

ITEM # 2

Public Comment on Item 2 of the agenda for the February 17, 2017 LACC Education and Neighborhoods Committee meeting.

From William Kuzmin, public stakeholder, Speaking against some aspects of the proposed Regional Grievance Panel ordinance Council File CF-15-0067.

**Summary of objections to the proposed Regional Grievance Panel Ordinance.** Additional detailed comments are attached.

- 1) **The document is not favorable to the needs and rights of the stakeholders because of unfair limitations and the restriction of free speech which would not be in compliance with the Plan for Neighborhood Councils (NC)** which mandates NCs have a Grievance procedure for the benefit of the stakeholders. The proposed ordinance seems to insulate the NCs against the public right to file legitimate grievances. The City Attorney has a conflict of interest and should not have prepared the ordinance.

**The Serial Grievances clause should be struck. It is discriminatory. It is a violation of the First Amendment Rights:** "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, **and to petition the Government for a redress of grievances.**" A stakeholder should be able to file a valid grievance anytime a board is in violation of any law or rule referenced in the NCs bylaws. **This serial limitation clause is in direct conflict with the Plan for Neighborhood council's intent to create a grievance procedure for the stakeholder. A grievance procedure is not intended to shield a NC board's improprieties from the public. It is intended to be the peoples public right to insure the boards comply with the rules.** The serial restrictions only work if you can guarantee that a board will not break another rule after the limit of 3 or 5 grievances have been filed, right? In addition the Department of Neighborhood Empowerment is severely understaffed and unable to deal with the complaints they have already received. DON is unable to provide the training and the oversight as required by the Plan for NCs. This limitation would also violate the Brown Act: (c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

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- 1) **The amount of evidence submitted with a grievance should not be limited.** All evidence submitted by the grievant should be allowed and is necessary to validate a legitimate grievance.
- 2) **The time period for filing is 30 days is too short – it does not allow for a grievant to get a copy of the NCs approved minutes and/or then make public records act requests for documentation to support the grievance. This should be changed to 60 days.**

- 3) **Alleged violations of all applicable regulations and governing laws are subject to a grievance including brown act and public records act violations.** A grievance proceeding is not a court proceeding. Therefore, no violation delineated in the NC bylaws can be dismissed from the grievance procedure. There is never a legal determination or legal consequence, the Brown Act states that compliance with a cure is not an admission of guilt. . Quote from the NC Plan: “(2) Obey any or all sections of the State of California's open meeting procedures that apply to Neighborhood Councils (Ralph M. Brown Act), which includes posting meeting notices in generally accepted public places or through electronic media, such as e-mail or posting notice on DONE's Web page.”
- 4) **The use of the word “may” creates ambiguity. Either they shall establish training or the sentence should be struck as may is an option and the ordinance should not include options.** The Plan for NCs requires DONE provide training for all DONE programs
- 5) **Standing committees are legislative bodies and are also part of the entire NC board structure as they perform functions on behalf of and for the board. Therefore they are subject to a grievance if they have violated the NC bylaws and all other governing rules and laws.**
- 6) **Many bylaws reference the individual duties of the board officers. Therefore a grievance can be filed against an individual as it relates to the NC bylaws.**
- 7) **The procedure is allowing for a board member to file a grievance against his own board. I am having trouble with this because it is like lodging a complaint against yourself. Again the grievance procedures are for the stakeholders not board members – Board member have their own procedures for dealing with issues internally as stated in their bylaws and parliamentary procedures.**

Summary: The Department of Neighborhood Empowerment is understaffed the Neighborhood Council Board members are not receiving training and oversight resulting in a multitude of procedural violations. All of them are routinely failing to comply with some aspect the Brown Act laws. This is a conclusion base on review of a majority of NC in the San Fernando valley and complaints filed over the last two years. If City Council cannot provide DONE with the resources to provide training and oversight they it may be better to consider abolishing the Neighborhood Councils. The stakeholders should not be responsible for the oversight of the NCs, but if you restrict their right to file grievances then there will be no one but the fox to watch the hen house.

Section 1 (b) replacement panelist. The Department *May* (***strike "may" and replace with "shall"***) develop mandatory training required before a panelist may serve on the Regional Grievance Panel.

