

CITY OF LOS ANGELES

CALIFORNIA



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JUNE LAGMAY
City Clerk

HOLLY L. WOLCOTT
Executive Officer

November 4, 2010

To All Interested Parties:

The City Council adopted the action(s), as attached, under Council file

No. 08-1967, at its meeting held November 2, 2010.



City Clerk
kw

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your **RULES AND ELECTIONS and ENERGY AND ENVIRONMENT
Committees**

report as follows:

RULES AND ELECTIONS and ENERGY AND ENVIRONMENT COMMITTEES' REPORT relative to proposed ballot measure or measures for Los Angeles Department of Water and Power (LADWP) governance and oversight reforms.

Recommendations for Council action:

1. REQUEST the City Attorney, with the assistance of the City Administrative Officer (CAO) and Chief Legislative Analyst (CLA), as necessary, to prepare a ballot title and resolution that would place on the March 2011 ballot a measure regarding reform of the LADWP Board composition that includes:

- a. **Option 1 (Perry – voted No; Garcetti , Hahn - voted Yes)**

- 1) Establish that the Board will consist of seven members.
- 2) Maintain that Commissioners are appointed by the Mayor and confirmed by the Council.
- 3) Establish the term of each Board Commissioner at 3 years instead of the existing 5 years.
- 4) Provide that other timelines for the Mayor to appoint and the Council to confirm Commissioners remain unchanged.
- 5) Maintain that the Council, by a two-thirds vote, may overturn the Mayor's removal of a Commissioner.
- 6) Provide that a Commissioner may be removed by a two-thirds vote of the Council, and a replacement must be nominated by the Mayor with the same expertise as the Board Member being removed.

or

- b. **Option 2 (Perry - voted Yes; Garcetti, Hahn - voted No)**

- 1) Establish that the Board will consist of seven members; three Board Commissioner appointments to the Mayor; three Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to the Mayor and the Council President on a rotating term/basis.
- 2) Maintain that all Board Commissioner appointments be confirmed by the Council.

- 3) Establish the term of each Board Commissioner at 3 years instead of the existing 5 years to facilitate the sharing of appointment authority between the Mayor and Council.
 - 4) Upon a vacancy on the Board, maintain the existing 45 day threshold for the Mayor to appoint a Board Commissioner, and the Council to confirm, yet expanded to include the Council President's appointments including subsequent related provisions.
 - 5) Establish that if either the Mayor or the Council President fails to submit a Board appointment within the 45 day threshold, the other appointing authority obtains the privilege to make that appointment – with final appointment authority resting with the Council if both the Mayor and Council President fail to appoint.
 - 6) Establish that each appointing authority may remove their respective Board appointees.
 - 7) Maintain that the Council, by a two-thirds vote, may overturn any removal of a Commissioner.
- c. Language that would set 0.1 percent annually of the LADWP budget for the Ratepayer/Inspector General office budget.

2. INSTRUCT the CLA to report to Council with:

- a. Proposed language with a process how Board members are appointed to the seven member board.
- b. Qualification list for Board members.
- c. Proposed language indicating how Board members are composed by category.
- d. How many members will be required to have expertise or certain background.
- e. Requiring four of the seven members to have qualified backgrounds (**Garcetti, Hahn – voted Yes; Perry, Alarcon – voted No**)

3. REQUEST the City Attorney, with the assistance of the CAO and CLA, as necessary, to prepare a ballot title and resolution that would place on the March 2011 ballot a measure regarding the creation of an Inspector General/Ratepayer Advocate that includes the following:

- a. Language asking voters "Shall the City of Los Angeles create an Office of Public Accountability that will include a Ratepayer Advocate and Inspector General?"
- b. The Office would have the authority to audit and review programs at the LADWP, investigate complaints of abuse, fraud, or waste of LADWP resources, recommend policies or actions to promote efficiency and effectiveness at the LADWP, and provide independent analysis of internal LADWP actions.
- c. Grant the Office unrestricted access to all LADWP records, reports, audits, files, correspondence, and data, prompt access to any member of the Board or any officer, employee, or contractor of the LADWP as necessary.

