


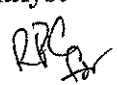
CITY OF LOS ANGELES
 INTER-DEPARTMENTAL CORRESPONDENCE

Date: 4/13/2010
 Submitted in E+E Committee
 Council File No: _____
 Item No.: 678
 Deputy: Communication from CLA+CAO

Date: April, 13th, 2010

To: Energy and Environment Committee

From: Gerry F. Miller 
 Chief Legislative Analyst

Miguel A. Santana 
 City Administrative Officer

Subject: Ombudsperson/Ratepayer Advocate/Inspector General for the
 Department of Water and Power and Related Matters

SUMMARY

On December 15th, 2009, the Energy and Environment Committee instructed/requested the City Administrative Officer (CAO), the Chief Legislative Analyst (CLA), the City Attorney and the Department of Water and Power (DWP) to report to the Committee on potential options that can be pursued by the City to implement an independent oversight/monitoring entity for the DWP.

As part of this review, the Committee requested that these Departments review key elements from three Motions (CF 08-1967, Ombudsperson; CF 08-1967-S1, Ratepayer Advocate; CF 09-2544, Inspector General) in order to appropriately determine practical oversight responsibilities.

In late March 2010, the Council engaged in a policy conflict with the DWP's Board of Water and Power Commissioners over the adoption of an Energy Cost Adjustment Factor (ECAAF) Cap Modification. This conflict has resulted in the balance of the City's Power Revenue Transfer being delayed and concerns about its impact on the City's budget.

Given this situation, a series of governance reform Motions aimed at the DWP were introduced by the Council on April 7th, 2010. The Motions seek to address a myriad of issues associated with the City's governance, oversight and personnel administration of the DWP.

The policy intent of these Motions are similar in nature to the Ombudsperson/Ratepayer Advocate/Inspector General Motions as they seek greater oversight and transparency of

the DWP. As a result, our Offices are recommending that the Motions be reviewed collectively in order to report back on a comprehensive approach to address DWP governance and oversight matters.

Motions: Ombudsperson/Ratepayer Advocate/Inspector General

Ombudsperson

The Motion (CF 08-1967, Huizar - Alarcon) requests the DWP to establish a fully independent ombudsperson position to provide independent analysis on future proposals for rate increases. In addition, the Motion requests that the position be tasked with tracking initiatives to increase the number of participants in the DWP's discount programs.

The Motion further states that there is a need for better tracking of future rate increases and how is the Department reaching out to its low income, senior and disabled customers to determine if they qualify for any of its discount programs. It follows that this type of review should be conducted by someone who is perceived as being impartial and unbiased.

Ratepayer Advocate

The second Motion (CF 08-1967-S1, Garcetti - Perry, et al) requests the CLA, the CAO, in conjunction with the City Attorney, to report on the implementation of a Ratepayer Advocate position reporting to the Board of Water and Power Commissioners, the Council and the Office of the Mayor.

The Motion also requests the City Attorney to provide input on whether a Charter amendment is required to effectively implement this program.

It follows that the DWP is at a critical point in its history as energy and water rates, procurement and infrastructure needs have increased. The Motion states that there is a lack of transparency and responsiveness by the DWP which has left customers disenfranchised. The Motion then justifies that many publicly-owned utilities bridge gaps to its customers through an Office or Position of Ratepayer Advocate.

Inspector General

The third Motion (CF 09-2544, Smith - Garcetti - Perry) requests the CAO, CLA and the City Attorney to report on the feasibility of creating an Inspector General position to independently review and report on the operations and management actions of the DWP. The Motion also requests the Departments to review the establishment/role and effectiveness of the following:

- State's Division of Ratepayer Advocates;
- Inspector General in the Police Department and the Los Angeles County Sheriff's Department;
- References to an Inspector General for Water matters in the original City Charter.

This Motion justifies that this review is necessary since recent controversial issues have raised numerous questions about the DWP's management and its handling of critical situations. For example, the use of public funds, the deterioration of infrastructure and the cost of the renewables program have strained the public's trust.

In order to regain the public's confidence, the Motions states that transparency and independent review of the Department's operations and administration should be facilitated.