(2) **Exclusions.** The Grievance process set forth in this section shall not be applicable to any of the following:

(A) An alleged violation of state or federal law; ***(if NC bylaws state compliance with the Brown Act or Public Information Act, an alleged violation of these laws is also an alleged violation of the by-laws. If a grievance includes supporting evidence of a violation of state or federal law then the grievance panel can determine if it can be addressed. A grievance panel makes recommendations on the facts. It is not a court verdict and compliance with a recommendation to cure is not admission of guilt.)***

(B) An allegation of wrongdoing by an individual member of a Neighborhood Council board or committee; ***(most NC bylaws include a description of the duties of certain board members, specifically the executive officers. For example: "The secretary is responsible for the posting of Neighborhood Council Agendas." If an agenda was not posted in compliance with the bylaws and the Secretary is the board member responsible then a grievance is specific to an individual based on the bylaws that state the individual's responsibilities. The individual who is a chair of a NC meeting has the responsibility to run the meeting in compliance with the parliamentary procedure denoted in the bylaws. If parliamentary procedure is broken by a meeting chair, it is an offense by an individual board member. Other board members as individuals may also be involved. Therefore, under some circumstances it is proper and allowable to name individuals in a grievance. The remedies section of this draft ordinance states one remedy is to remove an individual board member suggesting that a grievance can be filed against an individual.)***

(C) An allegation involving an action or inaction by a Neighborhood Council committee; ***OR (All standing committees are considered legislative bodies per the Brown Act and subject to the same standards of the parent governing board. The parent governing board is responsible for the actions of its committees or members thereof and if the committee violates the bylaws of the neighborhood council they can be named in a grievance.)***

Section 4 C -A Grievant may file no more than three Witness Statement Forms in connection with any Grievance. ***(if the grievance has multiple points the number of witness shall be limited to 3 for each alleged violation.)***

Section 5 - (5) **Time for filing a Grievance.** A Grievance must be filed within 30 days ***(this should be 60 days as the grievant may need to make PRA request to get evidence to support a grievance)*** from the date of the event giving rise to the Grievance, except that any

Grievance alleging a violation relating to Neighborhood Council funding must be filed within 90 calendar days of the date the expenditure is made.

Section 6 D 5 - The appeal must be filed with the Department within seven **(TEN)** calendar days from date of the Neighborhood Council's action on the Grievance.

Section 6 - **Serial Grievances Prohibited.** The Department shall not process more than three Grievance Forms filed by the same person in any calendar year. The Department shall not process more than five Grievance Forms filed by the same person in any three year period. The Department shall not process any Grievance relating to a previously filed Grievance, except that the Department, in its sole discretion, may coordinate and bundle the disposition of multiple Grievances relating to the same facts and circumstances as a single Grievance. ***(this is unconstitutional)***

(10) **Conduct of the Regional Grievance Panel Hearing.** The only written evidence considered at the Grievance Panel Hearing will be the Grievance Form, the Grievance Response Form and up to three Witness Statements filed by each side. ***(A grievant should be able to submit all evidence related to a grievance, photos, video, minutes, and audio recordings to support the grievance. There should be no limits on evidence that can be submitted with a grievance. Remember this policy is supposed to be for the stakeholders benefit – it should not be unfairly slanted to the benefit of the Neighborhood council boards)***

The proposed ordinance is in conflict with the advice the City Attorney gives to the NC boards when receiving a grievance. Following is the text from a NC board president dismissing items that are subject to a grievance procedure according to the proposed ordinance.

Dear Mr. Kuzmin,

This email is in response to your January 6, 2015, email and the attachments you included in your email. This response has been prepared in consultation with the Office of the City Attorney. Please note that a grievance is an allegation that the board as a body as failed to abide by its bylaws or standing rules. Grievances against individuals are not permissible. Grievances based on a violation of Robert's Rules of Order are not permissible because these issues are addressed at the time of the meeting. Grievances based on violations of State law, including the Brown Act are not permissible because State law establishes the mechanism for addressing any alleged concern. Grievances based on alleged violations of the Commission's posting policy are not permissible because the remedy is addressed by the Department of Neighborhood Empowerment, if any action is to be taken. The Neighborhood Council lacks jurisdiction to address the issues you raised. Accordingly, your grievance is dismissed and no further action will be taken regarding this matter. Thank you for your attention to this matter.

Brad Smith

President

Granada Hills South Neighborhood Council

City of Los Angeles