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

(3)

Continued from February 3, 2004

02-2794

City Ethics Commission report and City Attorney to report relative to a revised Conflict of Interest Code for the Department of Neighborhood Empowerment and the current legal framework applicable to neighborhood councils. (December 2, 2003 - Rules and Elections Committee adopted the revised Conflict of Interest Code and instructed the Ethics Commission and City Attorney to seek amendments to State legislation to change the Ethics Disclosure Forms for members of certain advisory bodies. Rules and Elections Committee referred the matter to the Education and Neighborhoods Committee for its consideration.)

Fiscal Impact Statement Submitted: No

Community Impact Statement submitted: Yes, by the Silver Lake Neighborhood Council.

DISPOSITION Continued by City Atty to
report back 88/49

COMMENTS FROM PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION

Education and Neighborhoods Committee
Tuesday, May 4, 2004

CITY OF LOS ANGELES SPEAKER CARD

Date

5/4/03

Council File No., Agenda Item, or Case No.

2-2794 #3

I wish to speak before the

EDUCATION & NEIGHBORHOODS COMMITTEE

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

() Against proposal

Name: DONALD FARKAS

(X) General comments

Business or Organization Affiliation: ATTY, NEWS WRITER FOR CANYON NEWS, BEL-AIR VIEW

Address: 15518 VIA CANTARE LOS ANGELES CA 90077

Street

City

State

Zip

Business phone: (310) 472-4822 Representing: SELF

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name: N/A Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

3/4/04 Rec'd in
 Comt from Donald
 Farkas
 (R02-2794)

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Friday, March 12, 2004 10:40 AM
Subject: Fw: DONE Suggestions

TO: L.A. City Council Education & Neighborhoods Committee (Chairperson Janice Hahn, Members Dennis Zine and Antonio Villaraigoza)

FROM: Don Farkas, (310) 472-4822, donfarkas@belairmail.com

DATE: March 5, 2004

SUBJECT: Neighborhood Councils

PROPOSED DONE CONFLICT REDUCTION POLICIES

- 1) Standards should be improved regarding DONE helping NC's reserve meeting space, calendaring events, providing relevant information, and sending "early warning" about issues of reasonable interest to the NC area, from City agencies in a timely manner.
- 2) Standards should be developed regarding NC's receiving reasonably appropriate responses to inquiries from City agencies in a timely manner, perhaps taking into account the authority of the specific intended recipient and of the sender. [E.g., "Written acknowledgment of any written correspondence sent to DONE by the President, Secretary on behalf of the Board of Directors, or Chairperson of a Standing Committee of a Neighborhood Council, shall be sent by the DONE Coordinator within three business days of receipt. The written acknowledgment may be done by means of a DONE approved response form (see attached example). A reasonable response, which may consist of notice of an appropriate referral regarding any inquiries or requests contained in such correspondence, shall also accompany the acknowledgment or be made in writing within a reasonable amount of time that is not to exceed 45 (forty-five) calendar days."]
- 3) City employees and NC officers should be required to distribute information to all members of an NC at the same time and manner, when that information is intended for distribution to all members or is of reasonable interest or relevance to other members.
- 4) All NC voting on any substantive issues, except for certain specified routine business matters (e.g., approval of Minutes, Treasurer's report, adjournment, etc.) should be required to be recorded on a roll call attached to the Minutes, so as to tally who voted and how they voted on any particular motion or matter at issue.
- 5) Ethical guidelines should be formed as to permissible non-financial relationships involving deal making or influence trading by and between NC members and businesses or agencies.
- 6) Guidelines should be created for less stringent parliamentary procedures to be used for NC meetings, geared to prevent attempts by leadership of NC's to unreasonably control allowed agenda, subject matter, and public comments, by means of selectively enforcing and/or making technical applications of Rules of Order, or unreasonably limiting time.

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Tuesday, March 16, 2004 12:55 AM
Subject: FYI: Opinion Article re. Problems at Neighborhood Councils

OPINION ARTICLE

For immediate release

DATE: March 12, 2004

WRITER: Don Farkas, (310) 472-4822

TITLE: Old-Style Bullying Politics Rears its Head at Neighborhood Councils

It is gratifying to hear that the Los Angeles City Council Education and Neighborhoods Committee, Chaired by Councilmember Janice Hahn, along with fellow Councilmembers Dennis Zine and Antonio Villaraigosa, has recently begun conducting public hearings about reported problems with the City's Neighborhood Councils. The Neighborhood Councils, which under the Los Angeles City Charter have a primarily advisory role, were intended to be a convenient forum where "stakeholders" could ask questions to public officials and have a say about matters affecting their communities. Unfortunately, many community members have complained that their local Neighborhood Councils have become ineffectual and dysfunctional.

Some have asserted that the problems with the Neighborhood Councils are primarily due to a lack of support or resources being provided by the City government. Others blame misfeasance on the part of the Los Angeles Department of Neighborhood Empowerment (DONE), the City agency that was specifically created to manage the Neighborhood Councils. Still others have made more serious allegations that the Neighborhood Councils are being deliberately interfered with to keep them from ever achieving any degree of serious effectiveness or empowerment. They cite complaints that members must frequently bend to the will of DONE and other City officials, or else risk suffering bureaucratic retaliation, such as becoming "blacklisted" from any future cooperation by those officials. Such bullying tactics, they say, are common towards anyone who gains a reputation for expressing independent viewpoints.

Although bullying tactics such as being put "out of the loop", are sometimes casually dismissed as "just politics", the practice has a "chilling effect" on the expression of lawful ideas and viewpoints by Neighborhood Council members. The end result of widespread and unrestrained practices of political retaliation by public officials is to make a mockery of the right of free speech and to call into question the very legitimacy of any "advice" provided by the Neighborhood Councils.

Whatever the true nature and reasons behind the current problems affecting the Neighborhood Councils, it cannot be disputed that over the past several months, there has been an exodus of many "burned-out" members and participants from the City's 81 Neighborhood Councils. This "pain-drain" has included numerous resignations of persons who had previously been considered to be among the Neighborhood Councils' most active and effective participants.

While there may not yet be a consensus on how to fix the broken Neighborhood Councils, many critics have placed the lion's share of blame for the problems at the feet of DONE. However, even after hearing details of the numerous allegations that many have been made of improper meddling and ineffective management by DONE, I can not help but wonder if that is too narrow a focus. Perhaps the real underlying problem is that our current system lacks any effective checks and balances on the easily abused power of public officials to bully their way by blacklisting, blackballing, or boycotting others who challenge them.

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Although anecdotal stories of such practices are not hard to find they are often difficult to document. However, an example of classic retaliatory blacklisting recently came to light when it was reported that a local elected official's chief deputy had told a contractor that they would not be considered for a project if they used the services of a certain advisory think tank that had issued a report that was critical of some positions taken by the elected official (Los Angeles Times, February 18, 2004, Page B3, Col. 5). Such incidents are probably fairly common, if not always so blatant, since the insidiousness of blacklisting can sometimes be manifested in subtle ways.

While the types of issues raised by most persons who participate in their Neighborhood Councils probably never rise to such a level of importance on the "radars" of most public officials that it would cause them to resort to using such bullying tactics, blacklisting incidents such as those described above graphically illustrate the potential vulnerability that exists. Accordingly, practical measures designed to protect private citizens from public officials who are practitioners of such old-time bullying politics should be one of the priorities for the Education & Neighborhoods Committee to consider as they seek to find ways to save the Neighborhood Councils.

END

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Greg Nelson" <gnelson@mailbox.lacity.org>
Cc: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Wednesday, March 17, 2004 4:01 AM
Subject: Fw: Fw: Tax Exemptions for Private Contributions to N.C.'s

What newsletter? I attended BABC NC meetings for years but never received or was told about a DONE Newsletter. Is it distributed in hard copy or e-mail? Are all members of a Neighborhood Council supposed to receive it or be on the distribution list (unless they request to be omitted), or do they have to subscribe somewhere?

— Original Message —

From: Greg Nelson
To: donfarkas@belairmail.com
Sent: Wednesday, March 17, 2004 10:03 AM
Subject: Re: Fw: Tax Exemptions for Private Contributions to N.C.'s

1. I still have never seen the suggested form letter. Sorry. We try and avoid form letters at all costs, feeling instead that if someone took the time to contact us, we owe them the courtesy of a response that goes beyond a form letter.

2. NCs are not allowed to own property. They are city entities. That was answered so long ago by the City Attorney that I can't remember when we told people about it. As soon as I get some interns on board, we're going to go through all of the written City Attorney opinions and advice and post them on the Web site. To date, we've sent them along with the newsletters.

3. Several newsletters have announced how NCs can hire staff through the PDQ agency which has a contract with the city. Many NCs are doing this. Beyond that, the City Attorney is still addressing the issue of how NCs could enter into contracts or hire staff as their employees if they wished. As you might imagine, the problems involved with entering into a personal services contract or hiring employees are many and they are complex. If anything goes wrong, the City Attorney would be your legal counsel.

4. The donations ordinance is getting closer to the City Council for approval. It would give NCs and our department the ability to collect donations without prior approval from the City Council, and it would establish a system for accounting for the money. Presently, donations to the NCs and us require City Council approval. This has been reported many times in our newsletters.

5. We simply do not have enough staff to attend all of the NC meetings. In fact, we have been criticized by some City Council offices for trying to do so. Our goal is to attend those meetings at which we have a role to play. It's a simple numbers issue. Each Project Coordinator is responsible for about 6 NCs. Some NCs have as many as 20 or 30 committees. Often, the more controversial matters are discussed in committee. Federal law limits the Project Coordinators to 40 hours of work a week. If there is a critical need for someone to be at a meeting, we'll be there. Last week for instance, the Project Coordinator for Grass Roots Venice couldn't attend their board meeting because he was already committed to work with the Del Rey NC on their election procedures. His supervisor was on vacation. The back-up had another NC meeting to attend. So I went out to the Venice meeting.

6. We are reorganizing the office and its processes as we speak. It's hard to establish "normal channels" for anything during these fiscal crisis. We have a hiring freeze, and everytime we loose someone, it's sets off a chain reaction of reassignments. We are now at about 22% vacancies. I expect this to stabilize on July 1 when the new budget takes effect. For example, for over the last year, my executive secretary position, and the director of the field staff position have been vacant. So we adapt and adjust, and everybody does two or three jobs.

7. By cc'ing me, your not going over someone's head, but rather allowing me the opportunity to be aware of important issue to ensure that they are being responded to in a timely way. If we didn't have the vacancies, I wouldn't have to worry so much about this. Systems only work when you've got the people to implement them.

8. The Braude is available for your use. I don't know what took place between you and the mayor's office representative, but I'm willing to bet that if you called now, they'd be happy to help. Instinct tells me that this was a one-time glitch. Again, hopefully the list of possible meeting spaces that is on our Web site will help you.

9. Whenever an NC uses a school for a meeting, and they don't have the money from the City yet, we pay and have always paid that fee. That has never changed. If anything does change, it put it in the newsletter and send it to everyone so that we don't become a system that is run on rumors. It has always been perfectly legitimate for NCs to pay for this cost, and many NCs do so.

Hope this helps.

>>> "Don Farkas" <donfarkas@belairmail.com> 03/16/04 12:37PM >>>

Hi, Greg. The below e-mail dated 2/2/03, addressed to DONE's former BABC NC Coordinator, Deanna Stevenson, (who succeeded DONE Coordinator Amber Meeshack) contains the proposed "form letter" that was referred to in my suggestions sent to Rabbi Freehling, that could be considered by DONE to help facilitate speedier responses. Many businesses and agencies which have limited resources use form letters of that type to make it easier to respond to inquiries.

By the way, the original letter to DONE dated Sept. 2, 2002, that is referred to in the e-mail below regarding BABC NC's questions (having to do with possible tax deductions for contributions made to Neighborhood Councils, ownership of property, hiring of employees, etc.), has never been responded to by DONE, even to this day. If possible, I would still like to receive a response since Amber had told me on 10/8/02 that a written response had already been prepared and would soon be sent pending review by the City Attorney's office.

After Deana left as DONE's Coordinator several months ago, the Bel Air-Beverly Crest Neighborhood Council has not had an active or participating DONE Coordinator. In fact, no one from DONE has attended the BABC NC meetings since she left. Nor, while I was still a member of BABC NC, were my requests to be sent the name and e-mail address of a new DONE contact person ever responded to even though I was the Chairperson of a standing committee (Public Safety).

Greg, thank you for your very nice invitation to let you know personally when such situations occur. Still, the

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system at DONE should be designed so that routine NC inquiries can be handled by going through normal channels, and not by having to go over somebody's head to the general manager of the agency by someone who is allowed some special access.

The Public Safety Committee that I chaired never received any help with scheduling, calendaring, or finding meeting space from DONE. Perhaps different people or committees are treated differently. I was also denied a request to use a public meeting room at the City owned "Marvin Braude Constituent Service Building" (by a Mayor's office representative who refused to give any explanation why), even though I told him that the DONE Coordinator had not responded to requests to help reserve a meeting space for my committee. The "Constituent Service Building" usually has many available conference rooms that were specifically designed to be used for that purpose. It is my understanding that other Neighborhood Councils and committees routinely sign up to reserve use of conference rooms there.

