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BONGHWAN (BH) KIM, MPA
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November 22, 2011

Council File No. 11-1018

Honorable Members of the
Los Angeles City Council
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

**REPORT RE: NEIGHBORHOOD COUNCIL SYSTEM GRIEVANCE POLICY AND
PROCESS**

Honorable Members:

As requested by your Honorable Body, the Department of Neighborhood Empowerment (Department) has prepared and now transmits for your consideration recommendations regarding a Neighborhood Council Grievance System.

Background

Currently, under the Plan for a Citywide System of Neighborhood Councils (Plan), there are two (2) ways which stakeholders can complain about a Neighborhood Council's actions: grievances and complaints. Grievances are filed with the Neighborhood Council and handled by the Neighborhood Council through the grievance procedures in their bylaws. Complaints are filed with the Department of Neighborhood Empowerment and can cause a Neighborhood Council to be placed into exhaustive efforts, which can ultimately lead to decertification by the Board of Neighborhood Commissioners (Commission).

Each year, between twenty (20) to fifty (50) grievances are filed against Neighborhood Councils. Many of these grievances then become complaints to the Department when the filer feels that the Neighborhood Council's grievance process was unfair. The Department receives complaints weekly about various Neighborhood Councils though many are never converted into formalized complaints because the Department either handles them outright or the complainant refuses to file a formal complaint.

Collaboration Process for Feedback

The Department collaborated with the Neighborhood Council regional alliances across the City to solicit feedback from Board members and stakeholders on this motion. Starting in September and continuing through the beginning of October, the Department cosponsored mini town halls with the Los Angeles Neighborhood Councils Coalition, the Harbor Alliance of Neighborhood Councils, the Valley Alliance of Neighborhood Councils, the Northeast Los Angeles Coalition, the Westside Regional Alliance of Councils and the South Los Angeles Alliance of Neighborhood Councils. Approximately, one hundred and fifty (150) Board members and stakeholders provided their feedback at the town halls. In addition, the Department created an online survey for feedback on the motion where seventeen (17) Board members and stakeholders provided detailed input. We invited Board members and stakeholders via our bi-monthly eblast to participate in the town halls, survey, blog and work group meetings.

In October, the Department held three (3) work group meetings on Regional Governance and Grievances to delve further into the details of a grievance process. Between five (5) to six (6) Board members participated in each of these work group meetings. All of the minutes for the town halls and work groups meetings were uploaded to a blog for further comments though we did not receive any.

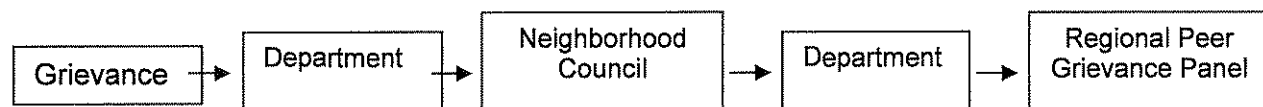
Proposals

The proposals presented here are a compilation of the feedback we received in the town halls, online survey and work group process. In addition, the Commission and the South Los Angeles Alliance of Neighborhood Councils provided their own recommendations on the grievance system, which are attached to this report for your consideration as well.

While we did receive feedback that total elimination of the grievance process through a robust elections system was the best way to handle grievances, the general input we received was that there should be some type of effective grievance system that has an appeal process, but still allows Neighborhood Councils the first opportunity to address the matter.

Based on this premise, the work group developed a regional peer grievance panel that combined the grievance and complaint process into one (1) system, which starts at the Department, and would take approximately ninety (90) days to resolve. The Department would play an administrative role in tracking and sending the grievances to the Neighborhood Council and the Regional Peer Grievance Panel as well as recording and executing final determinations or recommendations of the Regional Peer Grievance Panel.

Grievance Process Flow Chart



The Commission's recommendation adds a secondary appeal process beyond the Regional Peer Grievance Panel whereby the Commission or another neutral entity could review the grievance if the Department determined "intentional malfeasance on

the part of a Regional Grievance Panel." Once the Commission or neutral entity makes a final determination, an appeal can then be filed with the City Council as well.

The recommendation of the South Los Angeles Alliance of Neighborhood Councils keeps grievance resolution at the Neighborhood Council with the ability to appeal for review to the Commission. Any Commission review could then be appealed to the City Council, too.

A valid grievance that would be accepted for processing by the Department would have the following components:

1. Filed by a stakeholder against the Board for a procedural violation of the Neighborhood Council bylaws and/or standing rules on a grievance form identifying the rule violated and the remedy sought; and
2. Addressed an act within one hundred and twenty (120) days from the date of occurrence of a funding violation or sixty (60) days from the date of occurrence of any non-funding violations.