- d. Require the Office to make regular periodic reports on operating at the LADWP
 - e. Require the Office to make its reports publicly available.
 - f. Require that the office include a Ratepayer Advocate component that would review and analyze proposed actions, including both costs associated with those actions and the impacts on the City's renewable programs and goals.
 - g. Require the Ratepayer Advocate component to provide information and publicly accessible recommendations to the Board, the Council, and the Mayor to assist them in reviewing rate actions.
 - h. Require the Ratepayer Advocate component to facilitate consumer protections by granting it the authority to receive complaints or information from ratepayers that are dissatisfied with the results of existing LADWP customer service, investigate those complaints to determine merit, and to propose recommendations to the Board on resolving those issues.
 - i. Require the CAO to annually determine the budget for the Office of the Inspector General, with budget at least 0.1 percent of LADWP's operating budget.
 - j. Require the LADWP to fund the Office of the Inspector General at the level recommended by the CAO.
4. REQUEST the City Attorney, with the assistance of the CAO and CLA as necessary, to prepare a ballot title and resolution that would place on the March 2011 ballot a measure regarding removal of the LADWP General Manager that includes:
- a. To initiate Council removal of the LADWP General Manager, require Council, by a two-thirds vote, to determine that it will hold a hearing on the removal of the LADWP General Manager at a future meeting.
 - b. Require the Council to then give at least 10 days notice before that hearing to the General Manager of the LADWP, the Board and the Mayor.
 - c. Require the General Manager, Board and the Mayor to provide comment on the performance of the General Manager, at that hearing.
 - d. Require removal of the General Manager to then be subject to a two-thirds vote of the Council at that hearing.
5. REQUEST the City Attorney, with the assistance of the CAO and CLA as necessary, to prepare a ballot title and resolution that would place on the March 2011 ballot a measure regarding reform of the LADWP budget schedule and requiring transmittal of the LADWP budget to the City that:
- a. Mandates that the LADWP submit its budget to the Council no later than March 31st of each year, with the understanding that final revenue figures and estimates such as water availability estimates and costs will continue to be refined through May of each year.
 - b. Defines the term "surplus" in the context of the Annual LADWP Power Revenue Fund transfer be based on the balance that existed in that fund on June 30th of the prior year. **(Alarcon voted No)**

Fiscal Impact Statement: Neither the CAO nor the CLA has completed a financial analysis of this report.

Community Impact Statement: Yes,

Greater Valley Glen Neighborhood Council
Studio City Neighborhood Council
West Hills Neighborhood Council

SUMMARY

On April 13th, 2010, the Energy and the Environment Committee heard a report from the Chief Legislative Analyst (CLA) and the City Administrative Officer (CAO) on a variety of Motions on reforming the governance of the Los Angeles Department of Water and Power (LADWP). Those Motions proposed the creation of an Ombudsperson / Ratepayer Advocate / Inspector General position (CFs 08-1967, 08-1967-S1, and 09-2544). The Committee instructed the CLA and CAO to review and assess all Motions on LADWP reform, and report to the Council with a comprehensive proposal that addresses governance, oversight and transparency objectives associated with the administration of the LADWP.

On August 10th, 2010, the City Council (Council) adopted Motion (Garcetti – Smith – Perry – Huizar – LaBonge – Reyes – Koretz) (CF 08-1967-S2) which requested the City Attorney, CLA, and the CAO to report on a proposal to create a Ratepayer Advocate for the LADWP, and to begin the process for placing a proposal on the March 2011 ballot. Council also instructed the CLA and CAO to make recommendations on a process for public input regarding the creation and role of the Ratepayer Advocate.

Subsequently, the Energy and Environment and Rules and Elections Committees jointly held a series of 6 evening meetings at various locations throughout the City on reform of the LADWP, and invited input from City residents and ratepayers on proposals to reform the LADWP, what should be changed at the LADWP, and how to go about making those changes.