Given this, it concludes that an Inspector General should be established within the DWP that has unfettered access to all records, personnel meetings, key documents and contracts. The Inspector General should report findings directly to the public without interference from the Department's Board of Water and Power Commissioners, the Office of the Mayor and the Council.

In reviewing the three distinct Motions, common DWP oversight components are observed:

- Providing neutral analysis on rate proposals, rate modifications and operations and management actions;
- Maintaining access to key records and information;
- Reporting information/findings jointly, in a transparent manner, to the public, Board of Water and Power Commissioners, Council and Office of the Mayor.

Given these commonalities, one independent oversight/monitoring entity may be created that addresses all of these responsibilities.

However, if there is a desire to pursue more than one position with distinct duties, this may be equally pursued. For example, the Council may wish to implement a Ratepayer Advocate with the primary task of reviewing and assessing DWP rate actions on behalf of Department's ratepayers. Furthermore, the Council may wish to maintain an Inspector General position for the Department with the responsibility of investigating and monitoring the Department's operations and management actions.

The function of this position(s) should be determined by the specific oversight objectives that the Council chooses to implement.

Recent Motions

On March 26th, 2010, the Council disapproved the Board of Water and Power Commissioner's proposed Energy Cost Adjustment Factor (ECAAF) Cap Modification proposal adopted on March 18th, 2010. The Council, concerned about the proposal's rate impact, advised that it would meet on March 30th, 2010 to consider alternative options for the Board to consider.

The Council met on March 30th and approved an alternative ECAF rate proposal and urged the Board to follow suit. The following day, March 31st, 2010, the Board met and adopted an ECAF proposal that was not consistent with the Council's action. The Council subsequently asserted jurisdiction over the Board's latest proposal and disapproved it; thereby forgoing an ECAF rate adjustment for the April 1st quarter.

The ensuing conflict has also resulted in the Department withholding the City's remaining balance of the Power Revenue Transfer in the amount of \$73.5 million. The DWP management and the Board claimed that it could not supply the Transfer without the rate increase; as it was needed to provide the Department the necessary liquidity to support the Transfer.

This situation has resulted in great concern and dismay by the Council and the public as miscommunication between the Department and City has persisted.

Given this, on April 7th, 2010, a series of DWP governance reform Motions were introduced by the Council. The Motions seek to address a myriad of issues associated with the governance, oversight and personnel administration of the DWP.

To summarize, the Motions seek to:

Prepare a Ballot Measure to:

- 1) Restructure the membership of the Board of Water and Power Commissioners by granting the Council appointment authority and related matters (CF 10-0586, Smith – Perry - Parks, et al);
- 2) Grant the Council authority to review and consider the DWP's annual budget, with the concurrence of the Mayor (CF 10-0587, Smith – Perry – Parks, et al);
- 3) Grant the Council authority to review and consider all DWP rate increases, including ECAF and other pass-through rate adjustments (CF 10-0585, Perry – Smith – Parks, et al);
- 4) Obtain wage parity between the categories of employees of the DWP with categories of employees of City non-proprietary departments (CF 10-0584, Smith - Parks - Zine);
- 5) Grant the Council authority to remove any member of the Board of Water and Power Commissioners by a two thirds vote (CF 10-0583, Smith - Perry);
- 6) Grant the Council authority to remove the General Manager of the DWP by a two thirds vote (CF 10-0582, Smith - Perry); and

Instruct/Request the CAO, Personnel Department and the City Attorney to:

- 7) Report on the feasibility of establishing new vesting requirements for City employees that transfer to the DWP (CF 10-0581, Smith – Parks – Zine).

Discussion

The policy intent of the Ombudsperson/Ratepayer/Inspector General Motions are similar in nature to the recently introduced DWP governance reform Motions. The majority of these Motions seek to implement structural reforms that expand oversight and transparency of the DWP to allow the Council and citizens and ratepayers greater say over the Department’s administration and operations.