Previously, when my committee had conducted a meeting at the home of one of the other Public Safety Committee members, I did receive a warning comment from our DONE Coordinator that, in the future, such meetings must be held in an accessible location per the Americans with Disabilities Act. I have no problem at all with that ADA requirement except that the only other "help" I ever got for obtaining a recognized ADA compliant meeting space was being informed of a new requirement that we would have to pay \$200 to reimburse for janitorial overtime if the meetings were held during the evening in the local school auditorium. Also, because the funding that had been allocated for the NC's had not yet become available to be used by BABC NC, and was in any case not to be used for administrative reasons such as paying for meeting space, I was told we would have to pay the overtime fee ourselves. My current understanding is that this overtime payment requirement was rescinded by DONE after news about it was reported in one of my articles, but now your recent e-mail suggests some sort of small fee has been reinstated. Hopefully, the amount is now allowed to come out of the Neighborhood Council's allotment of funds instead of having to be paid by the members themselves.

— Original Message —

From: Don Farkas

To: Deanna Stevenson

Cc: Steve Lukasik

Sent: Sunday, February 02, 2003 4:10 AM

Subject: Tax Exemptions for Private Contributions to N.C.'s

Deanna,

Hi. Reference is made to my earlier E-mail regarding the Bel Air-Beverly Crest Neighborhood Council (BABCNC) sending a letter to DONE (dated Sept. 2, 2002), concerning questions about tax exemptions for contributions made to N.C.'s. It was noted that on October 8, 2002, Amber Meshack (our Project Coordinator from DONE) told me a response letter from DONE was then being reviewed by the City Attorney's Office and would likely be sent to us shortly. However, we still have not received DONE's response to the four questions in our letter.

The questions asked are of general importance to the operation of all N.C.'s and not just BABCNC, and we would still like to receive a response. Three of the four questions concerned issues about the tax deductibility and control of money and/or property contributed by private donors to Neighborhood Councils. The fourth question related to the interviewing, hiring, employment, and Civil Service status of persons wished to be hired by N.C.'s.

As a personal note, I am mindful of the fact that it may be difficult for DONE to respond to the many inquiries it must receive, due to having limited resources. In that case, please consider the following suggestion of having DONE create a form response letter. Many governmental agencies and businesses that must deal with receiving large amounts of public communications, but have limited resources to respond, find it is useful to develop such a form response letter. (At least, the sender will know the correspondence was received and did not disappear into a giant black hole.) For example:

Dear _____,

This is to acknowledge receipt of your correspondence dated _____. As you may know, time and cost considerations unfortunately do not permit us to respond to each and every individual communication in detail. However, please let this serve as the quickest and best way we currently have available to us to let you know that your correspondence has been reviewed.

4/8/2004

[*Check all that apply:]

[*] We have referred the above correspondence to the following agency or individual for further review or consideration: _____

[*] We have carefully reviewed your correspondence and will retain a copy in our files.

[*] We anticipate possibly sending you a further response as soon as practicable or when additional information becomes available.

[*] Please send to us, at the above address, additional information or explanation about the portions of your correspondence which have been highlighted on the enclosed copy.

Any Additional Notes: _____

Signed, _____

Deanna, I hope the above suggestion is a helpful one for DONE to consider.

Thanks.

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Friday, March 19, 2004 11:48 AM
Subject: Neighborhood Council Reforms

Dear Rabbi Freehling:

>

Thanks for your comments. The only other information I would like to submit for your panel's consideration at this time is an observation that NC's have become a junior version of the so-called "Pay-to-Play" system, except that instead of requiring political contributions to participate, it is required that persons who would like to participate in the NC's must remain cooperative, compliant, or otherwise ineffectual with regard to control by public officials who are in a position to reward or punish. In return, the NC leadership and participants hope and expect to be given special access to the public officials and a measure of influence over issues that concern them personally. In fact, it is probably a desire for personal influence that appears to be the major reason why many participants are drawn to the NC's in the first place. Sadly, it seems to be fairly common that many persons are less interested in determining good public policy than in pursuing an agenda of their own personal interests.

That may be just human nature, and so I strongly believe the solution to reforming the NC's is in designing a system that has checks and balances that counteract that natural tendency. The goal should not be to punish officials or NC officers from their attempts to exercise control, but rather to "level the playing field" so that they can not become unreasonable. This is why I have asserted it is probably less useful to blame DONE or any particular individuals at DONE, the City Council, Mayor's Office, NC officers, etc., than to attempt to re-design the system assuming that those who have been given power will likely try to use it to get their way.

A more difficult but much more useful approach would be for the City to attempt to craft practical standards, procedures, and guidelines as to how public employees and NC officers are expected to respond to situations such as inquiries from the public, participation by volunteers, recommendations from advisory groups, and the like. Also, perhaps the public grievance procedures you are developing for DONE should also apply to the NC's themselves, City Council members and staff, and other City agencies at whatever various level your panel can determine is appropriate or realistic.

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:27 AM
Subject: Neighborhood Council Case Study: Benedict Canyon Project

Dear Rabbi Freehling,

The following may help to serve as one case study relating to the operation of the Neighborhood Councils:

At the January or February, 2003, general meeting of the Bel Air-Beverly Crest Neighborhood Council (BABC NC), very shortly after BABC NC became certified as an NC, some NC participants who were also Benedict Canyon residents asked me, as chair of the Public Safety Committee, to review with them any possible public safety concerns I might have with regard to recently announced plans for the Benedict Canyon drainage system and road re-building Project. They initially agreed that we should inquire about the complete lack of any plans to also do any work on the natural gas distribution pipes in the project area because, as I had mentioned earlier in a Public Safety Committee report (when discussing the reasons for a proposed "Community Emergency Plan") there had been some reported gas main ruptures in at least two neighboring canyons after the 1994 Northridge earthquake. I was specifically asked to look into that particular issue of seismic gas line safety by a resident of Benedict Canyon HOA as no one had previously raised that issue.

In response, I made some inquiring phone calls to some of the project officials who refused to answer any questions unless I sent my questions to them in writing. The series of e-mails that follow, however, illustrate how little regard the officials really had for such inquiries. Furthermore, soon after that time, I noticed the leadership of BABC NC seemed to be interfering with my attempts to get items included on the agenda, stopped including me with timely distribution of Agendas, Minutes, and communications from DONE, etc., I no longer received helpful cooperation from the DONE Coordinator, and I was privately told by other NC members that some individuals of the Councilmember's staff had indicated they would not look favorably on anyone who cooperated with me. Also, soon after that time, I started to become aware that my completely unrelated Public Safety Committee project to have the hillside homeowner groups implement a Community Emergency Plan had suddenly "hit a brick wall" with regard to what had previously seemed to be very enthusiastic cooperation from the various HOA's. An indication as to why this had happened later came to me when I was later privately told by some NC members that certain staff members from my City Councilmember's office had warned (threatened?) them that the Benedict Canyon project would likely have undesirable delays or changes if the Benedict Canyon HOA continued to cooperate with me or help me in seeking answers to the gas line issues.

— Original Message —

From: Don Farkas
To: Jeff Wayne
Cc: Steve Lukasik ; Bonnie Kopp
Sent: Wednesday, March 05, 2003 2:37 PM
Subject: Benedict Canyon Project

Jeff, thanks for your courtesy in getting back to me so quickly. As I mentioned in our phone conversation yesterday, The Bel Air-Beverly Crest Neighborhood Council (BABCNC), which was recently certified in October, 2002, primarily has an advisory role to the City of LA re. community issues. I am the Chair of the BABCNC Public Safety Committee. Steve Lukasik is the President of BABCNC. Bonnie Kopp is a Field Deputy for Councilmember Jack Weiss in whose district the project area lies.

The Public Safety Committee's interest in this major road re-building project is mainly to seek assurance that all the various agencies and utilities involved are properly taking into consideration in their planning of the repairs or replacements of utilities infrastructure along Benedict Canyon, appropriate measures for protecting those utilities from the effects of disasters such as a major earthquake. I have no doubt whatsoever, as you told me, that the Gas Company also takes that issue very seriously.

As I mentioned, the BABCNC area includes the area effected by the disastrous 1961 Bel Air fire which has probably been a major reason why there is a great deal of community interest in disaster preparedness in this area. One of the published goals of the BABCNC Public Safety Committee has been to reduce the risk of a fire

4/8/2004

occurring after an earthquake. This is especially vital in this area since the L.A. Fire Department has previously informed us that there would likely be insufficient emergency resources immediately available to fight a large brush fire if one occurred in this area after a large earthquake. Anecdotally, it is my understanding that there were gas main ruptures with large leaks that occurred after the 1994 Northridge earthquake in the nearby Glenridge area and on Roscomare Road. Those kinds of occurrences could increase the risk of fire.

My understanding is that the gas distribution infrastructure for both steel pipes and polyethylene plastic pipes used by the Gas Company in Los Angeles generally showed a high level of integrity after the 1994 Northridge earthquake. Although the polyethylene pipes seemed to be much more earthquake resistant, there were relatively few failures of high pressure, very large diameter transmission pipelines, or failures along gas main or service distribution pipelines for either type of material. Most of the failures that occurred in those types of pipelines were of, (1) older pipelines placed before 1941, (2) those with older types of fittings (e.g., threaded joints, cast iron valves, early types of fusion joints), and, (3) those which had previously been considered by the Gas Company to be potentially vulnerable (e.g., due to discovered corrosion, material defects, or construction defects).

Of the polyethylene plastic pipes that failed, a large proportion of the failures which occurred at early types of fusion joints or those with older-styled fittings. Welding sites were at risk for both kinds of pipe materials.

RECOMMENDATIONS

1) Determine if there are any locations in the project area with geologic features that increase the risk of pipeline rupture after a large seismic event, perhaps with special consideration of strengthening pipelines in those places having similar geologic conditions to locations where ruptures occurred after the 1994 Northridge earthquake (e.g., ridgelines?)

2) Determine if any design or material circumstances of any previously known ruptures also apply to any locations in the project area. If so, then attention might be made to mitigating those particular circumstances.

Jeff, if you have any questions, comments, or concerns about any of the above, please do not hesitate to call me at (310) 472-2867.

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:28 AM
Subject: Fw: Benedict Canyon Project

—— Original Message ——

From: Don Farkas
To: Jeff Wayne
Cc: Ron Olive
Sent: Monday, March 24, 2003 7:15 AM
Subject: Benedict Canyon Project

Jeff, the next general meeting of BABCNC will be on March 26, 2003 (at 7:30 PM at Bellagio Road School). I will be reporting on recent activities of the Public safety Committee at that meeting. Have you had a chance to find out if the Gas Co. will be providing me with any response to the recommendations that were made in my e-mail to you of Mar. 5 regarding the Benedict Canyon road re-building project?

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:28 AM
Subject: Fw: Gas Lines in Benedict Canyon Road Re-building Project Area

— Original Message —

From: Don Farkas
To: Jeff Wayne
Cc: Barbara Nichols ; Sandy Margolis ; Ron Olive
Sent: Tuesday, April 08, 2003 8:16 PM
Subject: Gas Lines in Benedict Canyon Road Re-building Project Area

Hello Jeff. I have not heard anything from you since our initial phone conversation about the above issue on 3/4/03. You asked me to put my specific recommendations into a written e-mail so that you could obtain the Gas Company's response. I sent you such an e-mail the next day.

Are you the person I should be talking to about this issue (i.e., are you authorized by the Gas Company to respond on their behalf regarding this issue)?

If you are not the correct person, or are for some reason not able to provide the Gas Company's response to the recommendations contained in my e-mail of 3/5/03, could you please let me know as soon as possible?

As you may recall, the recommendations in my e-mail of 3/5/03 were as follows:

- 1) Determine if there are any locations in the project area with geologic features that increase the risk of pipeline rupture after a large seismic event, perhaps with special consideration of strengthening pipelines in those places having similar geologic conditions to locations where ruptures occurred after the 1994 Northridge earthquake (e.g., ridgelines?)
- 2) Determine if any design or material circumstance of any previously known ruptures also apply to any locations in the project area. If so, then attention might be made to mitigating those particular circumstances.

As I also noted in my e-mail, it was my understanding that most of the Northridge earthquake caused failures of both large diameter transmission pipelines, and gas main or service distribution pipelines (for both steel pipes and more earthquake resistant polyethylene plastic pipes) were found to be of (1) older pipelines placed before 1941, (2) those with older types of fittings (e.g., threaded joints, cast iron valves, early types of fusion joints), and, (3) those which had previously been considered by the Gas Company to be potentially vulnerable (e.g., due to discovered corrosion, material defects, or construction defects). Welding sites were also found to be at risk.

It would almost certainly be best for easiest correction (and to prevent a possible repeat of previous earthquake-related problems) if any and all appropriate measures for improving and inspecting existing gas lines in the area were to be undertaken by the Gas Company while Benedict Canyon is being dug up anyway during the major road re-building project.

As this project is scheduled to begin fairly soon (in July, 2003), your earliest response would be very appreciated. Thanks in advance for your cooperation and courtesy.

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:30 AM
Subject: Fw: Possible Improvement of Gas Pipelines in Benedict Canyon Project Area

—— Original Message ——

From: Don Farkas
To: Bonnie Kopp
Cc: Barbara Nichols ; Sandy Margolis ; Ron Olive
Sent: Friday, April 11, 2003 3:09 PM
Subject: Possible Improvement of Gas Pipelines in Benedict Canyon Project Area

With reference to my e-mails to Jeff Wayne of 3/5 and 4/8 that I cc'd or forwarded to you, it is unfortunately beginning to look like no response will be coming from him or from the Gas Company (for which I was led to believe he is the contact person on this issue). Because this project is scheduled to begin in July, 2003, it seems very much in everyone's interest that this issue be resolved as soon as possible.

Before I take any further steps, such as directly contacting the Gas Company, it would be helpful for me, and probably for others, to know Councilmember Weiss' position on this issue. Specifically, I am requesting to know if he thinks the two recommendations that were described in my e-mails are reasonable, appropriate and cost effective, and should be pursued.