The work group believed if Regional Peer Grievances Panels were created, they should have the authority to make a determination which:

1. Identified what occurred and which rule was involved;
2. Recommended what action the Neighborhood Council needed to take to make a correction and also provided a time frame for the Neighborhood Council action; and
3. As an option, could state that if the Neighborhood Council did not make the correction, then the Department would then follow up with a consequence that the Panel could choose off a list of recommended consequences based on the type and severity of the grievance and how often the Neighborhood Council has acted in the same manner in the past. This list would be to ensure the same consequences citywide.

A list of proposed types of consequences was also put forth by the work group:

1. Freeze Neighborhood Council funds.
2. Financial penalty against a Neighborhood Council.
3. Reversal of Board action taken or reholding a meeting.
4. Mandatory training for the Board or a specific person.
5. Sanctions against the Board or individuals who took action in their Neighborhood Council capacity via censure, removal, suspension of Board member or of voting rights, or a warning. This authority can also include preventing Board members from running for the Board for a certain time period, too, if they are removed.
6. Facilitation/receivership of Board meetings by the Department or a mentor.
7. Required changes to the Neighborhood Council bylaws and/or standing rules to create more checks and balances.
8. Referral to the District or City Attorney for prosecution.
9. Vacating the Board.
10. Exhaustive Efforts by the Department, which could lead to decertification by the Board of Neighborhood Commissioners.

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Regional Peer Grievance Panelists could be selected by the Neighborhood Councils in a specific region and can be Board members or stakeholders. They would be trained in conflict resolution skills as well as Neighborhood Council policies and procedures. The work group also entertained the possibility that the panel could have a member of the Commission or City Councilmember staff on it. The Department and City Attorney staff should be present, too.

Implementation Costs

The current staffing of the Department cannot support the administrative function of reviewing, tracking and recording the grievances as developed by the work group, the Commission or the South Los Angeles Alliance of Neighborhood Councils. This work would require at least one Project Coordinator level position and costs associated with a web-based case management system that can process and track all grievances as well as for records retention purposes.

In addition, staffing time of the Department and the Office of the City Attorney would be necessary to prepare the changes to the Plan and ordinances for implementation.

Conclusion

Although the work group did develop detailed time lines for the grievance process, more meetings are required by the Department, Board members, Commission and the Office of the City Attorney to establish the exact type of consequences available should Neighborhood Councils not attend to grievances as well as how the existence of the Regional Peer Grievance Panels are authorized. The type of authorization would affect whether these panels would be subject to the Ralph M. Brown Act. While the Department supports fully open and transparent meetings for the Regional Peer Grievance Panels, staffing for Brown Act panels would likely not be possible at the current staffing levels.

If you have any questions regarding this matter, please contact me at (213) 485-1360. I will be available when you consider this matter in order to answer any questions you may have.

Sincerely,



BONGHWAN (BH) KIM
General Manager

Attachments

RESOLUTION

Be it resolved that the Board of Neighborhood Commissioners is endorsing and making a formal recommendation to the Department of Neighborhood Empowerment and the Los Angeles City Council related to the establishment of a standard and system-wide Grievance Policy and Process for Neighborhood Councils.

Neighborhood Council System Grievance Policy and Process

WHEREAS, Section 902 (b) Article IX of the new Charter and Section 22.805 of the Los Angeles Administrative Code provides that the Board of Neighborhood Commissioners shall be responsible for setting and overseeing policy, approving contracts and leases and promulgating rules and regulations,

WHEREAS, it is the responsibility of the Board of Neighborhood Commissioners to periodically review the citywide system of Neighborhood Councils, conduct public hearings to seek input from the various constituencies regarding various concerns, issue and problems to be addressed, and to develop policies to improve the program,

WHEREAS, the Plan for a Citywide System of Neighborhood Councils calls for Neighborhood Councils to include a grievance procedure within their bylaws, but does not provide any uniform guidelines for the implementation of a grievance procedure,

WHEREAS, at the direction of Los Angeles City Council, the Neighborhood Council Review Commission was established and charged with reviewing the system of Neighborhood Councils and to recommend changes that would improve the workings of the system,

WHEREAS, in 2007, the Neighborhood Council Review Commission transmitted to Los Angeles City Council its final report, including a proposed model for a Regional Mediation Authority Grievance and Conflict Resolution Process,

WHEREAS, the Los Angeles City Council has directed the Department of Neighborhood Empowerment to present the Council with a plan for implementing a system-wide standardized process for handling grievances,