The recent concerns raised by citizens, citizen groups, elected officials, business organizations/groups, and the media confirm the need for a comprehensive and cohesive proposal which can address the myriad of issues that have arisen and while also establishing a plan for the future of the electric energy system in the City. Additionally, the proposal must be consistent with the City Charter’s requirement for the City Council to be the City’s ultimate ratepayer advocate. Further, because these very complex issues are so interrelated it would not be possible to develop a comprehensive solution to only one issue.

We believe that the CAO and the CLA, with the assistance of the City Attorney, and an independent third party expert, including impacted City Departments should be directed to review and assess the specified governance reform Motions including the Ombudsperson/Ratepayer Advocate/Inspector General Motions; and report to the Council with a comprehensive approach and proposal to address the current and future needs of the electric energy consumer, elected officials, and the DWP in the City.

RECOMMENDATION:

That the Council INSTRUCT/REQUEST the City Administrative Officer, the Chief Legislative Analyst and the City Attorney, including impacted City Departments, to review and assess the following Motions and report to the Council in 45 days with a comprehensive proposal that addresses governance, oversight and transparency objectives associated with the administration of the Department of Water and Power; Motions as follows and as attached:

- 1) CF 08-1967;
- 2) CF 08-1967-S1;
- 3) CF 09-2544;
- 4) CF 10-0586;
- 5) CF 10-0587;
- 6) CF 10-0585;
- 7) CF 10-0584;
- 8) CF 10-0583;
- 9) CF 10-0582; and
- 10) CF 10-0581.

MOTION ENERGY & ENVIRONMENT

JUL 23 2008

The recent news about the large number of DWP customers (358,374 or one-fourth of the 1.4 million the utility serves) that had overdue bills in May underlines the financial difficulties that many Angelenos are facing. This news of a 13 percent increase in unpaid bills comes before the recently passed higher water and power rates take effect.

At the same time that the water and power rate increases were approved by Council, the low income subsidy was increased from 15 to 20 percent. While this is good news for the 87,500 customers currently enrolled in the Low Income Discount Rate Program, this group represents a tiny fraction of those families whose income qualified them to take part.

DWP has proposed a plan to increase the number of participants in the Low Income Discount Rate Program, which at its peak reached 200,000 customers before a 1998 audit by the Controller's office led to a purging of people from the list who made more than the maximum allowed income. This issue will be heard in committee soon.

There is a need for better tracking of the progress on issues such as the need for future rate increases and how the department is doing reaching out to its low income, senior and disabled customers to see if they qualify for any of its discount programs. Ideally, this would be done by someone who is perceived by all parties as being impartial and unbiased.

The California regulatory agency that governs investor-owned utilities has independent consumer positions known as the Division of Ratepayer Advocates (DRAs). Their statutory mission is to obtain the lowest possible rate for service consistent with reliable and safe service levels. DRAs also help ensure consumer and environmental protections.

Many newspapers have an ombudsperson on staff to review their news coverage and provide analysis and occasional critiques. The Police Department has an Inspector General to look independently at police policies and procedures in an attempt to ensure they are optimal. The time has arrived for the Department of Water and Power to follow suit.

I THEREFORE MOVE that the Department of Water and Power be requested to establish a fully independent ombudsperson position to provide independent and neutral analysis on future proposals for rate increases and rate restructurings, as well as to track initiatives to increase the number of participants in the department's discount programs so that members of the community and City leadership can be best informed of all relevant issues.

PRESENTED BY: *Jose Huizar*
JOSE HUIZAR
Councilmember, 14th District

SECONDED BY: *Richard Alarcon*

JUL 23 2008

08-1967

JCP

08-1967-S1

OCT 16 2009

MOTION

ENERGY & ENVIRONMENT

The Los Angeles Department of Water and Power (LADWP) is at a critical point in their history. LADWP rates, costs of water and energy procurement and infrastructure needs have increased. While LADWP has taken some measures to improve efficiency and spur conservation, often in the form of rate increases, their lack of responsiveness to customers and providing transparency has made these attempts ineffective and left customers disenfranchised.