Thank you for your assistance in this matter.

FYI: Although I would first like to consider Councilmember Weiss' opinions about the recommendations, I anticipate probably seeking to have this issue included on the agenda of the next BABCNC general meeting, which I believe will be held on 4/23.

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:31 AM
Subject: Fw: Gas Lines in Benedict Canyon Road Re-building Project Area

—— Original Message ——

From: Don Farkas
To: Barbara Nichols
Cc: Sandy Margolis
Sent: Thursday, April 10, 2003 2:19 PM
Subject: Gas Lines in Benedict Canyon Road Re-building Project Area

With reference to my e-mail to Jeff Wayne of 4/8/03, it's beginning to look like we probably will not be receiving any response from him. Furthermore, it is not possible to know at this point whether he, in fact, ever was an authorized person to respond on behalf of the Gas Company. Accordingly, if this issue is important to you, it is recommended that Benedict Canyon Association and the BABCNC Public Safety Committee follow up ASAP by jointly sending a new letter about this matter directly to the Gas Company.

Please let me know what Benedict Canyon Assoc. would like to do.

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:35 AM
Subject: Fw: Possible Improvement of Gas Pipelines in Benedict Canyon Project Area

—— Original Message ——

From: Don Farkas
To: Bonnie Kopp
Cc: Barbara Nichols ; Sandy Margolis ; Ron Olive
Sent: Friday, April 11, 2003 3:09 PM
Subject: Possible Improvement of Gas Pipelines in Benedict Canyon Project Area

With reference to my e-mails to Jeff Wayne of 3/5 and 4/8 that I cc'd or forwarded to you, it is unfortunately beginning to look like no response will be coming from him or from the Gas Company (for which I was led to believe he is the contact person on this issue). Because this project is scheduled to begin in July, 2003, it seems very much in everyone's interest that this issue be resolved as soon as possible.

Before I take any further steps, such as directly contacting the Gas Company, it would be helpful for me, and probably for others, to know Councilmember Weiss' position on this issue. Specifically, I am requesting to know if he thinks the two recommendations that were described in my e-mails are reasonable, appropriate and cost effective, and should be pursued.

Thank you for your assistance in this matter.

FYI: Although I would first like to consider Councilmember Weiss' opinions about the recommendations, I anticipate probably seeking to have this issue included on the agenda of the next BABCNC general meeting, which I believe will be held on 4/23.

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:41 AM
Subject: Fw: Gas Lines in Benedict Canyon

----- Original Message -----

From: "Fortuna Ippoliti" <FIppolit@COUNCIL.LACITY.ORG>
To: <Bezoarltd@aol.com>; <donfarkas@belairmail.com>;
<stephen.j.lukasik@saic.com>
Cc: "Bonnie Kopp" <BKopp@COUNCIL.LACITY.ORG>
Sent: Tuesday, April 15, 2003 3:56 PM
Subject: Gas Lines in Benedict Canyon

Gentlemen,

After conferring with the Gas Company, I learned that the gas main was replaced in 1986 with steel pipes. There is NO history of gasline leaks, including after the 1994 earthquake, for the Benedict Canyon area since the early 1900's. Once a year, the Gas Co walks the entire canyon with a flame ionization unit which is used to detect leaks. Based on these facts, it is our opinion that no new action needs to be taken.

Fortuna B. Ippoliti
Field Deputy, Councilmember Jack Weiss
14310 Ventura Blvd., Suite 100
Sherman Oaks, CA 91423
(818) 756-8083
fax (818) 788-9210
<http://www.lacity.org/council/cd5/>
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4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:38 AM
Subject: Fw: Gas Lines in Benedict Canyon

— Original Message —

From: Don Farkas
To: Fortuna Ippoliti
Cc: Barbara Nichols ; Sandy Margolis ; Bonnie Kopp
Sent: Wednesday, April 16, 2003 1:53 AM
Subject: Gas Lines in Benedict Canyon

Fortuna, thanks very much for looking into this matter. The recommendations in my e-mails of 3/5 and 4/8 stated no objections to the use of steel pipes in gas lines, and so that is not at issue here. It is reassuring to know the gas lines were replaced in 1986 as I have no information indicating any underlying problems with gas line pipes installed after the year 1941.

No one has asserted that there were any gas leaks in the Benedict Canyon area after the 1994 Northridge earthquake. As stated in my e-mails, according to neighbors who were witnesses, leaks reportedly occurred in the nearby hillside areas of Glenridge and Roscomare Road. So the issue here is really focused on whether any gas lines in Benedict Canyon area have any similar conditions to any other gas lines that had earthquake related problems, such as the gas lines located in the nearby areas that sustained ruptures. Just because no ruptures occurred in the Benedict Canyon area after one particular earthquake, does not mean that those risks would not exist in the same area after a future earthquake. The epicenter, strength, and amount of area that would be affected by any potential future earthquakes are of course unknown variables. That is also exactly the reason why this opportunity to make any needed or advisable improvements should be taken advantage of.

While it is reassuring to know that the Gas Company is routinely inspecting the condition of the gas lines in the area, that response does not directly answer the question as to whether the Gas Company is aware of any gas line circumstance in the project area that is known to make those particular gas lines vulnerable in future earthquakes. As was mentioned, such circumstances could include design factors involving older fittings, cast iron valves, threaded joints, discovered sites of existing corrosion, material defects, or construction defects. While such discovered conditions might not be considered serious enough that they would ordinarily rise to the level of interfering with routine use, they should be evaluated in terms of increased risk presented in an earthquake. This last comment also points to the following issues that were raised in my e-mails that are still not really resolved:

- 1) Are there any geologic circumstances existing in the project area that are similar to locations where ruptures occurred after the 1994 earthquake?
- 2) Are there any design or material circumstances of any previously known ruptures that also apply to gas lines in the project area? For example, as was specifically mentioned, some of these circumstances might include older types of fittings, threaded joints, cast iron valves, known areas of corrosion, material defects, construction defects, etc.

Since the Gas Company was able to respond to you about this matter, I do not understand why they could not also have similarly responded to me as the person who raised the issues. Anyway, I very much appreciate you including me to know Councilman Weiss' opinion about this matter. However, for the reasons outlined above, I respectfully disagree that the information so far provided by the Gas Company is sufficient to allow a reliable conclusion that no new action is required. Accordingly, I request your assistance in obtaining from the Gas Company the additional answers to the above mentioned questions.

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:41 AM
Attach: Fw_ Gas Lines in Benedict Canyon.eml
Subject: Fw: Fw: Gas Lines in Benedict Canyon

----- Original Message -----

From: "Fortuna Ippoliti" <FIppolit@COUNCIL.LACITY.ORG>
To: <jwayne@semprautilities.com>
Cc: <BezoarLtd@aol.com>; <donfarkas@belairmail.com>; "Bonnie Kopp" <BKopp@COUNCIL.LACITY.ORG>; "Kendrick Okuda" <Kokuda@ENG.LACITY.ORG>; <stephen.j.lukasik@saic.com>
Sent: Thursday, April 17, 2003 9:11 AM
Subject: Fwd: Fw: Gas Lines in Benedict Canyon

Jeff,
Would you please respond to Mr. Farkas' email.

Fortuna B. Ippoliti
Field Deputy, Councilmember Jack Weiss
14310 Ventura Blvd., Suite 100
Sherman Oaks, CA 91423
(818) 756-8083
fax (818) 788-9210
<http://www.lacity.org/council/cd5/>
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Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:38 AM
Subject: Fw: Benedict Canyon Project and Gas Company

— Original Message —

From: Don Farkas
To: Fortuna Ippoliti
Sent: Tuesday, April 22, 2003 2:19 PM
Subject: Benedict Canyon Project and Gas Company

Thanks for your email to Jeff Wayne; it made me laugh. I hadn't realized things were like that even for a Councilmember's office.

Is it really everybody's best judgment that there is not a single seismic protective measure or improvement that the Gas Co. could make in the Benedict Canyon area that would not be a good idea in view of the two alleged ruptures that occurred nearby in the 1994 earthquake?

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <Rabbiallenf@mailbox.lacity.org>
Sent: Saturday, March 20, 2004 10:30 AM
Subject: Fw: Seismic Safety for Gas Lines in Benedict Canyon Area

—— Original Message ——

From: Don Farkas
To: Barbara Nichols
Cc: Sandy Margolis ; Fortuna Ippoliti ; Bonnie Kopp
Sent: Sunday, April 27, 2003 6:36 AM
Subject: Seismic Safety for Gas Lines in Benedict Canyon Area

With regard to looking into the possible need for improving seismic safety of existing gas lines in the Benedict Canyon area, my assistant Brenda Rankin, who attended the BABCNC general meeting on 4/23, reported that the Benedict Canyon Association (BCA) representative stated BCA is satisfied with the Gas Company's response that gas lines in the Benedict Canyon area were replaced in 1986. Brenda said the reason BCA gave was it did not want to make any further inquiries or take any further action on this matter because that might slow down the rest of the currently scheduled road re-building project.

Although I believe the minimal response provided so far does not give us enough information to answer the questions raised about improving seismic safety of those gas lines (for the reasons listed in my e-mail of 4/16 to Fortuna), I will of course defer to the wishes of Benedict Canyon Association on this matter since its residents are the ones primarily affected. Accordingly, the BABCNC Public Safety Committee will take no further action on this issue.

4/8/2004

Don Farkas

From: "Don Farkas" <donfarkas@belairmail.com>
To: "Allen Freehling" <rabbiallenf@mailbox.lacity.org>
Sent: Monday, March 22, 2004 1:22 PM
Subject: Re: Neighborhood Council Reforms

Got your message. Good luck to you and your panel in your endeavors.

One last suggestion: So that a prospective NC grievance system (that I assume would be intended to be an easily accessible, inexpensive, and informal way to resolve problems or disputes) does not itself fall victim to the same kinds of political and social pressures that have been plaguing the NC's, your panel might want to consider the possibility of recommending that the City's NC grievance system also incorporate a primary or secondary level of review that uses a specified number of randomly selected members of the public to hear the complaints and to be "Community Arbitrators." It would be much more difficult for persons or interests to exert pressure on such a frequently changing group of citizens, and the creation of such a "Public Arbitration" system might also help to introduce the NC's and issues regarding civic affairs to some new people who might otherwise never have become aware or involved in such matters. As one possibility, perhaps persons who have reported for regular jury duty but who are waiting around or have not been selected to serve on a jury panel could be used for that purpose.

Best regards,

Don Farkas

— Original Message —

From: Allen Freehling
To: donfarkas@belairmail.com
Cc: Greg Nelson
Sent: Monday, March 22, 2004 8:25 AM
Subject: Re: Neighborhood Council Reforms

Dear Don:

Thanks so much for sharing with me this most recent message of yours.

I'm happy to transmit it to others, who will be interested in reading what you've authored.

Best wishes,

Allen

Rabbi Allen I. Freehling
 Executive Director
 Human Relations Commission
 City of Los Angeles
 200 North Spring Street (Suite 1625)
 Los Angeles, CA 90012

(Office) (213) 978-1660
 (Fax) (213) 978-1671
 (Cell) (213) 216-9870

>>> "Don Farkas" <donfarkas@belairmail.com> 3/19/2004 10:48:33 AM >>>
 Dear Rabbi Freehling:

>

Thanks for your comments. The only other information I would like to submit for your panel's consideration at this time is an observation that NC's have become a junior version of the so-called "Pay-to-Play" system, except that instead of requiring political contributions to participate, it is required that persons who would like to participate in the NC's must remain cooperative, compliant, or otherwise ineffectual with regard to control by public officials who are in a position to reward or punish. In return, the NC leadership and participants hope and expect to be given special access to the public officials and a measure of influence over issues that concern them personally. In fact, it is probably a desire for personal influence that appears to be the major reason why many participants are drawn to the NC's in the first place. Sadly, it seems to be fairly common that many persons are less interested in determining good public policy than in pursuing an agenda of their own personal interests.

That may be just human nature, and so I strongly believe the solution to reforming the NC's is in designing a system that has checks and balances that counteract that natural tendency. The goal should not be to punish officials or NC officers from their attempts to exercise control, but rather to "level the playing field" so that they can not become unreasonable. This is why I have asserted it is probably less useful to blame DONE or any particular individuals at DONE, the City Council, Mayor's Office, NC officers, etc., than to attempt to re-design the system assuming that those who have been given power will likely try to use it to get their way.

A more difficult but much more useful approach would be for the City to attempt to craft practical standards, procedures, and guidelines as to how public employees and NC officers are expected to respond to situations such as inquiries from the public, participation by volunteers, recommendations from advisory groups, and the like. Also, perhaps the public grievance procedures you are developing for DONE should also apply to the NC's themselves, City Council members and staff, and other City agencies at whatever various level your panel can determine is appropriate or realistic.

**SILVER LAKE
NEIGHBORHOOD COUNCIL
OFFICERS**

Jason Lyon, Rusty Millar
CO-CHAIRS
Salvador Sanchez
VICE-CHAIR
Charles R. Wiggington
TREASURER
Martin Hittelman
SECRETARY

**CITY OF LOS ANGELES
CALIFORNIA**

**SILVER LAKE
NEIGHBORHOOD COUNCIL**

c/o Dept. of Neighborhood Empowerment
3516 N. Broadway
Los Angeles, CA 90031

TELEPHONE: (866) LA-HELPS
FAX: (323) 224-2312

SLNC TELEPHONE: (323) 663-3996
FAX: (323) 663-3311



Silver Lake
Neighborhood Council

April 8, 2004

The Honorable Janice Hahn, Chair
The Honorable Dennis P. Zine, Vice Chair
The Honorable Antonio Villaraigosa, member
Education & Neighborhoods Committee
Los Angeles City Council

The Honorable Rockard J. Delgadillo
City Attorney

RE: Strategic Review of Neighborhood Councils

Dear Councilmembers Hahn, Zine & Villaraigosa and City Attorney Delgadillo:

Thank you for your dedicated attention to the needs of Neighborhood Councils. It is evident from your recent discussions of the legal status of NCs that you have only the best interests of our stakeholders at heart.