The following are the recommendations of the CLA:

Reform of LADWP Board Composition:

- Maintain that Commissioners are appointed by the Mayor and confirmed by the Council;
- Establish the term of each Board Commissioner at 3 years instead of the existing 5 years;
- Provide that other timelines for the Mayor to appoint and the Council to confirm Commissioners would remain unchanged;
- Require commissioners to have certain qualifications, including expertise in water and electricity policy issues, experience in the fields of business, commerce, or customer service, or experience in environmental policy, and consider having one member appointed from a list of three nominees submitted by the Neighborhood Councils;

- Maintain that the Council, by a two-thirds vote, may overturn the Mayor's removal of a Commissioner; and
- Provide that a Commissioner may be removed by a two-thirds vote of the Council, and a replacement must be nominated by the Mayor with the same expertise as the Board Member being removed.

---OR---

- Designate two Board Commissioner appointments to the Mayor; designate two Board Commissioner appointments to the Council President; and designate one Board Commissioner appointment to the Mayor and the Council President on a rotating term/basis;
- Maintain that all Board Commissioner appointments be confirmed by the Council;
- Establish the term of each Board Commissioner at 3 years instead of the existing 5 years to facilitate the sharing of appointment authority between the Mayor and Council;
- Upon a vacancy on the Board, maintain the existing 45 day threshold for the Mayor to appoint a Board Commissioner, and the Council to confirm, yet expanded to include the Council President's appointments including subsequent related provisions;
- Establish that if either the Mayor or the Council President fails to submit a Board appointment within the 45 day threshold, that the other appointing authority obtains the privilege to make that appointment – with final appointment authority resting with the Council if both the Mayor and Council President fail to appoint;
- Establish that each appointing authority may remove their respective Board appointees; and
- Maintain that the Council, by a two-thirds vote, may overturn any removal of a Commissioner.

Creation of an Inspector General/Ratepayer Advocate

- The individual in charge shall be appointed by the Board and confirmed by the Council and the Mayor;
- The Office would have the authority to audit and review programs at the LADWP, investigate complaints of abuse, fraud, or waste of LADWP resources, recommend policies or actions to promote efficiency and effectiveness at the LADWP, and provide independent analyses of internal LADWP actions;
- Grant the Office unrestricted access to all LADWP records, reports, audits, files, correspondence, and data, prompt access to any member of the Board or any officer, employee, or contractor of the LADWP, as necessary;
- Require the Office to make its reports publicly available;
- Require that the office include a Ratepayer Advocate component that would review and analyze proposed rate actions, including both costs associated with those actions and the impacts on the City's renewable programs and goals;

- Require the Ratepayer Advocate component to provide information and publicly accessible recommendations to the Board, the Council, and the Mayor to assist them in reviewing rate actions;
- Require the Ratepayer Advocate component to facilitate consumer protection by granting it the authority to receive complaints or information from ratepayers that are dissatisfied with the results of existing LADWP customer service, investigate those complaints to determine merit, and to propose recommendations to the Board on resolving those issues.
- Require the CAO to annually determine the budget for the Office of the Inspector General; and
- Require the LADWP to fund the Office of the Inspector General at the level recommended by the CAO.

Removal of the LADWP General Manager

- To initiate Council removal of the LADWP General Manager, require the Council, by a two-thirds vote, to determine that it will hold a hearing on the removal of the LADWP General Manager at a future meeting;
- Require the Council to then give at least 10 days notice before that hearing to the General Manager of the LADWP, the Board, and the Mayor;
- Require the General Manager, Board, and Mayor to then provide comment on the performance of the General Manager at that hearing; and
- Require removal of the General Manager to then be subject to a two-thirds vote of the Council at that hearing.