WHEREAS, it is the intention of the Board of Neighborhood Commissioners to fully exercise its advisory role as it relates to the establishment of a standard and system-wide process for handling grievances,

NOW, THEREFORE, IT BE RESOLVED that the Board of Neighborhood Commissioners endorses and recommends that the Neighborhood Council grievance process should be standardized by City Council ordinance and should, at a minimum, include the requirements set forth herein:

BOARD OF NEIGHBORHOOD COMMISSIONERS ENDORCEMENTS AND RECOMMENDATIONS ON A STANDARD AND SYSTEM-WIDE NEIGHBORHOOD COUNCIL GREIVANCE PROCESS

Definition of a Grievance— Grievances are intended to address only those Neighborhood Council Board actions that are in violation of the official rules and regulations that govern and apply to Neighborhood Councils. Disputes by Stakeholders who simply disagree with official actions taken by the Board or have complaints against individual Board Members are not considered grievances.

Neighborhood Council Resolution of Grievances – Neighborhood Councils shall have 60 days to resolve a grievance; if a Neighborhood Council does not resolve a grievance matter within 60 days, the matter may be forwarded to a Regional Grievance Panel for final resolution; furthermore, if a Neighborhood Council fails to respond or take any actions towards the resolution of a grievance within 30 days, the matter may be forwarded to a Regional Grievance Panel for final resolution.

Establishment and Authority of Regional Grievance Panels— Grievances that cannot be resolved at the Neighborhood Council level shall be forwarded to Regional Grievance Panels who will be authorized to hear and adjudicate grievances. City Planning areas shall be used to determine the boundaries for each of the Regional Grievance Panels.

Membership of Regional Grievance Panels-- To promote system-wide inclusion, diversity and participation, each Neighborhood Council shall elect one Board Member or Stakeholder from their area to serve as the pool of representatives that will sit on the Regional Grievance Panels. No selected representative of a Regional Grievance Panel shall hear or act upon a grievance matter related to their Neighborhood Council or to the Neighborhood Council that selected them to be a Grievance Panel representative.

Training Program for Regional Grievance Panels-- A mediation and dispute resolution training program must be developed for the Regional Grievance Panel process and all representatives must complete the training before being allowed to hear or act upon a grievance matter.

Resolution Timeline for Regional Grievance Panels -- Regional Grievance Panels shall have 45 days to resolve and make a final determination on grievances filed with a Regional Grievance Panel. Regional Grievance Panels cannot hear any matters that have not first been submitted to Neighborhood Councils for resolution; Regional Grievance Panels shall not hear matters that have not gone through a grievance process at the Neighborhood Council level, unless the Neighborhood Council has failed to respond or take any action on a grievance within 30 days.

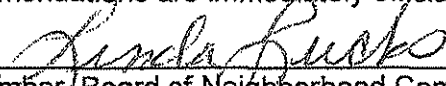
Resolution and Enforcement of Grievance Panel Findings -- The determination of the Regional Grievance Panel shall be considered final and the Department of Neighborhood Empowerment shall be given the authority to monitor and ensure that Neighborhood Councils comply with the final determination of the Regional Grievance Panel.

Role of Board of Neighborhood Commissioners -- In almost all cases, the determination of the Regional Panel shall be considered final. Appeals to the Board of Neighborhood Commissioners will only be considered upon the Department of Neighborhood Empowerment confirmation of intentional malfeasance on the part of a Regional Grievance Panel; The Department of Neighborhood Empowerment is authorized to determine whether an appeal will be forwarded to the Board of Neighborhood Commissioners and the Board of Neighborhood Commissioners reserves the right to hear or not hear appeals; The Board of Neighborhood Commissioners will be authorized to establish a third-party or process (e.g. administrative judge, mediator, ad-hoc hearing council, etc.) to hear and adjudicate the appeal on behalf of the Board of Neighborhood Commissioners based on policy guidelines approved by the Board of Neighborhood Commissioners and the City Council.

Grievance Process Bylaws Incorporation - Upon approval and adoption of a standard and system-wide Neighborhood Council grievance process, Neighborhood Councils shall have 45 days to incorporate the grievance language into their bylaws through their amendment process.