This letter is written on behalf of the Silver Lake Neighborhood Council Governing Board to urge you to affirm the determination made by former City Attorney James Hahn that Neighborhood Councils are city entities. In your (no doubt sincere) attempts to facilitate the work of NCs, you have proposed to remove the very status which makes them unique. We believe this constitutes a grave harm to the system. The Charter indicates that the goal of the system is to increase citizen participation in city government; it is difficult to conceive how this goal would be served by removing the Councils' status as a city agency.

It is equally difficult to imagine that the stature of NCs within the City bureaucracy will be served by such a change. As we have seen from the recent complications surrounding the DWP rate increase, city departments have yet to fully grasp the role of Neighborhood Councils in a new Los Angeles. It will take time to integrate NCs into the various Departments' thought processes. Denying "official"

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status to NCs will effectively ensure that this never happens.

If Neighborhood Councils are not city agencies, they are little more than glorified homeowners associations with their fingers in the city till. Our city funding will surely be threatened if NCs are not considered a part of City government – and rightly so. It would be inappropriate to entrust millions of taxpayer dollars to a system of councils with no direct responsibility to the public.

The proposal to seek a change to state law, exempting Neighborhood Councils from the Brown Act, is similarly misguided. As a member of the “blue-ribbon” Grievance Panel ordered created by the Education & Neighborhoods Committee, I am well aware of the problems faced by my fellow Neighborhood Councilmembers. The panel’s preliminary research indicates that Brown Act violations are among the most common complaints about neighborhood councils. That is, one group of stakeholders is accused of attempting to systematically disenfranchise another group by withholding information about meeting times and places. It is inconceivable that removing the legal requirement of the Brown Act would in any way ameliorate this situation. On the contrary, there would be little or no motivation for NC Boards to include voices of opposition in the community.

The Silver Lake Neighborhood Council is proud to comply with the Brown Act. The minor logistical difficulties created by this compliance are entirely mitigated by the comforting knowledge that our activities are transparent and evident to our stakeholders. We believe that it is in the best interests of the stakeholders of Los Angeles to maintain this high standard of visibility and accountability.

The system of Neighborhood Councils is very new. Difficulties are to be expected and adjustments will need to be made. Instituting a wholesale reclassification of the system is not a solution. Rather, we encourage you to review the policies of the Department of Neighborhood Empowerment to determine which most hamper the success of NCs.

The Silver Lake Neighborhood Council urges you to leave the previous City Attorney’s ruling intact, allowing NCs to retain their unique status as the grassroots arm of Los Angeles City government.

Sincerely,

Jason Lyon
Co-Chair
Silver Lake Neighborhood Council
On Behalf of the
SLNC Governing Board

CC:
Mayor James Hahn
Members of the Los Angeles City Council
Greg Nelson, General Manager, DONE

Judi Clarke - Re: i have a copy for you

From: Miranda Paster
To: Judi Clarke
Date: 04/09/2004 7:06 AM
Subject: Re: i have a copy for you

Konrad's e-mail has the time of 12:03. So, I think that it should be time stamped within 30 minutes of this time.

>>> Judi Clarke 04/09/04 07:00AM >>>



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

February 3, 2004

The Honorable Janice Hahn, Chair
The Honorable Dennis P. Zine, Vice Chair
The Honorable Antonio Villaraigosa, Member
Education and Neighborhoods Committee
City Council of the City of Los Angeles
Los Angeles, CA 90012

RE: STRATEGIC REVIEW OF NEIGHBORHOOD COUNCILS

Dear Councilmembers Hahn, Zine and Villaraigosa:

With the passage of the new City Charter in 1999, voters created a system of neighborhood councils designed to increase civic participation in Los Angeles' municipal government. While some progress has been made, this promise of a broader and more powerful community voice has yet to fully materialize.

My observations are derived from meetings with numerous neighborhood councils in the last few months and in the course of handling the myriad of inquiries for legal explanations of rules that govern neighborhood councils. Many neighborhood council members are pleased to be heard and participate in this new manner. There is, however, significant dissatisfaction with the system. Much of the discontent is bound up in the frustration of dealing with the City's bureaucracy and insufficient resources.

Although the Charter established a neighborhood council system, the operating regulations were created through an administrative and legislative process. The Charter-mandated plan was adopted by the Board of Neighborhood Commissioners and approved in ordinance form by the City Council. Along the way, there were incremental policy decisions that detailed the way neighborhood councils would operate on a day-to-day basis, such as how they received funding and staffing. While these decisions may have appeared to be administrative, in some cases the decisions altered the legal status of neighborhood councils and triggered new requirements and regulations.

The Honorable Dennis P. Zine
February 3, 2004
Page 2

The cumulative effect of these decisions and actions, aided by a broad Charter framework, may have put neighborhood councils on a path strikingly different from that envisioned by the Charter's framers and City residents. Originally billed as a means to "promote more participation in government and make government more responsive to local needs," neighborhood councils have been hamstrung by the very system they were intended to change.

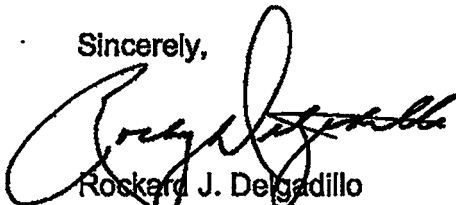
In the case of neighborhood councils – which represent the vast geographic and cultural diversity of Los Angeles – rigid bureaucratic processes should take a back seat to local control and flexibility. The City should serve the neighborhood councils as an empowering resource, not a bureaucratic overlord.

In just the last few months, my office has been asked to advise on the applicability of a variety of laws and regulations, including whether neighborhood councils and their members have to abide by City contracting laws, state and local conflict of interest laws, civil services rules and City laws for accepting gifts. It is highly likely we will be asked for advice on more regulations applicable to neighborhood councils.

Neighborhood councils were launched as a bold experiment to empower our neighborhoods. As with any experiment, leaders must not only build upon successes, but also learn from and correct problems encountered along the way. Yet to date, the City has not formally or comprehensively evaluated the successes and challenges of the fledgling system.

I therefore urge the City's policy-makers revisit the vision for neighborhood councils and strategically chart a course that allows our residents to realize that vision. My office stands ready to evaluate the current legal framework applicable to neighborhood councils and make recommendations to realize the original vision and purpose of neighborhood councils.

Sincerely,



Rosendo J. Delgadillo
City Attorney

RJD:TS:lee

CC: Mayor James K. Hahn
All Members, Los Angeles City Council
Greg Nelson, General Manager, Department of Neighborhood Empowerment

M:zinelt

The Chatsworth Neighborhood Council (CNC) voted unanimously to adopt the following position at a special meeting held on November 26, 2003.

The Chatsworth Neighborhood Council believes that City Attorney should take an aggressive but supportable stand that neighborhood councils, because of their advisory capacity, should not be considered decision-makers under State law. Thus, they should be exempt from all financial disclosure requirements but, if required to disclose, then only interests within a NC area plus 1,000 feet are subject to disclosure. In particular, we are concerned that the disclosure requirements for some business-based stakeholders is both irrelevant to governing board duties and likely to act as a deterrent to their participation in NC leadership.

Until the City Attorney so acts, CNC supports the adoption of the Department of Neighborhood Empowerment's proposed Conflict of Interest Code including neighborhood councils and their governing bodies, executives and employees, as an interim step toward reducing the reporting burden on NC leaders.

Discussion and rationale for CNC position

We appreciate the effort on the part of DONE staff and the City Attorney's staff to accomplish a reduction in the reporting burden that now faces NC leader based on the City's current interpretation of state law. We believe the proposal to be vastly preferable to the current requirements as they have been described in the proposal and supporting documents.

While we support the proposal as an interim measure, we do not feel it goes far enough. The absence of decision-making power for NCs substantially reduces the opportunities for conflict situations compared with City departments and commissions, which set forth rules and other decisions that are binding. The disclosure requirements, therefore, should be correspondingly less than those applicable to department, commission and council personnel.

The disclosure of customer relationships can be not only cumbersome (imagine car dealers or jewelers having to identify all their customers) but problematic (e.g., attorneys, medical professionals and CPAs faced with disclosure of confidential client relationships). Further, it is difficult to imagine a situation in which the identification of consumers within the NC area to whom goods and services have been sold in the ordinary course of business would be of any interest to stakeholders, let alone color the judgments made as a member of a NC governing body. It should be quite enough for a board member to recuse himself or herself on matters involving his or her place of business or that of a spouse. Similarly, the requirement to disclose such transactions as the personal sale of a vehicle to a buyer within the NC area appears to us to be regulatory overkill with no discernable benefit to the NC or to its stakeholders.

Members of NC governing boards are volunteers whose actions are not binding on anyone. We want the City to go the extra mile to help insulate us from burdensome over-regulation, not to take the easy way out and lump us together with those in positions of more substantive authority.

participate in making governmental decisions because they have a final vote on spending public funds, entering into contracts for goods or services, hiring staff and making recommendations on City contracts. The Council Executive Director and Staff positions are also included so that the Code will continue to be up to date and will easily accommodate such positions should a Neighborhood Council hire one or both. The financial interest these positions are required to disclose are limited to those within the Neighborhood Council area plus 1,000 feet that they may impact in making these decisions.

The City Ethics Commission has held regional training in conjunction with the DONE, to educate the Neighborhood Council Board members about their financial disclosure responsibilities as public officials and to explain the process involved with completing a Statement of Economic Interest.

At a Special meeting on December 2, 2003, the Rules and Elections Committee discussed this matter. Councilmember Zine stated that he felt that the requirement of Neighborhood Council members to file disclosure forms was unfair and burdensome. He felt that, in order to comply with State law, the Revised Conflict of Interest Code must be adopted, but that the City Ethics Commission should investigate and seek changes in State law that would make this procedure and or/disclosure forms easier for those Neighborhood Council members who must report their finances. The Committee adopted the DONE Code and also requested that the City Ethics Commission and the City Attorney, in conjunction with the DONE, seek amendments to State legislation to change the Ethics Disclosure Forms (Statement of Economic Interest Forms) and/or reporting requirements for members of certain Advisory bodies, such as the Neighborhood Councils. The Committee also requested that the Education and Neighborhoods Committee review this matter prior to forwarding these recommendations to full Council

Respectfully submitted,

RULES AND ELECTIONS COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
PADILLA	YES
GREUEL	ABSENT
ZINE	YES

AB
12-3-2003

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES

CALIFORNIA



JAMES K. HAHN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

CF 02-2794

December 4, 2003

Councilmember Janice Hahn, Chair
Education and Neighborhoods Committee

Dear Councilmember Hahn:

On December 2, 2003, the Rules and Elections (R&E) Committee considered Council File No. 02-2794 relative to the Conflict of Interest Code for the Department of Neighborhood Empowerment (DONE). Inasmuch as the Revised Code for the DONE includes Neighborhood Council members, and thus, has implications that could impact the Neighborhood Councils, Councilmember Padilla, Chair of the R&E Committee is transmitting the Council File to your Committee for consideration. Please return the file with your recommendations to the R&E Committee for final disposition to Council.

Very truly yours,

Adrienne Bass
Legislative Assistant
Rules and Elections Committee

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your **RULES AND ELECTIONS** Committee

reports as follows:

Public Comments: Yes No
XX

RULES AND ELECTIONS COMMITTEE REPORT relative to revised Conflict of Interest Code for the Department of Neighborhood Empowerment.

Recommendations for Council action:

1. ADOPT the revised Conflict of Interest Code for the Department of Neighborhood Empowerment (DONE).
2. INSTRUCT the City Ethics Commission and the City Attorney, in conjunction with the DONE, to seek amendments to State legislation to change the Ethics Disclosure Forms (Statement of Economic Interest Forms) and/or reporting requirements for members of certain Advisory bodies, such as the Neighborhood Councils.

Fiscal Impact Statement: None submitted by the City Ethics Commission. Neither the City Administrative Officer (CAO) nor the Chief Legislative Analyst (CLA) has completed a financial analysis of this report.

Summary:

In a report dated July 14, 2003, the City Ethics Commission states that the Revised Conflict of Interest Code (Code) for the DONE has been transmitted to City Council for consideration. The City Ethics Commission, in conjunction with the Office of the City Attorney, reviewed the Code, pursuant to the Californian Government Code Section 87306.5 and the Los Angeles City Charter Section 702. The City Attorney's Office opined that certain Neighborhood Council leadership positions are "public officials" within the meaning of the State law because they are authorized to make certain "governmental decisions" based on the California Government Code and the California Code of Regulations. Significant changes were made to the original Conflict of Interest Code for DONE to add certain neighborhood council positions to the Code. These positions have been added due to a request from the Department, because of changes in State law that would require these positions to disclose as broadly as an elected public official, until the time that each Neighborhood Council can adopt its own Conflict of Interest Code. In December 2002, City Council voted to add these positions to the Code of the DONE, thus placing neighborhood council positions on the Department's Code to remove the burden from each Neighborhood Council to have to develop its own Conflict of Interest Code.