Reform LADWP Budget Schedule, and Require Transmittal of Budget to City

- Mandate submittal of the LADWP budget to the Council no later than March 31 of each year, with the understanding that final revenue figures and other estimates such as water availability estimates and costs will continue to be refined through May.
- Define the term "surplus" in the context of the annual LADWP Power Revenue Fund transfer to be based on the balance that existed in that fund on June 30th of the prior year.

The Rules and Elections and Energy and Environment Committees on October 27, 2010 recommended to approve the CLA's recommendations as amended during discussion and now forward the matter to the Council for its consideration.

Respectfully submitted,

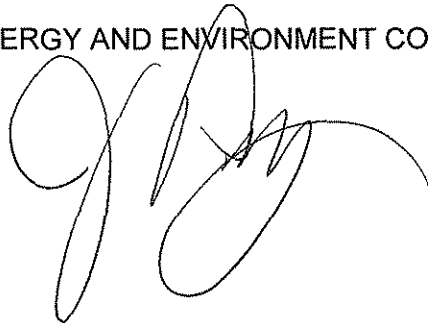
RULES AND ELECTIONS COMMITTEE



<u>MEMBER</u>	<u>VOTE</u>
GARCETTI	YES
HAHN	YES
WESSON	ABSENT

Respectfully submitted,

ENERGY AND ENVIRONMENT COMMITTEE



<u>MEMBER</u>	<u>VOTE</u>
PERRY	YES
CARDENAS	ABSENT
ALARCON	YES
KORETZ	YES
KREKORIAN	YES

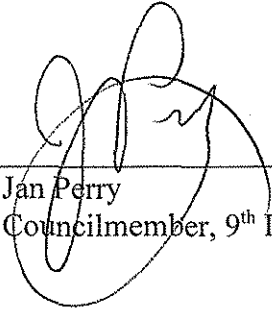
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Not Official Until Council Acts

ADOPTED
** AS Amended*
NOV 02 2010
See Attached Minutes
LOS ANGELES CITY COUNCIL

MOTION

I MOVE that Rules and Elections and Energy and Environment Committee's Report relative to proposed ballot measure or measures for the Los Angeles Department of Water and Power governance and oversight reforms, Item No. 9 on today's Council Agenda, BE AMENDED to delete the provision that requires the budget of the Office of Public Accountability (OPA) to be set at a minimum of one-tenth-of-one-percent of annual LADWP revenues, and instead require the CAO, in consultation with the LADWP and other departments and necessary, to prepare the budget for the OPA for the fiscal year beginning on July 1 of the following calendar year, and submit it to the City Council for approval.

PRESENTED BY: 
Jan Perry
Councilmember, 9th District

SECONDED BY: 

ORIGINAL

NOV 2 2010

ADOPTED
NOV 02 2010
LOS ANGELES CITY COUNCIL



MOTION

I HERBY MOVE that Council INSTRUCT the Chief Legislative Analyst to include in the implementing ordinance that the composition of the board members will consist of a business ratepayer advocate, a residential ratepayer advocate, a consumer advocate and an environmental advocate, each of the four to be selected by the Mayor, City Council, and the Neighborhood Councils, forming a body of 12 members, which would then select a nominee for the Ratepayer Advocate/Inspector General, subject to the Council's approval.

PRESENTED BY _____
PAUL KREKORIAN
Councilmember, 2nd District

PRESENTED BY _____
ERIC GARCETTI
Councilmember, 13th District

November 2, 2010

CF 08-1967

ADOPTED

NOV 02 2010

LOS ANGELES CITY COUNCIL

MOTION

I HERBY MOVE that Council REQUEST the City Attorney, should the Ratepayer Advocate/Inspector General process go forward, to provide an opinion whether the definition of Neighborhood Councils would change from being advisory to having authority which would then define them in an elected category, which would change their ethics reporting requirement.

PRESENTED BY _____

RICHARD ALARCON
Councilmember, 7th District

PRESENTED BY _____

ERIC GARCETTI
Councilmember, 13th District

November 2, 2010

CF 08-1967a.mot

ADOPTED

NOV 02 2010

LOS ANGELES CITY COUNCIL