

Communication from Public

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Date Submitted: 04/30/2019 01:47 PM

Council File No: 19-0600

Comments for Public Posting: Even though their responsibilities have grown and they STILL have fewer personnel than prior to the 2008 financial crisis, the commission's staff are doing a great job. Although their budget reflects a 6.9% increase, this department needs more to be effective. And its being effective will save the City significantly in the long run by stopping poor actions BEFORE they become liabilities and by cracking down and fining miscreants. I would like to reiterate the funding recommendations included in the Budget Advocate White Paper this year: * funding the promotion of key personnel in order to retain their services and institutional knowledge * adding 3 education positions including all ancillary costs * adding 2 project assistants to handle entry level audit and investigative duties as well as helping with clerical responsibilities (note that identifying existing as-needed monies as administrative support is pure window dressing) * adding 1 additional auditor including all ancillary costs – this actually is in the budget but only for 9 months - it will take 6 months to hire and train, and who with the necessary qualifications wants a job for only a few months * increasing the department's overhead budget to \$60K so they can focus on getting the work done, not quibbling over pencils. ALL POSITIONS SHOULD BE FULL TIME 12 MONTH APPOINTMENTS - I am very disappointed in the addition of an auditor for 9 months when the City's personnel department can take that long to find and hire someone. And then there will be months of training before they are fully effective. And what qualified person, as mentioned above, wants to take a job that will end just as they are getting up to speed? And just when they are most needed with all the people running in 2020!

ETHICS COMMISSION

Date of Meeting: September 6, 2018

ATTENDEES

Commission: Executive Director Heather Holt, Deputy Executive Director David Tristan

Budget Advocates: Liz Amsden, Carol Newman

What if you had a way to ensure the government of Los Angeles is working for you and you can hold its officials and actions accountable?

RECOMMENDATIONS

The Budget Advocates support the following requests of the Commission:

- Fully funding 3 education positions including all ancillary costs
- Fully funding 2 project assistants to handle entry level audit and investigative duties as well as helping with clerical responsibilities
- Fully funding 1 additional auditor including all ancillary costs
- Funding to promote key personnel in order to retain their services and institutional knowledge
- Increasing the Department's overhead budget to \$60,000

In addition, the Budget Advocates strongly recommend that the City take the following measures to enhance the Commission's budget and its ability to enforce its mandate:

- Through ordinance or Charter Amendment, making the changes necessary to allocate sufficient funds from the Matching Funds Trust Fund to cover administrative costs so that ongoing audits, claims and other staff obligations can be maintained during election periods
- Requiring every Council District to set up and maintain a page on their websites clearly showing detail of all monies received and expended in connection with the Councilmembers' discretionary funds, to increase transparency and aid the City Attorney and Commission in addressing inappropriate uses, if any
- Charging back costs of investigation, litigation and settlements to the departments and Council Districts involved, as an incentive to improve their internal oversight
- Setting appropriate penalties to ensure all departments report malfeasance to the Ethics Commission and City Attorney upon discovery, rather than waiting on internal investigation

DISCUSSION

The mandate of the Ethics Commission is to preserve the public trust by promoting elections and government decisions that are fair, transparent and accountable... to shape, administer, and enforce laws regarding governmental ethics, conflicts of interests, campaign financing and lobbying.

After wrongdoings and conflicts of interest by Los Angeles elected officials in the 1980s, City voters approved Charter Amendment H in 1990, embodied in Sections 470, 471, and 700-712 of the City Charter, creating the Ethics Commission to oversee governmental ethics, campaign financing and lobbying in the City of Los Angeles. As part of the most comprehensive package of local governmental ethics in the country, the Commission's goals are transparency, integrity, impartiality and accountability. The current leadership is emphasizing education and outreach in order to reach stakeholders, including City employees, those campaigning for City or LAUSD office, contractors, sub-contractors, lobbyists, Neighborhood Councils and others.

In addition, the Ethics Commission oversees and regulates the City of Los Angeles Matching Funds Trust Fund. The matching funds program first became effective with the 1993 elections, and is currently under review with the intent of considerably expanding the program. The Trust Fund now stands at over \$16 million, so, even with the proposed changes, it is anticipated the fund will remain fiscally sustainable at least through 2026.