The classifications that have been added include: 1) Voting Member of Governing Board; 2) Neighborhood Council Executive Director; and 3) Neighborhood Council Staff. It is anticipated that Voting Members of the Neighborhood Council Governing Boards will make or

participate in making governmental decisions because they have a final vote on spending public funds, entering into contracts for goods or services, hiring staff and making recommendations on City contracts. The Council Executive Director and Staff positions are also included so that the Code will continue to be up to date and will easily accommodate such positions should a Neighborhood Council hire one or both. The financial interest these positions are required to disclose are limited to those within the Neighborhood Council area plus 1,000 feet that they may impact in making these decisions.

The City Ethics Commission has held regional training in conjunction with the DONE, to educate the Neighborhood Council Board members about their financial disclosure responsibilities as public officials and to explain the process involved with completing a Statement of Economic Interest.

At a Special meeting on December 2, 2003, the Rules and Elections Committee discussed this matter. Councilmember Zine stated that he felt that the requirement of Neighborhood Council members to file disclosure forms was unfair and burdensome. He felt that, in order to comply with State law, the Revised Conflict of Interest Code must be adopted, but that the City Ethics Commission should investigate and seek changes in State law that would make this procedure and or/disclosure forms easier for those Neighborhood Council members who must report their finances. The Committee adopted the DONE Code and also requested that the City Ethics Commission and the City Attorney, in conjunction with the DONE, seek amendments to State legislation to change the Ethics Disclosure Forms (Statement of Economic Interest Forms) and/or reporting requirements for members of certain Advisory bodies, such as the Neighborhood Councils. The Committee also requested that the Education and Neighborhoods Committee review this matter prior to forwarding these recommendations to full Council

Respectfully submitted,

RULES AND ELECTIONS COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
PADILLA	YES
GREUEL	ABSENT
ZINE	YES

AB
12-3-2003

Committee

Public Comments: Yes No
XX

The classifications that have been added include: 1) Voting Member of Governing Board; 2) Neighborhood Council Executive Director; and 3) Neighborhood Council Staff. It is anticipated that Voting Members of the Neighborhood Council Governing Boards will make or

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

02-2794

February 10, 2004

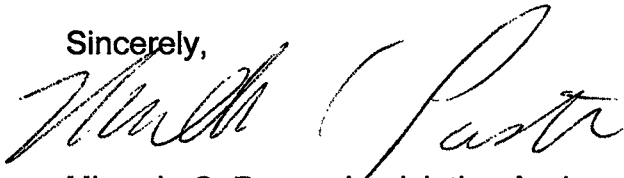
Mr. Rockard J. Delgadillo, City Attorney
City Attorney
200 North Main Street, Suite 800
Los Angeles, CA 90012

Dear Mr. Delgadillo:

At the February 3, 2004 Education and Neighborhoods (EN) Committee meeting, the EN Committee requested the City Attorney to evaluate and report on the current legal framework applicable to Neighborhood Councils and make recommendations as to how to minimize the application of various state and local laws on Neighborhood Councils (e.g., Ethics Disclosure forms). In addition, the EN Committee is requesting the City Attorney to review and report on the City Attorney Year 2000 opinion letter regarding Neighborhood Councils. The EN Committee requests the report on this matter for consideration by the EN Committee at its meeting to be held on March 2, 2004.

Please forward your report on this matter to the Office of the City Clerk, City Hall, Room 395, and to the attention of Miranda Paster. The EN Committee Chair respectfully requests your, or your designee's, presence at the March 2, 2004, EN Committee meeting.

Sincerely,



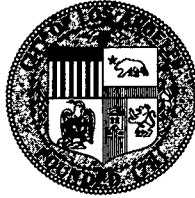
Miranda C. Paster, Legislative Assistant
Education and Neighborhoods (EN) Committee

Attachment

c: Councilmember Janice Hahn
Attn: Elise Swanson
Darrel Powell, Chief Legislative Analyst
Ramon Soto, CAO

C:\Data\Documents\LETTERS\febltrs.wpd

CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division



02-2794

(3)

City Ethics report on the revised Conflict of Interest Code for the Department of Neighborhood Empowerment (DONE). December 2, 2003 - Rules and Elections Committee adopted the revised Conflict of Interest Code and instructed the Ethics Commission and City Attorney to seek amendments to State legislation to change the Ethics Disclosure Forms for members of certain advisory bodies. Rules and Elections Committee referred the matter to the Education and Neighborhoods Committee for recommendations.

Fiscal Impact Statement Submitted: No

DISPOSITION

to report

Continued Reg City Atty

THE FOLLOWING COUNCIL FILES MAY BE RECEIVED AND FILED:

00-1706

(4)

Communication from the Mayor relative to the reappointment of Ms. Tammy Membreno to the Board of Neighborhood Commissioners for the term ending June 30, 2008.

DISPOSITION

01-0701

(5)

DONE report relative to Neighborhood Council advocacy to governmental agencies other than the City, pursuant to Motion (Padilla - Chick - Holden).

Fiscal Impact Statement Submitted:

DISPOSITION

02-0092-S92

(6)

Resolution (Padilla - Hahn) relative to the City including in its 2003-2004 State Legislative Program sponsorship and support of any legislation which would broaden, to cover adult education, current state laws which make charter schools possible for children and youth.

DISPOSITION

COMMENTS FROM PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION

Education and Neighborhoods Committee
Tuesday, February 3, 2004

CITY OF LOS ANGELES
CALIFORNIA

CITY ETHICS COMMISSION

(213) 978-1960
(213) 978-1988 FAX
<http://ethics.lacity.org>



CITY ETHICS COMMISSION
200 N. SPRING STREET
CITY HALL - 24TH FLOOR
LOS ANGELES, CA 90012

July 11, 2003

RECEIVED
CITY CLERK'S OFFICE
2003 JUL 14 AM 7:09
CITY CLERK
BY _____
DEPUTY

Los Angeles City Council
c/o City Clerk, Room 360
City Hall, 200 North Spring Street
Los Angeles, CA 90012

RE: **REVISED CONFLICT OF INTEREST CODE FOR THE DEPARTMENT OF
NEIGHBORHOOD EMPOWERMENT**

Honorable Members:

This letter serves to notify you that the Board of Neighborhood Commissioners has reviewed and concurs with the proposed Conflict of Interest Code revisions for Schedules A and B that have been approved by the Department of Neighborhood Empowerment. Two copies of the revised Code are attached. The first shows the code as proposed for adoption by the City Council, and the second indicates what changes have been made through the use of strikeouts and underlining.

We have reviewed this code in conjunction with the Office of the City Attorney pursuant to California Government Code § 87306.5 and Los Angeles City Charter Section § 702 (i). It reflects the conclusions of the City Attorney's office that certain Neighborhood Council leadership positions are "public officials" within the meaning of State law because they are authorized to make "governmental decisions" within the meaning of Government Code § 82048 and 2 California Code of Regulations § 18701(a)(1). Under Government Code § 87306.5, each agency for which the City Council is the code reviewing body must submit its code to the City Council for its review and approval.

Significant changes to this Conflict of Interest Code were required in order to accommodate the addition of certain neighborhood council positions to the Conflict of Interest Code of the Department of Neighborhood Empowerment. These positions have been added to this Code due to a request from the Department because of changes in State law that would require these positions to disclose as broadly as an elected public official until such time that each Neighborhood Council were to adopt its own Conflict of Interest Code. Because of this, the City Council voted in December, 2002, to instead add these positions to the Code of the Department of Neighborhood Empowerment (DONE). Placing neighborhood council positions on the Department's Code for this purpose would remove the burden from each Neighborhood Council to have to develop its own Conflict of Interest Code.

Specifically, three classifications have been added to DONE's Conflict of Interest Code to address the Neighborhood Councils: "Voting Member of Governing Board," "Neighborhood Council Executive Director," and "Neighborhood Council Staff." It is anticipated that Voting Members of the Neighborhood Council Governing Boards will make or participate in making governmental decisions because they have a final vote on spending public funds, entering into contracts for goods or services, hiring staff and making recommendations on City contracts. The "Neighborhood Council Executive Director" and the "Neighborhood Council Staff" positions are also included so that the Code will

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Rules, Elections &
Intergov Relations

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continue to be up to date and will easily accommodate such positions should a Neighborhood Council hire one or both. The financial interests these positions are required to disclose are limited to those within the Neighborhood Council area plus 1,000 feet that they may impact in making these decisions.

City Ethics Commission staff is currently holding regional trainings in conjunction with the Department of Neighborhood Empowerment to educate Neighborhood Council Board members about their financial disclosure responsibilities as public officials and explain the process involved with completing a Statement of Economic Interests. Through this outreach we are answering questions from Neighborhood Council members with the goal of ensuring a smooth first filing of economic interest statements by Voting Members of Neighborhood Council Governing Boards after the adoption of the Department's revised Code.

Should you have any questions regarding the contents of this code, please feel free to contact me or Policy Analyst Chelsea Cochrane at (213) 978-1960.

Sincerely,

A handwritten signature in black ink, appearing to read "LeeAnn M. Pelham", with a long horizontal flourish extending to the right.

LeeAnn M. Pelham
Executive Director
City Ethics Commission

LAMP:ckc
Attachments

cc: Greg Nelson, General Manager, Department of Neighborhood Empowerment
Scott Burritt, Project Coordinator, Department of Neighborhood Empowerment
Gwen Poindexter, Assistant City Attorney, Office of the City Attorney
Renee Stadel, Deputy City Attorney, Office of the City Attorney

CITY OF LOS ANGELES

CALIFORNIA

CITY CLERK'S OFFICE

DEPARTMENT OF
NEIGHBORHOOD EMPOWERMENT

BOARD OF NEIGHBORHOOD COMMISSIONERS

BILL CHRISTOPHER
PRESIDENT

PAT HERRERA DURAN
VICE-PRESIDENT

JIMMIE WOODS GRAY
MARY LOUISE LONGORIA
TONY LUCENTE
TAMMY MEMBREÑO
RON STONE



2002 DEC 18 AM 10:30

CITY CLERK

BY _____ DEPUTY

305 E. FIRST STREET
LOS ANGELES, CA 90012

TELEPHONE: (213) 485-1300
TOLL-FREE: (800) LA HELPS

FAX: (213) 485-4608
E-MAIL: DONE@mailbox.lacity.org

GREG NELSON
GENERAL MANAGER
CLAUDIA DUNN
ASSISTANT GENERAL MANAGER

www.lacityneighborhoods.com

December 18, 2002

To: Los Angeles City Council, Attn: City Clerk
From: Greg Nelson, General Manager, Department of Neighborhood Empowerment
Subject: Communication Re: Conflict of Interest Code for Neighborhood Councils

New state legislation requires that as of January 1, 2003: until a new state or local agency does adopts a conflict of interest code, as required by the California Political Reform Act, all persons who would hold designated positions within that agency shall file statements of economic interests in accordance with Government Code Section 87200. New positions in existing agencies are not subject to this rule.

This would require officers and members of Neighborhood Councils with expenditure authority to file Statements of Economic Interest based upon the broadest possible disclosure category rather than using categories that would more realistically reflect their activities.

Most Neighborhood Councils have not yet adopted a Conflict of Interest Code, and none have yet been calendared for adoption by the City Council.

A solution is, for just the purposes of conflict of interest codes, for the City Council to determine that the officers and members of the Neighborhood Councils who will engage in decision-making functions over the spending of public funds be positions within the Department of Neighborhood Empowerment. This action would avoid the need for the designated Neighborhood Council members to file Statements of Economic Interest based upon the broadest disclosure category, and permit the Board of Neighborhood Commissioners, as opposed to the City Council, to adopt a Conflict of Interest Code for each Neighborhood Council that accurately and fairly fits their needs.

Therefore, the Department of Neighborhood Empowerment requests that the City Council determine that for purposes of conflict of interest codes required by the California Political Reform Act, the positions (such as member of the governing board, executive director, or other position) within the City's certified Neighborhood Councils be designated positions of the conflict of interest code of the Department of Neighborhood Empowerment.

Rules, Elections &
Intergov Relations

DEC 18 2002

VERBAL MOTION

I HEREBY MOVE that Council ADOPT the following recommendation of the Department of Neighborhood Empowerment (DONE) on the Special Meeting agenda (Item No. 3, CF 02-2794) relative to Conflict of Interest Code for Neighborhood Councils:

DETERMINE, that for purposes of conflict of interest codes required by the California Political Reform Act, that positions (such as member of the governing board, executive director, or other positions) within the City's certified Neighborhood Councils be designated positions of the conflict of interest code in the DONE.

(Rules, Elections and Intergovernmental Relations Committee waived consideration of the above matter)

PRESENTED BY _____
JANICE HAHN
Councilmember, 15th District

SECONDED BY _____
WENDY GREUEL
Councilmember, 2nd District

December 20, 2002

CF 02-2794

Motion
ADOPTED

DEC 20 2002

LOS ANGELES CITY COUNCIL

FORTHWITH

The Chatsworth Neighborhood Council (CNC) voted unanimously to adopt the following position at a special meeting held on November 26, 2003.

The Chatsworth Neighborhood Council believes that City Attorney should take an aggressive but supportable stand that neighborhood councils, because of their advisory capacity, should not be considered decision-makers under State law. Thus, they should be exempt from all financial disclosure requirements but, if required to disclose, then only interests within a NC area plus 1,000 feet are subject to disclosure. In particular, we are concerned that the disclosure requirements for some business-based stakeholders is both irrelevant to governing board duties and likely to act as a deterrent to their participation in NC leadership.

Until the City Attorney so acts, CNC supports the adoption of the Department of Neighborhood Empowerment's proposed Conflict of Interest Code including neighborhood councils and their governing bodies, executives and employees, as an interim step toward reducing the reporting burden on NC leaders.