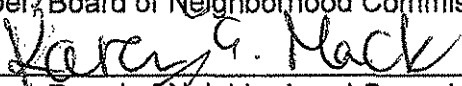
These endorsements and recommendations are immediately official upon adoption

Moved by:



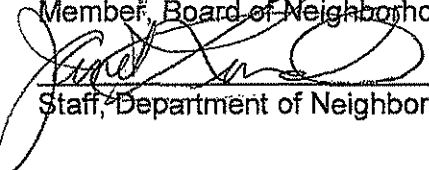
Member, Board of Neighborhood Commissioners

Seconded by:



Member, Board of Neighborhood Commissioners

Witnessed by:



Staff, Department of Neighborhood Empowerment

VOTES:

Ayes: 5

Nays: 0

DATE: 9/6/11

SOUTH LOS ANGELES ALLIANCE OF NEIGHBORHOOD COUNCILS

DRAFT NEIGHBORHOOD COUNCIL RESOLUTION

Whereas the City of Los Angeles has reduced the budget and staffing for the Department of Neighborhood Empowerment (DONE) as a result of the budget deficit, thus requiring a re-examination of the role and capacity of the department to support the more than 90 Neighborhood Councils (NCs);

Whereas there is ongoing concern for the effectiveness and efficiency of the funding system as well as lack of clear and consistent city training, policies and procedures for the operation of the neighborhood councils;

Whereas on (date) the Los Angeles City Council adopted the motion as presented by City Councilmember Paul Kerkorian of the 2nd District directing the Department of Neighborhood Empowerment, the City Attorney and various other departments to report back to the council within 90 days on:

1. A plan for the implementation of a training program for Neighborhood Council (NC) board members that covers (a) Ethics and Legal Issues; (b) Workplace Violence and Sexual Harassment; (c) Funding Program; (d) City Government Basics; (e) Parliamentary Process and (f) Community Leadership;
2. A mechanism for NCs to roll-over unspent funds at the end of a fiscal period that (a) defines the types of projects that will qualify for rollover funds; and (b) details the application and approval process; and (c) establishes deadlines to complete an approved project.
3. The feasibility of developing an electronic system for the NC Funding program that will (a) integrate purchase card and FMIS data for real time tracking of expenditures and fund balances; (b) accept electronic submission and approval of budgets, demand warrants and reconciliations; and (c) provide an interface to track and create financial statements and treasurer reports for the board.
4. A structure of governance and administration that provides greater autonomy and reduces DONE's workload for the NC including the transfer of responsibility for functions including, but not limited to, funding, elections, communication with the city, outreach, dispute resolution and training to permanent or as-needed regional authorities or bodies that operate with the oversight of DONE.
5. A plan for the implementation of a system of regional complaint panels composed of board members of various NCs from similar regions to address stakeholder and board member grievances;

Whereas the Department of Neighborhood Council has presented a series of draft policy recommendations in response to each of the motions adopted by the city council for consideration by the NCs;

Therefore be it resolved by a vote of (indicate vote count) the (insert name of NC) considered and submits the following response and recommendations to the DONE, the BONC, any workgroups tasked with developing policy recommendations and the City Council:

Training Requirements:

1. Neighborhood Councils favor ongoing and standardized training and board development to ensure capacity across the NC system. However, NC boards represent a volunteer system and as such, mandatory training should be limited to the state required Ethics training.
2. DONE should develop the capacity and utilize technology to supplement and/or provide ready access to all training areas, including, but not limited to (a) an overview of the NC Funding Program; and (b) City Government Basics.
3. DONE should develop, maintain and make readily available a written policies and procedure manual for use by NC Board members and stakeholder on (a) the NC Funding Program and Budget Process; (b) protocol for working with City agencies and departments in order to access city services; (c) Complaint and Grievance procedures; (d) Brown Act; (e) How to conduct an effective meeting; and (f) Code of Conduct and Sexual Harassment.

4. Robert's Rules of Order can be cumbersome, inefficient and create unnecessary barriers. The city should take the appropriate steps to allow Neighborhood Councils to authorize Neighborhood Councils to adopt and utilize Rosenberg Rules of Order.
5. DONE has a well-documented history of sponsoring Regional and citywide congress' which provide an efficient and effective system for training, sharing of best practices and networking. DONE should receive sufficient funding to provide at least one regional congress per region and one citywide congress per fiscal year to support the board development and training.

Reform of Funding Program:

1. The draft policy solutions proposed the adoption of a (a) grant-based funding system that pools and redistribute unspent funds at the end of each year to create a mini-grant program to which each NC could apply and compete to address system building priorities (e.g. outreach and translation); or (b) an annual funding allocation for each NC based on a set amount for administrative and operations costs only with the remaining funds held by DONE to be used for specific outreach, improvement projects and neighborhood grants through a grants based system; or (3) funding system in which each region designates an amount to be used for project specific grants which would be distributed, with the assistance of Department staff, according to criteria determined by NCs at the regional level.

A grant-based funding system will create inequities in funding given the possible variance in capacity to prepare particularly newly developed councils to compete against well-resourced councils. The funding was designed to ensure equity in the distribution of resources among the NC to fulfill their roles and responsibilities. We therefore oppose each of the options listed above and the use of a grant-based funding system.