Overview

The Ethics website at <https://ethics.lacity.org/> is a window to transparency in Los Angeles and a door to accountability.

The Commission has three separate but related areas of jurisdiction: campaign finance, lobbying, and governmental ethics. All three need sufficient funds to educate, advise, process disclosure statements, audit, investigate, and provide the appropriate evidence to enforce on a timely basis to provide strong deterrents to scofflaws.

Publicizing Punishment

Those being investigated quite rightly have privacy rights until claims are verified, at which point the Commission needs to expand the breadth of their press releases, publicizing the punishment of those who break laws and regulations, which is the best deterrent to others. Furthermore, wide publicity increases everyone's awareness that everybody, City employees and stakeholders alike, all are personally obligated to color within the lines themselves.

Unfortunately, this also means personnel, individuals and companies will use all possible means to draw out proceedings to avoid the fiscal impact – not only with fines but also in personal credibility and the ability to find future work.

Not only have the Ethics Commissioners worked to deter violations through increased fines by starting with the highest amount allowable, but they are also expediting prosecution by reducing penalties for early settlements. To further promote compliance, the Commission now has a Strategic Communications Division dedicated to educating the public and stakeholders.

Their award-winning new website is now up and a great source of information on all things ethics-related. The public can use it to watchdog as much as they want, and the Commission feels the best scenarios are when the public keeps them on their toes. Whistleblowers can report online or call (800) 824-4825.

Justifying the Recommendations

The education of ALL City employees and vendors *including subcontractors* so they are aware of the parameters, as well as Neighborhood Councils, anyone working with funds and donations, people running for office, Departments, all people involved with campaigns and elections as well as City personnel, both increases awareness of what constitutes inappropriate behavior throughout the system and also gives people the tools to ask about proprieties and to file complaints easily and anonymously. The Strategic Communications Division is dedicated to educating the public and stakeholders. Citizen and staff input is essential in helping the department unearth and address wrongdoing.

Over the years, more and more people have reached out to the Ethics staff to determine what they can and can't do, forestalling potential problems and saving them and the City money. The Commission's ability to move forward on certain legal proceedings against alleged violators can be delayed when criminal law enforcement agencies take control of a case.

Because there are such diverse concerns within the City, the Commission needs to be proactive and provide in-person trainings with individual departments to address their specific questions, individualize responses, demonstrate how ethics mandates relate to their work, and find creative solutions, especially in the proprietary departments and where staff has no access to computerized training. For these reasons, among others, the Commission needs additional staff to provide education.

Finally, the Commission itself takes great concern to ensure rulings are fully equitable. For instance, if developer donations are banned, should that ban also apply to other persons involved with development projects as well as some of the groups opposing them, who will now gain greater influence? How should special interest groups, such as those for and against AirBnB or bike lanes, be treated? The Commission's judicious consideration of these issues should not be taken for reluctance to deal with them. Among other things, the Commission must consider:

- (a) Will requirements create a ripple effect and further delay already slow processes in the Planning and Building and Safety Departments creating unanticipated negative outcomes?
- (b) What about free speech? When does the protection of individuals and entities curtail the free speech rights of others?
- (c) How can amendments be couched to obtain the needed approval of the City Attorney, City Council and Mayor to change the City Charter?

Given that its workload varies due to many factors, the Department has relied on short-term hires, but in the long term any savings from such hires is significantly offset by the loss of good people, the need to hire more and their training, not to mention the time all this takes away from full-time staff obligations.

There is such specialized work that nearly every hire needs significant training in one or more areas. This has even more impact when more senior people need to be replaced due to retirement, promotion, or being poached by another Department or company that offers better pay. Therefore, it is essential that steps are taken to retain and promote (into both new and

existing positions) the qualified people currently on staff. Given the importance of their work, all efforts need to be made to keep existing staff and make sure the pay competes with other employers. For instance, the Fire Department pays their internal investigators up to \$30,000 per year more than those working for the Commission.

As the 2020 elections approach where City candidates will compete with those at the County, State and Federal level as well as with propositions and County measures, the Commission has a legitimate concern that limiting contributions may lead to unintended results, as City candidates and issues may take a back seat to broader issues, and inadvertent ethical violations may occur. The 2022 election bodes to be even more expensive as all current Citywide elected officials and several current councilmembers will be termed out, which usually means a much larger field of candidates.