Discussion and rationale for CNC position

We appreciate the effort on the part of DONE staff and the City Attorney's staff to accomplish a reduction in the reporting burden that now faces NC leader based on the City's current interpretation of state law. We believe the proposal to be vastly preferable to the current requirements as they have been described in the proposal and supporting documents.

While we support the proposal as an interim measure, we do not feel it goes far enough. The absence of decision-making power for NCs substantially reduces the opportunities for conflict situations compared with City departments and commissions, which set forth rules and other decisions that are binding. The disclosure requirements, therefore, should be correspondingly less than those applicable to department, commission and council personnel.

The disclosure of customer relationships can be not only cumbersome (imagine car dealers or jewelers having to identify all their customers) but problematic (e.g., attorneys, medical professionals and CPAs faced with disclosure of confidential client relationships). Further, it is difficult to imagine a situation in which the identification of consumers within the NC area to whom goods and services have been sold in the ordinary course of business would be of any interest to stakeholders, let alone color the judgments made as a member of a NC governing body. It should be quite enough for a board member to recuse himself or herself on matters involving his or her place of business or that of a spouse. Similarly, the requirement to disclose such transactions as the personal sale of a vehicle to a buyer within the NC area appears to us to be regulatory overkill with no discernable benefit to the NC or to its stakeholders.

Members of NC governing boards are volunteers whose actions are not binding on anyone. We want the City to go the extra mile to help insulate us from burdensome over-regulation, not to take the easy way out and lump us together with those in positions of more substantive authority.

Request to the Committee on Neighborhoods and Education

From: Nancy Oppenheim

10240 Camarillo St. #108, Toluca Lake, CA 91602

REQUEST CONCERNING CONFLICT OF INTEREST STATEMENTS
FOR NEIGHBORHOOD COUNCILS

Disclaimer: I submit this under my own recognizance and not as part of the Greater Toluca Lake Neighborhood Council. I am a Governing Board member of that council.

Dear Ladies and Gentlemen:

This is a hard request to write. I recognize that we are all working together for solutions, and I look forward to working with each of you and the other departments into the future.

I would like to respectfully submit that the question of Conflict of Interest policy as applied to neighborhood councils has not been adequately addressed by DONE. It is not a reflection on DONE, because they have tried to the best of their abilities. However, if their inadequacy is not addressed, then it appears to people like me that there is a will to not solve this problem. I must regrettably ask you to not pass the current amendment, even though it was passed by BONC.

I request that all Form 700s currently received be held out of the public record until this matter is resolved.

I hereby state my intention to seek non-city funding to convene a panel along the lines of the original Charter commission, to be answerable to the stakeholders, and which will provide the needed counsel and research to the City departments that are so desperately underfunded in this area. It will consist of people knowledgeable in councils in other cities, and people with experience from the charter planning. Currently there is nobody with such knowledge working with DONE or contributing to these policies.

Members of our board stood before BONC at a hearing last year and told them that the current policy was inadequate to the needs of neighborhood councils, and that people would be forced to resign because of this policy, and that the policy can't possibly have been given adequate study. Since then eleven of 25 members resigned and many more have declined to run in anticipation of being asked to disclose personal information.

ATTENTION MIRANDA PASTER

DONE has consistently indicated that they simply do not understand the objections. This is quite different from studying them and finding them inadequate. Case in point, in December Greg Nelson told one of the GTLNC Board members that 'all those people didn't really have to resign.'

It is vital that this issue as well as others of importance go before the independent panel. This issue has many more implications than we were told by DONE, most especially in that it permanently changes the councils from independent bodies to a city sub-department. None of us and none of you have the authority to do that, and we don't want it to go any further without a better understanding.

Council members and stakeholders request to be supplied with information according to normal professional standards of due diligence. I believe that DONE must be given adequate support, both in terms of experienced personnel and time, to do this research.

I am sure that using the study that has gone into this so far, we can easily find ways to solve the City's needs for accountability under SB1620, and to serve the stakeholders' need to balance their privacy and their accountability to one another. I would give you more detailed ideas now but I have to go out of town--it's frustrating because I've been studying this all year and now I can't be with you.

I will return February 9. In my absence please email me or call my office at (310) 286-9420 to contact me.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'OPPENHEIM', is written over a horizontal line.

Nancy Oppenheim
nancyoppenheim@earthlink.net
818 753 0362 home
323 356 5809 mobile

CITY OF LOS ANGELES SPEAKER CARD

Date

2/3/04

Council File No., Agenda Item, or Case No.

3

I wish to speak before the

Edo. & Neighborhoods Cmte

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

() Against proposal
☒ General comments

Name:

David Voss

Business or Organization Affiliation:

Westchester/LAX/MDA Chamber of Commerce

Address:

4640 Admiralty Way Ste 800 Marina del Rey CA 90292

Street

City

State

Zip

Business phone:

310.306-0575

Representing:

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER ARD

Date

2/3/04

Council File No., Agenda Item, or Case No.

ITEM 3

I wish to speak before the

ERN Cinte

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

Name: JIM MEQUISTON ☐ General comments

Business or Organization Affiliation:

EHCA

Address:

6212 YUCCA ST

LA

CA

90028-5223

Street

City

State

Zip

Business phone:

323-464-6792

Representing:

EHCA

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

Date

2/3/04

Council File No., Agenda Item, or Case No.

19

E 4 N

I wish to speak before the _____
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal
Name: Dan Wiseman () Against proposal
(X) General comments

Business or Organization Affiliation: _____

Address: 6833 Katherine Ave Van Nuys 91405
Street City State Zip

Business phone: 818 787-4261 Representing: N/A

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW: ☐

Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

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CITY OF LOS ANGELES
CALIFORNIA

CITY ETHICS COMMISSION

(213) 978-1960
(213) 978-1988 FAX
<http://ethics.lacity.org>



CITY ETHICS COMMISSION
200 N. SPRING STREET
CITY HALL - 24TH FLOOR
LOS ANGELES, CA 90012

July 11, 2003

RECEIVED
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2003 JUL 14 AM 7:09
CITY CLERK
BY _____
DEPUTY

Los Angeles City Council
c/o City Clerk, Room 360
City Hall, 200 North Spring Street
Los Angeles, CA 90012

RE: **REVISED CONFLICT OF INTEREST CODE FOR THE DEPARTMENT OF
NEIGHBORHOOD EMPOWERMENT**

Honorable Members:

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JUL 14 2003

Rules, Elections &
Intergov Relations



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Should you have any questions regarding the contents of this code, please feel free to contact me or Policy Analyst Chelsea Cochrane at (213) 978-1960.

Sincerely,

A handwritten signature in black ink, appearing to read "LeeAnn M. Pelham", with a long horizontal flourish extending to the right.

LeeAnn M. Pelham
Executive Director
City Ethics Commission

LAMP:ckc
Attachments

cc: Greg Nelson, General Manager, Department of Neighborhood Empowerment
Scott Burritt, Project Coordinator, Department of Neighborhood Empowerment
Gwen Poindexter, Assistant City Attorney, Office of the City Attorney
Renee Stadel, Deputy City Attorney, Office of the City Attorney

CITY OF LOS ANGELES SPEAKER CARD

Date

12/1

Council File No., Agenda Item, or Case No.

4 02-2794

I wish to speak before the

Rules & Elections
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

Name: DANIEL WISOMAN, MD () Against proposal
() General comments

Business or Organization Affiliation:

Address:

Street

City

State

Zip

Business phone:

Representing:

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

Date

2 Dec 2003

Council File No. Agenda Item, or Case No.

02-2794 (Item 4) #4

I wish to speak before the

Rules & Elections Committee

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? (X) For proposal

() Against proposal

(X) General comments

Name: Marty Woll, President

Business or Organization Affiliation: Chatsworth Neighborhood Council

Address: 21301 Candice Pl. Chatsworth CA 91311

Street

City

State

Zip

Business phone: _____ Representing: CNC

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name: _____ Phone #: _____

Client Address: _____

Street

City

State

Zip

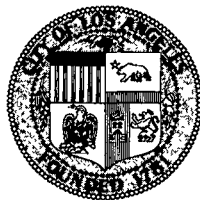
Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

02-2794

July 15, 2003

Rules, Elections & Intergovernmental Relations Committee

In accordance with Council Rules, communication from the City Ethics Commission relative to revised Conflict of Interest Code for the Department of Neighborhood Empowerment, was referred on July 15, 2003, to the Rules, Elections & Intergovernmental Relations Committee.

City Clerk
amm
reports\071503ltr.wpd



CITY OF LOS ANGELES

BOARD OF NEIGHBORHOOD COMMISSIONERS

BILL CHRISTOPHER
PRESIDENT

PAT HERRERA DURAN
VICE-PRESIDENT

JIMMIE WOODS GRAY
MARY LOUISE LONGORIA
TONY LUCENTE
TAMMY MEMBREÑO
RON STONE

CALIFORNIA



ETHICS COMMISSION

2003 JUN 13 AM 9:18

RECVD BY _____

DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT

305 E. FIRST STREET
LOS ANGELES, CA 90012

TELEPHONE: (213) 485-1360
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GREG NELSON
GENERAL MANAGER
CLAUDIA DUNN
ASSISTANT GENERAL MANAGER

www.lacityneighborhoods.com

June 10, 2003

LeeAnn Pelham
Executive Director
Los Angeles City Ethics Commission
200 N. Spring Street
24th Floor
Los Angeles, CA 90012

Re: Transmittal of Amended Conflict-of-Interest Code

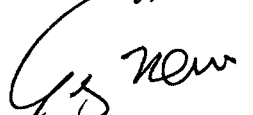
Dear LeeAnn:

Enclosed please find the proposed amended Conflict-of-Interest Code for the Department of Neighborhood Empowerment, which was approved by the Board of Neighborhood Commissioners on May 12, 2003.

Thank you for the generous assistance of the City Ethics Commission in adopting this Conflict-of-Interest Code and for putting together such an ambitious training and outreach program for the Neighborhood Councils.

Should you have any questions regarding the proposed amended Conflict-of-Interest Code, please call Scott Burritt at (818) 756-9858.

Sincerely,


Greg Nelson
General Manager

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
REVISED CONFLICT OF INTEREST CODE
SCHEDULE "A" - DESIGNATED POSITIONS**

<u>CLASSIFICATION</u>	<u>DISCLOSURE CATEGORY</u>
Commissioner	1
General Manager	1
Assistant General Manager	1
Senior Management Analyst I, II	2
Management Analyst II	2
Senior Project Coordinator	2
Project Coordinator	2
Senior Systems Analyst II	3
Management Analyst I	4
Senior Accountant I	4
<i>Neighborhood Councils</i>	
Voting Member of Governing Board *	5
NC Executive Director	6
NC Staff	7
Consultant	**

* Voting Member of Governing Board shall refer only to those Board members who vote on matters involving the expenditure of funds, entering into, or making a recommendation regarding whether a City agency should or should not enter into a contract, and the hiring of staff.

** Whether any person is a consultant shall be determined by the General Manager, who also determines which of the above categories is applicable to that consultant.

Revised 3/27/03

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
CONFLICT OF INTEREST CODE
SCHEDULE "B" - DISCLOSURE CATEGORIES**

GENERAL PROVISION

A person holding a designated position listed on Schedule A is required to disclose that he or she is a director, officer, partner, trustee, employee, or holds any position of management, in an entity if he or she would be required to disclose income received from that entity. Income includes gifts (which must be disclosed regardless of the location of the donor) and loans.

CATEGORY 1

- A. Any investment, income or interest in real property, as defined by this Code.

CATEGORY 2

- A. Any interest in real property located within the boundaries of the Neighborhood Councils or within 1000 feet of the boundaries of the Neighborhood Councils for the project area to which you have been assigned by the department.
- B. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which owns, or during the past twelve months owned, an interest in real property located within the boundaries of the Neighborhood Council within your project area or within 1000 feet of the boundaries of the Neighborhood Councils of the project area to which you have been assigned by the Department.
- C. Any income, as defined by this Code, including loans or gifts, from any person who is employed by or applies for employment with the Department or any Neighborhood Council.
- D. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Department or any Neighborhood Council.
- E. Any investment or income, as defined by this Code, including loans or gifts and business positions, in or from any person or business entity which does, is seeking, or during the last 12 months did or sought to do business within the boundaries of the Neighborhood Council, or within 1000 feet of the boundaries of the Neighborhood Councils.

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
CONFLICT OF INTEREST CODE
SCHEDULE "B" - DISCLOSURE CATEGORIES**

CATEGORY 3

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Department.
- B. Any investment, as defined by this Code, in any person or business entity that manufactures, designs, constructs, leases, sells, installs, tests or maintains computer hardware or software products, services or supplies.
- C. Any income, as defined by this Code, from any person or entity that manufactures, designs, constructs, leases, sells, installs, tests or maintains computer hardware or software products, services or supplies.

CATEGORY 4

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Department.
- B. Any income, as defined by this Code, including loans or gifts, from any person who is employed by or applies for employment with the Neighborhood Council.

CATEGORY 5

- A. Any interest in real property located within the boundaries of the Neighborhood Council or within 1000 feet of the boundaries of the Neighborhood Council.
- B. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased by the Neighborhood Council.
- C. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which owns, or during the past twelve months owned, an interest in real property located within the boundaries of the Neighborhood Council or within 1000 feet of the boundaries of the Neighborhood Council.
- D. Any income, as defined by this Code, including loans or gifts, from any person who is employed by or applies for employment with the Neighborhood Council.