Additionally, more than two years ago, LADWP embarked on a program to invest in power system infrastructure replacement and upgrades to prevent power outages. That plan lacked customer and community input, or a focus on reduction in consumption. Without a new partnership with customers, LADWP will not be able to effectively implement energy efficient measures to reduce consumption.

Many publicly owned utilities bridge the gap between the utility and its customers through an Office or Position of Ratepayer Advocate. Community leaders in Los Angeles have been advocating for such a position for some time. It is critical that the City review the best practices of this position and present options for the Council to consider. In this manner the City can effectively create a role for customers to have a voice at LADWP.

I THEREFORE MOVE that the City Legislative Analyst and the City Administrative Officer, in conjunction with the City Attorney, report to the Energy and Environment Committee within thirty days on a proposal to implement a Ratepayer Advocate position, consisting of independent staff, reporting directly to the LADWP Board of Water and Power Commissioners, the City Council and the Office of the Mayor.

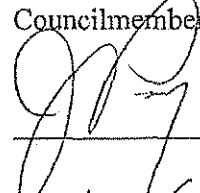

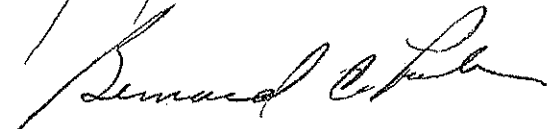
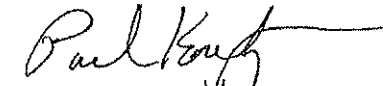
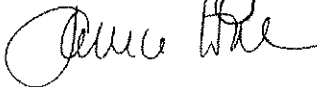
I FURTHER MOVE that the City Attorney be requested to provide input on whether a Charter amendment is required to effectively implement such a program.

PRESENTED BY:


ERIC GARCETTI
Councilmember 13th District

SECONDED BY:




OCT 16 2009

09-2544

MOTION

ENERGY & ENVIRONMENT

OCT 14 2009

Over the course of the past year, the Department of Water and Power (DWP) has faced a variety of issues that have impacted the City and brought concern to its residents. Areas of concern have included the ongoing deterioration of the DWP's infrastructure and the use of public funds to upgrade and maintain it. This issue is also linked to the decline of sufficient operations and maintenance resources to support it.

To address these matters, the Department has sought base rate increases, however these efforts have been stifled by a lack of transparency as to how the funds will be spent and when improvements will be made.

The DWP's renewables program has also placed significant pressure on the Department as it has sought pass-through increases to support its implementation and commensurate power purchase agreements. The Council recently stalled an electric pass-through increase designed to provide funding for renewable efforts. The Council requested that the Department conduct further reviews of the matter and assess the total impact of renewable efforts before it returns with a proposal.

Additionally, the DWP recently granted a questionable consulting contract to the former General Manager of the Department. The contract is intended to run through the end of the year in exchange for the former executive's institutional knowledge. The former executive served as General Manager for approximately two years.

These issues, and others like them, have raised numerous questions about the DWP's management and its handling of critical situations. Its actions have strained the public's trust. In order to regain the public's confidence, transparency and independent review of the Department's infrastructure implementation, operations and maintenance administration, rates and rate restructuring, renewables implementation and contracting, should be facilitated.

To achieve this, an independent entity such as an Inspector General should be established within the DWP. The Inspector General should have complete and unfettered access to all records, personnel meetings, key documents and contracts at all times. The Inspector General should report findings directly to the public without interference from the Department's Board of Water and Power Commissioners, the Office of the Mayor, the City Council, including special interest groups and Neighborhood Councils.

The position should also be empowered with the ability to assemble an independent review panel of experts to review critical and controversial matters. Furthermore, to facilitate the Inspector General's access to information, the position should have an office within the DWP's headquarters, the John Ferraro Building.

The implementation of an Inspector General position would be consistent with the City Council's action in 2004 requiring all DWP rate increase proposals to undergo a revenue requirements review by an independent third party. The City Council enacted this provision to ensure transparency in the DWP's rate-making process.

By creating an Inspector General position to focus on the DWP and empowering it to have access to vital information, the DWP's entire operations will become more transparent and the public's trust will be fully restored.