2. The second draft policy solution would allow for the rollover of funds for physical capital improvement projects which often take longer than 1 fiscal year to complete. This is consistent with but slightly modifies the city's previous policy for the retention of savings by NCs and should not require changes to the Plan for a Citywide System of Neighborhood Councils and corresponding ordinance. We therefore support the rollover of funds for multiple fiscal year physical capacity improvement projects as an alternative to the recent "sweeping" of all unspent funds in 2010 and 2011 under the condition that NC will be allowed to substitute one project for another should, for any reason, it not prove feasible to complete the project within the subsequent fiscal year.
3. The current system for processing demand warrants, Neighborhood Purpose Grants (NPG), audit reports and other financial reporting requirements is cumbersome, inefficient, duplicative and subject to errors and loss of previously submitted documentation by a NC, particularly given the continuous turnover and reduction of city personnel. We therefore recommend the city streamline the financial reporting process and reduce the amount of paperwork through the adoption of an on-line system and database that centralizes, documents, uploads and retains the required information and supporting documentation for all demand warrants, NPG request and audit reports. Once submitted, this information should be visible to the designated NC board members and city staff and provide information to assist in tracking the payment and reconciling any discrepancies.
4. We also recommend the city: (a) assign one or more dedicated staff person to process all demand warrants; (b) update or adopt an accounting system based on modern accounting practices; and (c) update and maintain via the DONE website written procedures and criteria for the review and approval of all funding request with clear timeframes for process request.
5. Change and deviations by the city within and after the third quarter of the fiscal year to the policy and deadline for the submission of funding request has resulted in the loss of funding for needed community projects. We therefore recommend the city return to the adoption of a fixed annual deadline for

funding request. The NCs should be notified of the deadline along with the funding allocation at the start of each fiscal year. Any change to the deadline should require no less than 90 days written notice to all NC board members.

Establishment of a System of Regional Governance

1. The imposition of a formal and mandatory regional governance structure creates an additional and unnecessary level of bureaucracy. Many of the NCs have come together to form regional alliances including the NCs located within South LA. This is however a voluntary network, providing both flexibility and preserving the autonomy of each NC. We believe the regional and citywide congresses also provide a vehicle for coordination and reduce the burden on the DONE limited staff of providing direct administrative support and technical assistance to each individual NC. What is needed to support and facilitate greater collaboration and increase the coordination and efficiency between the various city departments and local NCs is greater flexibility in the ability of NC to pool funding across NC boundaries. Current city policy greatly impedes the use of NC funding for activities and services outside of the specific geographic boundaries of each NC.

We therefore **oppose the imposition of a mandatory regional governance structure** and in turn recommend the **city funding policies be revised to encourage collaboration, provide greater flexibility and permit the pooling of funding and sharing of cost across NC boundaries.**

Grievance and Complaint Procedures

1. The draft policy solutions recommends the grievances and complaint procedure be combined into one citywide regional peer grievance system. The process would be as follows: (a) grievances are filed with DONE that will be responsible for evaluating the validity based on legal criteria provided by the City Attorney within 5 days; (b) the NC will have the option of resolving the grievance first before it goes to the peer grievance panel; (c) if the Neighborhood Council declines to review the grievance or if the grievance is not resolved or is not resolved to the satisfaction of the person grieving within 30 days, the Department will forward the grievance to the regional peer grievance panel for review and development of a plan of corrective action.

Based on a determination by the City Attorney, grievances can only be about a NC violation of their bylaws or standing/operating rules and cannot be filed by Board members. We agree the distinction between grievances/complaints are unnecessary, that the current system is subject to potential conflict of interest by the seated board and any grievance should be handled swiftly, transparently and fairly. However the proposed solution is cumbersome, time consuming and inefficient. We therefore recommend:

- **The city consolidate(s) the grievance and complaint system into one system.**
- **The City Attorney issue(s) and all NC are required to adopt a standardized and consolidated grievance/complaint procedure that allows for the filing by both board members and stakeholders.**
- **All grievances should be submitted in writing to the NC board and DONE simultaneously.**
- **Each NC must make available the policy and procedure on their website, a copy at all meetings and make available upon request.**
- **The NC should have the opportunity to address each and every complaint as a first step within a specified time period.**
- **The action taken by the NC must be reported to DONE and in turn with the City Attorney to ensure the response by the board was appropriate.**
- **Should the City Attorney or person(s) filing the grievance determine the NC action was not satisfactory; the matter should then be referred to a committee of the BONC for resolution.**