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
CONFLICT OF INTEREST CODE
SCHEDULE "B" - DISCLOSURE CATEGORIES**

- E. Any investment or income, as defined by this Code, including loans or gifts and business positions, in or from any person or business entity which does, is seeking, or during the last 12 months did or sought to do business within the boundaries of the Neighborhood Council, or within 1000 feet of the boundaries of the Neighborhood Councils.

CATEGORY 6

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Neighborhood Council.
- B. Any income, as defined by this Code, including loans and gifts, from any person who is employed by or applies for employment with the Neighborhood Council.
- C. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which owns, or during the past twelve months owned, an interest in real property located within the boundaries of the Neighborhood Council or within 1000 feet of the boundaries of the Neighborhood Council.
- D. Any investment or income, as defined by this Code, including loans or gifts and business positions, in or from any person or business entity which does, is seeking, or during the last 12 months did or sought to do business within the boundaries of the Neighborhood Council, or within 1000 feet of the boundaries of the Neighborhood Councils.

CATEGORY 7

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Neighborhood Council.

ATTACHMENT I

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
REVISED CONFLICT OF INTEREST CODE
SCHEDULE "A" - DESIGNATED POSITIONS**

<u>CLASSIFICATION</u>	<u>DISCLOSURE CATEGORY</u>
Commissioner	1
General Manager	1
Assistant General Manager	1
Senior Management Analyst I, II	2
Management Analyst II	2
Senior Project Coordinator	2
Project Coordinator	2
Senior Systems Analyst II	3
<u>Management Analyst I</u>	<u>4</u>
<u>Senior Accountant I</u>	<u>4</u>
<i>Neighborhood Councils</i>	
<u>Voting Member of Governing Board *</u>	<u>5</u>
<u>NC Executive Director</u>	<u>6</u>
<u>NC Staff</u>	<u>7</u>
Consultant	**

* Voting Member of Governing Board shall refer only to those Board members who vote on matters involving the expenditure of funds, entering into, or making a recommendation regarding whether a City agency should or should not enter into a contract, and the hiring of staff.

** Whether any person is a consultant shall be determined by the General Manager, who also determines which of the above categories is applicable to that consultant.

Revised 3/27/03

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
CONFLICT OF INTEREST CODE
SCHEDULE "B" - DISCLOSURE CATEGORIES**

GENERAL PROVISION

A person holding a designated position listed on Schedule A is required to disclose that he or she is a director, officer, partner, trustee, employee, or holds any position of management, in an entity if he or she would be required to disclose income received from that entity. Income includes gifts (which must be disclosed regardless of the location of the donor) and loans.

CATEGORY 1

- A. Any investment, income or interest in real property, as defined by this Code.

CATEGORY 2

- A. Any investment, income or interest in real property, as defined by this Code. Any interest in real property located within the boundaries of the Neighborhood Councils or within 1000 feet of the boundaries of the Neighborhood Councils for the project area to which you have been assigned by the department.
- B. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which owns, or during the past twelve months owned, an interest in real property located within the boundaries of the Neighborhood Council within your project area or within 1000 feet of the boundaries of the Neighborhood Councils of the project area to which you have been assigned by the Department.
- C. Any income, as defined by this Code, including loans or gifts, from any person who is employed by or applies for employment with the Department or any Neighborhood Council.
- D. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Department or any Neighborhood Council.
- E. Any investment or income, as defined by this Code, including loans or gifts and business positions, in or from any person or business entity which does, is seeking, or during the last 12 months did or sought to do business within the boundaries of the Neighborhood Council, or within 1000 feet of the boundaries of the Neighborhood Councils.

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
CONFLICT OF INTEREST CODE
SCHEDULE "B" - DISCLOSURE CATEGORIES**

CATEGORY 3

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Department.
- B. Any investment, as defined by this Code, in any person or business entity that manufactures, designs, constructs, leases, sells, installs, tests or maintains computer hardware or software products, services or supplies.
- C. Any income, as defined by this Code, from any person or entity that manufactures, designs, constructs, leases, sells, installs, tests or maintains computer hardware or software products, services or supplies.

CATEGORY 4

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Department.
- B. Any income, as defined by this Code, including loans or gifts, from any person who is employed by or applies for employment with the Neighborhood Council.

CATEGORY 5

- A. Any interest in real property located within the boundaries of the Neighborhood Council or within 1000 feet of the boundaries of the Neighborhood Council.
- B. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased by the Neighborhood Council.
- D. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which owns, or during the past

**DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT
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twelve months owned, an interest in real property located within the boundaries of the Neighborhood Council or within 1000 feet of the boundaries of the Neighborhood Council.

- D. Any income, as defined by this Code, including loans or gifts, from any person who is employed by or applies for employment with the Neighborhood Council.
- E. Any investment or income, as defined by this Code, including loans or gifts and business positions, in or from any person or business entity which does, is seeking, or during the last 12 months did or sought to do business within the boundaries of the Neighborhood Council, or within 1000 feet of the boundaries of the Neighborhood Councils.

CATEGORY 6

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Neighborhood Council.
- B. Any income, as defined by this Code, including loans and gifts, from any person who is employed by or applies for employment with the Neighborhood Council.
- C. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business entity which owns, or during the past twelve months owned, an interest in real property located within the boundaries of the Neighborhood Council or within 1000 feet of the boundaries of the Neighborhood Council.
- D. Any investment or income, as defined by this Code, including loans or gifts and business positions, in or from any person or business entity which does, is seeking, or during the last 12 months did or sought to do business within the boundaries of the Neighborhood Council, or within 1000 feet of the boundaries of the Neighborhood Councils.

CATEGORY 7

- A. Any investment or income, as defined by this Code, including loans, gifts and business positions, in or from any person or business which manufactures, leases, sells, or repairs any goods, services, equipment or other items purchased or leased by the Neighborhood Council.

City of Los Angeles
Conflict of Interests Code Index

Last Revised January 2000

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**CITY OF LOS ANGELES
CONFLICT OF INTEREST CODE**

AGENCY: DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT

Pursuant to the provisions of California Government Code Sections 87300 et seq., the DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT of the City of Los Angeles hereby adopts the following Conflict of Interest Code.

Statement of Purpose

City officials and employees may not make governmental decisions that affect their personal financial interests. To help City officials and employees avoid financial conflicts, each City agency adopts a Conflict of Interest Code pursuant to state law. The Conflict of Interest Code contains a "Schedule A," which identifies each designated position that is charged with making or participating in governmental decisions, and a "Schedule B," which identifies the economic interests the persons in those positions must disclose. Each City official must submit public statements that identify the disclosable interests that he or she held during the reporting period. Persons with questions concerning the applicability of this Conflict of Interest Code or potential conflicts of interest should contact the Office of the City Attorney.

In addition to the requirements of this Code, City officials shall be required to comply with the requirements of state and City law.

Section 100 - Designated Positions

The positions listed in Schedule A of this Conflict of Interest Code are "designated positions." A person holding, elected to or appointed to a designated position is a "City official." That person is deemed to be in a position to make or participate in the making of governmental decisions that may foreseeably have a material effect on his or her economic interest as defined in Section 503 of this Code.

A person holding a "designated position" is also a "City official" within the meaning of the City's Governmental Ethics Ordinance. "City official" means a person who is an elected or appointed City officer, member of a City board or commission, City employee or consultant of a City agency and who "makes" or "participates in making" government decisions as defined by the regulations of the Fair Political Practices Commission.

Section 101 - Notice to City Officials/Designated Employees

Within five days after the effective date of this Code, each City official shall be given notice of his or her designated position, together with a copy of this Code. Each person elected or appointed to a designated position after the effective date of this Code

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shall be given such notice and copy within five days after assuming office. Failure to give timely notice shall not constitute a violation of this Code.

Section 200 - Disqualification

A. A City official must disqualify himself or herself from making, participating in making, or attempting to use his or her official position to influence any decision when it is reasonably foreseeable that the decision will have a "material financial effect" (as defined in Section 504 of this Code by the applicable regulations of the Fair Political Practices Commission), on a economic interest. No City official shall be required to disqualify himself or herself if the effect on the economic interest is not distinguishable from its effect on the public generally or on a significant segment of the public as defined in the applicable regulations of the Fair Political Practices Commission. No City official shall be required to disqualify himself or herself with respect to any matter that could not be legally acted upon or decided without his or her participation.

B. A City official so disqualified shall notify the general manager or other head of the agency in writing of any apparent conflict, stating the nature of the decision to be made and the conflicting interest of the employee.

C. Nothing in this Code shall relieve any person from the requirements of Section 28.1 of the Los Angeles City Charter or from any other applicable provision of law. Section 28.1 authorizes the City Attorney to disqualify a City official if it is not in the public interest for that official to act on a matter.

Section 300 - Disclosure Statements

Each City official shall file Statements of Economic Interests disclosing that official's investments, interests in real property, employment or management positions in relevant business entities, income, gifts loans and travel payments designated as reportable by the Schedule B disclosure category for that official's position designated on Schedule A.

An "**initial statement**" shall disclose investments, interests in real property, and business positions held on the effective date of the Code or amended Code. In addition, the initial statement shall disclose income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the Code or amended Code.

A person who is a City official on the effective date of this Code shall file an initial statement within 30 days after the effective date of this Code.

An "**assuming office statement**" shall disclose investments, interests in real property, and business positions held on the date the office or position is assumed. In

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addition, the assuming office statement shall disclose income (including loans, gifts, and travel payments) received during the 12 months prior to the date the office or position is assumed.

All persons elected or appointed as a City Official after the effective date of this Code shall file assuming office statements not more than 30 days after assuming office.

A person who is appointed to a board or commission or to the position of general manager, shall, within 30 days after he or she assumes the new office, amend his or her most recent Statement of Economic Interest to disclose any investments or interests in real property held on the date of such transfer which are made reportable by the new disclosure category but which were not previously reported.

As required by state and City law an "annual statement" shall be filed by a City official disclosing that official's investments, employment or management positions in relevant business entities, interests in real property, income, gifts, loans and travel payments received or held at any time during the reporting period, whether or not they are still held at the time of filing.

Annual statements shall be filed as follows:

(1) Each year on or before April 1, except if the person assumed his or her designated position between October 1 and December 31 of the preceding year and filed an assuming office statement. In that case the person is not required to file an annual statement until April one year later, or

(2) If any City official is elected or appointed to a designated position in a different disclosure category than the one to which his or her previous position was assigned, the next succeeding annual statement of such City official shall disclose all reportable interests required by those categories of Schedule B applicable to the respective designated positions held during the preceding reporting period; provided, however, that such interests shall be reported pursuant to each category only for the period during which each applicable designated position was held.

A "leaving office statement" shall disclose a City official's reportable investments, interest in real property, employment and management positions in relevant business entities, income, gifts, loans and travel payments received or held at any time since the closing date of the last statement filed, whether or not they are still held at the time of filing.

Section 301 - Contents of Statements of Economic Interests: Investments and Interests in Real Property

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When an investment or an interest in real property is required to be disclosed under this Code, the statement shall contain:

- A. A statement of the nature of the investment or interest;
- B. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
- C. The address or other precise location of the real property;
- D. A statement whether the fair market value of the investment, or interest in real property, equals or exceeds \$1,000 but does not exceed \$10,000, whether it exceeds \$10,000, but does not exceed \$100,000, or whether it exceeds \$100,000;
- E. If the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal;
- F. For the purpose of disclosure statements filed pursuant to Section 300, an "interest in real property" does not include the principal residence of a City official or any other property that the City official utilizes exclusively as his or her personal residence.
- G. All other information required by the disclosure form issued by the Fair Political Practices Commission or City Ethics Commission.

Section 302 - Contents of Statements of Economic Interests: Income

A. When income (including gifts, loans and travel payments) is required to be reported under this Code, the statement shall contain, except as provided in Subsection B:

- (1) The name and address of each source aggregating \$250 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
- (2) A statement whether the aggregate value received from each source, or in the case of a loan, the highest amount owed to each source, was at least \$250 but did not exceed \$1,000, whether it was in excess of \$1,000 but was not greater than \$10,000, or whether it was greater than \$10,000;
- (3) A description of the consideration, if any, for which the income was received;

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(4) In the case of a gift, the amount and the date on which the gift was received;

(5) In the case of a loan, the annual interest rate and the security, if any, given for the loan;

B. When the City official's pro-rata share of income from a business entity, including income from a sole proprietorship, is required to be reported under this Code, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity;

(2) The name of every person from whom the business entity received payments if the City official's pro rata share of gross receipts from such person was equal to or greater than \$10,000 during a calendar year.

Section 303 - Contents of Statements of Economic Interests: Position of Management

When employment or management positions in relevant business entities are required to be disclosed under this Code, the statement shall contain any business entity in which the City official is a director, officer, partner, trustee, employee, or holds any position of management.

Section 400 - Disclosure Statement Reporting Period

A. "Reporting period" with respect to the first annual statement filed by a City official, means the period beginning on the date after the filing date of assuming and ending on December 31 or on the date on which the City official leaves the agency, whichever occurs first.

B. "Reporting period," with respect to any subsequent annual statement, means the period starting on the date after the closing date of the previous annual statement, and ending on December 31, or on the date on which the City official leaves the agency, whichever occurs first.

C. A City official shall be deemed to have left the agency if he or she terminated a designated position without having assumed a new designated position with the agency on the same date.

Section 401 - Place of Filing Disclosure Statements

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Disclosure statements shall be filed with the General Manager, or an individual designated by the General Manager to be the Department Filing Official, who shall make and retain a copy of each such statement and transmit the original to the City Ethics Commission which serves as the Filing Officer.