I THEREFORE MOVE that the City Administrative Officer, Chief Legislative Analyst and the City Attorney, report in 45 days on the feasibility of creating an Inspector General position to independently review and report on the operations and management actions of the Department of Water and Power.

I FURTHER MOVE that as part of this review, these Departments review the establishment/role and effectiveness of the following:

- State's Division of Ratepayer Advocates;
- Inspector General in the Police Department and the Los Angeles County Sheriff's Department;
- The original City Charter and references to an Inspector General for Water matters.

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OCT 14 2009
OCT 14 2009
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PRESENTED BY:

[Handwritten signature]
GREIG SMITH
Councilmember, 12th District

SECONDED BY:

[Handwritten signature]

10-0586

MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DWP.

I THEREFORE MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure to restructure the membership of the Board of Water and Power Commissioners as follows:

Two members shall be appointed by the Mayor at least one of whom shall have experience in the power and water utility industry;

One member to be elected by the Congress of Neighborhoods;


Two members shall be appointed by the City Council, at least one of whom shall have experience in the field of business, commerce and customer service.

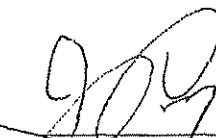
I FURTHER MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be requested to report on existing Charter requirements relative to the backgrounds of City Commission appointees.

I FURTHER MOVE that the Chief Legislative Analyst be directed to report with a study of other governance models for comparison purposes.

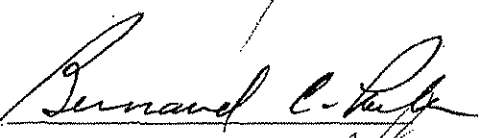
I FURTHER MOVE that upon the establishment of an Inspector General position / function in the Department of Water and Power, the Inspector General should be tasked with working with the Board of Water and Power Commissioners to look at other governance models which build consensus.

PRESENTED BY:


GREG SMITH
Councilman, 12th District



JAN PERRY
Councilwoman, 9th District

SECONDED BY:




Paul Kekoria


Don


April 7, 2010

ORIGINAL


10-0587


MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the ~~DPW.~~ DWP.

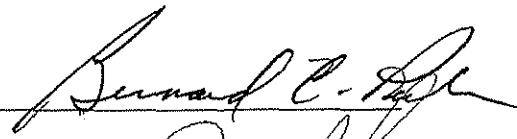
I THEREFORE MOVE that the City Attorney with the assistance of the City Administrative Officer, and the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure to provide that the annual budget of the Department of Water and Power shall be adopted by the City Council with the concurrence of the Mayor.

PRESENTED BY:


GREIG SMITH
Councilman, 12th District


JAN PERRY
Councilwoman, 9th District

SECONDED BY:





Tony Cairns

Paul Kerkorian

April 7, 2010




ORIGINAL


10-0585

MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW.

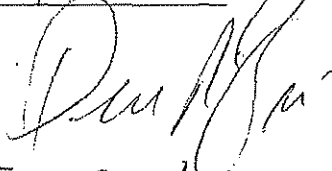

I THEREFORE MOVE that the City Attorney with the assistance of the City Administrative Officer and the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure which would provide that all rate increases, including Energy Cost Adjustment Factor and all pass-through rate adjustments, to be paid by ratepayers shall be approved by the City Council.

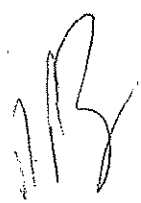
PRESENTED BY: 
JAN PERRY
Councilwoman, 9th District


GREIG SMITH
Councilman, 12th District

SECONDED BY: 

April 7, 2010


Tony Cairns

Paul Kukonin



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10-0584

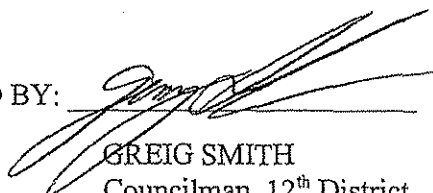
ENERGY & ENVIRONMENT

MOTION

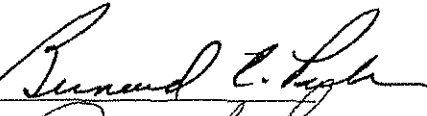
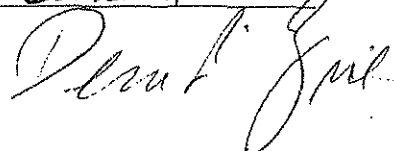
Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW.