The Matching Funds Trust Fund provides monies for candidates but, although it requires considerable administration and significant education by the Ethics Commission, none of it can be allocated for anything other than eligible political campaigns. This can be debilitating for the Department (more so if access to Trust Funds is expanded), taking time away from audits and delaying claims. The Ethics Commission should be allocated funds from this Trust Fund to use for the Trust Fund's administration.

Furthermore, with impending replacement elections sure to attract multiple candidates, the Department needs at least one additional auditor to ensure audits are expeditiously completed following elections.

Finally, when City employees face charges and use all avenues available to avoid appropriate discipline, it can cost hundreds of thousands of dollars. The City should institute a policy holding individual Departments fiscally accountable for employee derelictions to incentivize better internal controls, and requiring them to reimburse the Ethics Commission's costs and the General Fund for any liability payments. Great care should be taken that these monies come from areas that won't affect services to the public but will hurt the offenders enough for them to take the necessary steps that it won't happen again. City Departments are generally not held accountable for their employees' transgressions, and this must be changed.

And, in all cases, if individuals are responsible then they should be held personally responsible, and not be allowed to hide behind the façade of the Department or worse yet, avoid any accountability.

Number crunching

All of the Ethics Commission's funding comes from the General Fund. Their operating budget for FY 2018-19 is \$3,286,647; of that almost \$3 million is salaries, with slightly under \$300,000 in 'contractual services' and a little under \$40,000 for office and administration. As with most City departments, monies for pensions, retirement, health coverage, utilities and building costs are listed separately, in this case almost \$1.8 million. Even though huge, this last figure is microscopic when compared to the equivalent figure for the Police and Fire Dept. benefits which exceeds \$1 billion.

Over 85% of the ‘contractual services’ each year, \$250 thousand, is designated solely for an outside prosecutor in the event there might be a conflict of interest in using City attorneys. However, these monies have rarely been tapped – only a total of \$16,000 over the past 25 years. Since this amount is designated as Ethics monies, rather than being sucked back into the General Fund, these funds should be rolled forward (i.e. a year after they are budgeted) for use in educational purposes, specifically for people considering running for office, potential staff, lobbying firms, and issue-specific groups.

The Commission regulates tens of thousands of persons, including elected officials, employees, lobbyists, candidates, contractors and others. Ethics staff process over 15,000 disclosure filings and assist with over 20,000 compliance contacts each year, numbers that continue to increase. Only the State of California’s Fair Political Practices Commission, which administers the State’s Political Reform Act regulating campaign financing, conflicts of interest, lobbying, and governmental ethics, does more than the Los Angeles City Ethics Commission (think of all those propositions and PAC donations), but their budget is almost three times greater with over three times the staff.

CONCLUSION

So why should the City Council allocate more funds to the Ethics Commission?

It’s an investment: Done properly, the Commission will save the City significant money by making examples of scofflaws and by educating all parties on correct procedures and regulations up front.

It builds trust in our elected officials: Dating back to before the establishment of the Ethics Commission, the people of Los Angeles have mistrusted those on the City Council. The more the Commission can do to reverse this trend, the more confidence stakeholders will have in those in office and those who do their bidding.

The potential exists to further curtail abuse of power by holding both the responsible Departments and individuals within them personally accountable: Increasingly, the public has voiced concerns about ethical improprieties, real or perceived, by the elected officials and City employees and influence peddling by developers and other lobbyists --all impacting decisions that affect stakeholders’ quality of life. These do not happen in a vacuum. Departments set policy and oversight procedures; people make decisions or look the other way. Real change depends on moving toward an environment of openness and accountability, and this can only be achieved by turning the spotlight on the guilty and having effective and public deterrents to set an example to deter perpetrators and educate everyone else.

This includes ensuring that fines and punishment target those actually responsible. Justice should be swift and sure. Only when Departments (or companies) are proven complicit should the City (or company) pay, and then it should be a Department cost from THEIR funds and out of budgets that do NOT affect services to stakeholders (or to customers).

Educating people at all levels on ethics laws and encouraging participation in oversight through the website should be a priority moving forward. When decisions are made with knowledge of parameters, there is far less incentive to step outside laws and regulations. And even when actions are not technically illegal, the appearance of malfeasance can have a significant impact. The City cannot risk losing the trust of the electorate.