Section 402 - Disclosure Statements Forms

Forms for disclosure statements shall be provided by the City Ethics Commission. Forms shall include a Statement of Economic Interests issued by the Fair Political Practices Commission and, where applicable, forms issued by the City Ethics Commission for the City's financial disclosure requirements.

Section 500 - Definitions

With the exception of "decision" and "City Official" the following terms are defined in the Political Reform Act of 1974, as amended, and/or the regulations of the Fair Political Practices Commission. The definitions below of those terms are the same as contained in the Act and regulations.

Section 501 - City Official

"City official" means every natural person who is a member, officer, employee, designated employee, or consultant of a state or local government agency.

Section 502 - Governmental Decision

"Decision" means a determination, involving the use of discretion, which constitutes official action or inaction.

A. A City official "makes a governmental decision," except as provided in Subsection D, when, acting within the authority of his or her office, he or she:

- (1) Votes on a matter;
- (2) Appoints a person;
- (3) Obligates or commits his or her agency to any course of action or inaction;
- (4) Enters into any contractual agreement on behalf of his or her agency;
- (5) Determines not to act within the meaning of subdivisions (1), (2), (3) and (4), except when such determination consists of a voluntary

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disqualification under this Code. When the determination not to act consists of a voluntary disqualification, the official's determination must be accompanied by disclosure of the financial interest, made part of the agency's official record or made in writing to the official's supervisor, appointing power or any other person specified in a conflict of interest code adopted pursuant to Government Code Section 87300.

B. A City official "participates in the making of a governmental decision" when acting within the authority of his or her position, he or she:

(1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or

(2) Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:

(a) Conducting research or making any investigation which requires the exercise of judgment on the part of the official and the purpose of which is to influence the decision; or

(b) Preparing or presenting any report, analysis or opinion, orally or in writing, which requires the exercise of judgment on the part of the official and the purpose of which is to influence the decision.

C. A City official attempts "to use his or her official position to influence a governmental decision" when he or she furthers or attempts to affect in any way any decision in a manner as set forth in the applicable regulations of the Fair Political Practices Commission.

D. The making, participating in the making of or attempting in any way to use one's position to influence a governmental decision, as defined in the preceding subsections, shall not include:

(1) Actions of a City official which are solely ministerial, secretarial, manual, or clerical;

(2) Appearances by a City official as a member of the general public before a City official, board or commission to represent himself or herself on matters related solely to his or her personal interests, so long as the City official discloses the interest at the time of the appearance; or

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(3) Actions by City officials, employees, or employee representatives relating to their compensation or the terms or conditions of their employment or contract.

Section 503 - Economic Interest

A governmental decision has a personal financial effect on a public official if the decision will result in the personal expenses, income, assets, or liabilities of the official or his or her immediate family increasing or decreasing. A City official has an "economic interest" in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the City official, or member of his or her immediate family or on:

A. Any business entity in which the City official has a direct or indirect investment worth more than \$1,000 or more; or

B. Any real property in which the City official has a direct or indirect interest worth more than \$1,000; or

C. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$250 or more in value provided to, received by or promised to the City official within twelve months prior to the time when the decision is made;

D. Any business entity in which the City official is a director, officer, partner, trustee, employee, or holds any position of management; or

E. Any donor or, or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more in value provided to, received by, or promised to the City official within 12 months prior to the time when the decision is made.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a City official, by an agent on behalf of a City official, his or her agents, spouse and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

Section 504 - Material Financial Effect

Whether the financial effect of a governmental decision on a "financial interest" of a City official is "material," within the meaning of this Code, shall be based on

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applicable regulations of the Fair Political Practices Commission defining the term "Material Financial Effect."

Section 505 - Business Entity

"Business entity" means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

Section 506 - Gift

A. "Gift" means, except as provided in Subsection (B), any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

B. The term "gift" does not include:

(1) Informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material";

(2) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a non-profit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes, or otherwise disposed of in accordance with applicable regulations of the Fair Political Practices Commission;

(3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph;

(4) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974;

(5) Any devise or inheritance.

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(6) Personalized plaques and trophies with an individual value of less than \$250.

C. No person shall make one or more gifts totaling \$50 or more in a calendar year on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

Section 507 - Immediate Family

"Immediate family" means the spouse and dependent children. Whenever disclosure of investments or interest in real property is required by this Code, investments and interests in real property of members of the immediate family shall also be disclosed.

Section 508 - Income

A. "Income" means, except as provided in Subsection (B), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. "Income," other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this Code.

B. "Income" also does not include:

(1) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974;

(2) Salary and reimbursement for expenses or per diem received from a state, local or federal government agency and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under 501(c)(3) of the Internal Revenue Code;

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(3) Any devise or inheritance;

(4) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency;

(5) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government except proceeds from the sale of these securities and commodities futures;

(6) Redemption of a mutual fund;

(7) Alimony or child support payments;

(8) Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status if:

(a) The loan is secured by the principal residence of
filer; or

(b) The balance owed does not exceed \$10,000;

(9) Any loan from or payments received on a loan made to an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin or the spouse of any such person, provided that a loan or loan payment from any such person shall be considered income if the lender is acting as an agent or intermediary for any person not covered by this paragraph;

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status, so long as the balance owed to the creditor does not exceed \$10,000; or

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

Section 509 - Interest in Real Property

DEPARTMENT OF NEIGHBORHOOD EMPLOYMENT

Subject: **CONFLICT OF INTEREST CODE**

Directive No. _____
Effective Date _____

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"Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the City official or his or her immediate family if the fair market value of the interest is \$1,000 or more. Interests in real property of an individual include a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater.

Section 510 - Investment

"Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the City official, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this Code. No asset shall be deemed an investment unless its fair market value equals or exceeds one thousand dollars (\$1,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual include a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the Fair Political Practices Commission.

Section 511- Jurisdiction

"Jurisdiction" means the City of Los Angeles. Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the City of Los Angeles or within two miles of any land owned or used by the City of Los Angeles.

Section 512 - Person

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

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Subject: **CONFLICT OF INTEREST CODE**

Directive No. _____

Effective Date _____

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Section 600 - Interpretation

Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000 et seq.). This Code shall be interpreted in a manner consistent with the definitions and provisions of said Act and the regulations of the Fair Political Practices Commission. Any amendments to the Act or to the regulations, which affect the language of any provision of Sections 100 through 700 of this Code, shall be incorporated into the language of the affected section of this Code, without the need for formal amendment of this Code. Such incorporation shall be accomplished by the adoption by the City Council of a motion to reflect such changes in the language. The provisions of this Code are in addition to any other applicable provisions of state or local law.

Section 700 - Penalties

Except as otherwise provided herein, a violation of any provision of the Code shall constitute a misdemeanor as provided in California Government Code Section 91000 and shall be subject to such additional penalties as are specified in the Political Reform Act of 1974 (California Government Code Sections 81000, et seq.) and specified in City law.

CERTIFICATION OF APPROVAL OF CODE

I, < NAME >, certify that the foregoing Conflict of Interest Code was adopted by the City Council, City of Los Angeles, on < MONTH, DAY, YEAR >.

DEPARTMENT OF NEIGHBORHOOD EMPOWERMENT

Subject: **CONFLICT OF INTEREST CODE**

Directive No. _____

Effective Date _____

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(Name and Title)

(Signature)

(Date)

The foregoing Conflict of Interest Code, having been submitted by the agency designated above, was approved by order of the Council of the City of Los Angeles on _____ and is effective as of said date.

(Date)

J. MICHAEL CAREY, City Clerk

BY _____
Deputy City Clerk

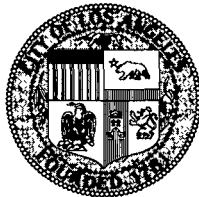
J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

02-2794

ITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

PLACE IN FILES

JAN 15 2003

DEPUTY *VM*

January 6, 2003

Councilmember Hahn
Councilmember Greuel
Department of Neighborhood Empowerment
Neighborhood Empowerment Commission
City Administrative Officer
Chief Legislative Analyst
City Attorney

RE: CONFLICT OF INTEREST CODE FOR NEIGHBORHOOD COUNCILS

At the meeting of the Council held December 20, 2002, the following action was taken:

Attached report adopted.....	_____
Attached motion (Hahn - Greuel) adopted	_____ X
Attached resolution adopted.....	_____
Mayor approved.....	_____
FORTHWITH.....	_____ X
Mayor concurred	_____
To the Mayor FORTHWITH	_____

J. Michael Carey

City Clerk
SW

steno\022794



VERBAL MOTION

I HEREBY MOVE that Council ADOPT the following recommendation of the Department of Neighborhood Empowerment (DONE) on the Special Meeting agenda (Item No. 3, CF 02-2794) relative to Conflict of Interest Code for Neighborhood Councils:

DETERMINE, that for purposes of conflict of interest codes required by the California Political Reform Act, that positions (such as member of the governing board, executive director, or other positions) within the City's certified Neighborhood Councils be designated positions of the conflict of interest code in the DONE.

(Rules, Elections and Intergovernmental Relations Committee waived consideration of the above matter)

PRESENTED BY _____

JANICE HAHN
Councilmember, 15th District

SECONDED BY _____

WENDY GREUEL
Councilmember, 2nd District

December 20, 2002

CF 02-2794

Motion
ADOPTED

DEC 20 2002

LOS ANGELES CITY COUNCIL

FORWARDED

COUNCIL VOTE

Dec 20, 2002 12:29:52 PM, #30

ITEM NO. (3)

Voting on Item(s): 3

Roll Call

BERNSON	Yes
GALANTER	Yes
GARCETTI	Absent
GREUEL	Yes
HAHN	Yes
HOLDEN	Yes
LABONGE	Absent
MISCIKOWSKI	Yes
PACHECO	Absent
PERRY	Yes
REYES	Yes
WEISS	Absent
ZINE	Yes
*PADILLA	Yes
	Absent

Present: 10, Yes: 10 No: 0

CITY OF LOS ANGELES SPEAKER CARD

Date

12/20/02

SPECIAL
COUNCIL
MEETING

Council File No., Agenda Item, or Case No.

ITEM 3 02-2794

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? ☒ For proposal

☐ Against proposal

☐ General comments

Name: JIM MEQUISTON, PLANNING REP.

Business or Organization Affiliation: EAST HOLLYWOOD COMMUNITY ASSN.

Address: 6212 YUCCA ST LOS ANGELES CA 90028-5223

Street

City

State

Zip

Business phone: 323-464-6792 Representing: EACA

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

☐

Client Name: Phone #:

Client Address: Street City State Zip

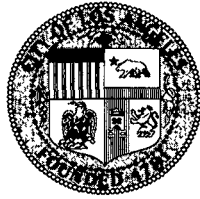
Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

358
J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

02-2794

December 18, 2002

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS COMMITTEE

In accordance with Council Rules, communication from the Department of Neighborhood Empowerment relative to Conflict of Interest Code for Neighborhood Councils, was referred on December 18, 2002, to the RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS COMMITTEE.

J. Michael Carey

City Clerk
amm
reports\121802altr.wpd



CITY OF LOS ANGELES
CALIFORNIA

RECEIVED
CITY CLERK'S OFFICE

DEPARTMENT OF
NEIGHBORHOOD EMPOWERMENT

**BOARD OF NEIGHBORHOOD
COMMISSIONERS**

BILL CHRISTOPHER
PRESIDENT

PAT HERRERA DURAN
VICE-PRESIDENT

JIMMIE WOODS GRAY
MARY LOUISE LONGORIA
TONY LUCENTE
TAMMY MEMBREÑO
RON STONE



2002 DEC 18 AM 10:30

CITY CLERK

BY _____ DEPUTY

305 E. FIRST STREET
LOS ANGELES, CA 90012

TELEPHONE: (213) 485-1380

TOLL-FREE: (866) LA HELPS

FAX: (213) 485-4008

E-MAIL: DONE@mailbox.lacity.org

GREG NELSON
GENERAL MANAGER
CLAUDIA DUNN
ASSISTANT GENERAL MANAGER

www.lacityneighborhoods.com

December 18, 2002

To: Los Angeles City Council, Attn: City Clerk

From: Greg Nelson, General Manager, Department of Neighborhood Empowerment

Subject: Communication Re: Conflict of Interest Code for Neighborhood Councils

New state legislation requires that as of January 1, 2003: until a new state or local agency does adopts a conflict of interest code, as required by the California Political Reform Act, all persons who would hold designated positions within that agency shall file statements of economic interests in accordance with Government Code Section 87200. New positions in existing agencies are not subject to this rule.

This would require officers and members of Neighborhood Councils with expenditure authority to file Statements of Economic Interest based upon the broadest possible disclosure category rather than using categories that would more realistically reflect their activities.

Most Neighborhood Councils have not yet adopted a Conflict of Interest Code, and none have yet been calendared for adoption by the City Council.

A solution is, for just the purposes of conflict of interest codes, for the City Council to determine that the officers and members of the Neighborhood Councils who will engage in decision-making functions over the spending of public funds be positions within the Department of Neighborhood Empowerment. This action would avoid the need for the designated Neighborhood Council members to file Statements of Economic Interest based upon the broadest disclosure category, and permit the Board of Neighborhood Commissioners, as opposed to the City Council, to adopt a Conflict of Interest Code for each Neighborhood Council that accurately and fairly fits their needs.

Therefore, the Department of Neighborhood Empowerment requests that the City Council determine that for purposes of conflict of interest codes required by the California Political Reform Act, the positions (such as member of the governing board, executive director, or other position) within the City's certified Neighborhood Councils be designated positions of the conflict of interest code of the Department of Neighborhood Empowerment.

Rules, Elections &
Community Development

DEC 19 2002