I THEREFORE MOVE that the City Attorney with the assistance of the City Administrative Officer, the Personnel Department and the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure to provide for setting a standard to obtain wage parity between categories of employees of the Department of Water and Power with categories of employees of the City of Los Angeles.

PRESENTED BY:


GREIG SMITH
Councilman, 12th District

SECONDED BY:

APR - 7 2010



ORIGINAL

10-0583

MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW, DWP

The DWP commissioners and the general manager are equally answerable to the Mayor, and it is unreasonable to expect the Board to object to an initiative that comes from the department or directly from the Mayor's office. Last week's Board of Water and Power Commissioners vote on the Mayor's carbon surcharge was a clear example of this dynamic. The Mayor wanted the plan; and the board adopted the plan.

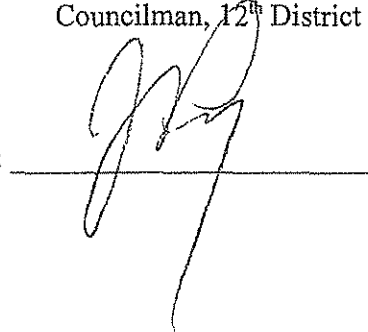
I THEREFORE MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure which would provide for the removal of any member of the Board of Water and Power Commissioners by a two thirds vote of the City Council.

PRESENTED BY:



GREIG SMITH
Councilman, 12th District

SECONDED BY:



April 7, 2010



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10-0582

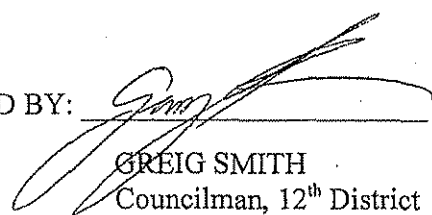
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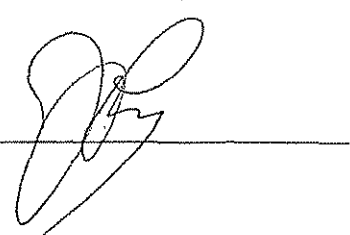
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I THEREFORE MOVE that the City Attorney with the assistance of the Chief Legislative Analyst be directed to prepare and present the documents necessary to place before the voters at the next available opportunity a ballot measure which would provide for the removal of the General Manager of the Department of Water and Power by a two thirds vote of the City Council,

PRESENTED BY:


GREIG SMITH
Councilman, 12th District

SECONDED BY:



April 7, 2010



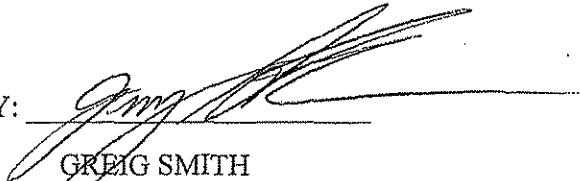
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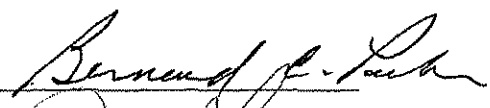

10-0581

MOTION

Recent actions and discussions involving the Department of Water and Power and specifically, the Energy Cost Adjustment Factor (ECAAF) as well as the Power Revenue Transfer have served to highlight the need for structural reforms in the governance and operations of the DPW: **DWP**

I THEREFORE MOVE that the City Administrative Officer, with the assistance of the Personnel Department and the City Attorney be directed to report on the feasibility of establishing new vesting requirements so that LACERS employees who transfer to DWP shall have their LACERS service time frozen and shall need to begin a five year vesting process in the Water and Power Employees' Retirement Plan just like any other new employee.

PRESENTED BY: 
GREG SMITH
Councilman, 12th District

SECONDED BY: 


April 7, 2010



ORIGINAL