

Neighborhood Council Guidelines for Hosting City Candidates

Questions have arisen about the conditions under which candidates may appear at Neighborhood Council meetings. Neighborhood councils may wish to provide a forum for candidates to provide information to voters. However, there are various laws including the First and Fourteenth Amendments of the Constitution, California Penal Code §§ 424, 524 and court decisions that limit or otherwise restrict the use of public resources in relation to election matters. The California Supreme Court in *Stanson v. Mott* (1976) 17 Cal.3d 206 at 217 provided the general guiding principle prohibiting the use of public funds and resources in election matters: "A fundamental precept of this nation's democratic electoral process is that the government may not 'take sides' in election contests or bestow an unfair advantage on one of several competing factions. A principal danger feared by our country's founders lay in the possibility that the holders of governmental authority would use official power improperly to perpetuate themselves, or their allies, in office [citations]; the selective use of public funds in election campaigns, of course, raises the specter of just such an improper distortion of the democratic electoral process." The court also stated that "judicial reluctance to sanction the use of public funds for election campaigns rests on an implicit recognition that such expenditures raise potentially serious constitutional questions." *Id.* at 216.

Because of the risks associated with hosting candidates in City sponsored forums or other venues, the City has generally left this activity to private sponsors. We note that Channel 35 will be providing election information, including some candidate information, during the City election cycle. However, if a neighborhood council has already hosted a candidate or wishes to consider hosting candidates at its meetings notwithstanding the resulting legal risks associated with doing so, both to the City and neighborhood council boardmembers personally, we offer the following general guidance.

The overriding principles that must be adhered to in providing a venue for prospective candidates during the election are that public resources may not be used for "campaign activity" and may only be used to provide neutral, balanced information, and that all candidates must be provided with an equal and fair opportunity. Individuals with concerns or complaints about how a neighborhood council has handled City candidate(s) should consult with their own private counsel.

Limitations on Neighborhood Councils as Candidate Forums

A candidate may speak to a neighborhood council in the following circumstances:

- 1) During the public comment portion of a publicly noticed neighborhood council meeting. All such candidates wishing to speak must be provided the same opportunity to do so.
- 2) On a specific policy matter appearing on the neighborhood council agenda. All such candidates wishing to speak must be provided the same opportunity to do so.
- 3) At a candidate forum where all candidates for a particular race are present at the same time hosted by the neighborhood council following the guidelines set forth below.
- 4) At a series of neighborhood council meetings where all candidates are not present at the same time provided that the neighborhood council invites all candidates for that race (i.e.

Mayor) and treats all candidates fairly and equally as set forth below. This would be included on the agenda as a Discussion with Candidate (name).

4) The candidates may not seek any contributions at a neighborhood council meeting.

Fair and Equal Access & Format

- 1) With any format, *all* candidates for that race must be invited with sufficient notice. Please note that the City Clerk has a list of all candidates that will appear on the ballot.
- 2) The format of your candidate forum will play a significant role in ensuring that it remains non-partisan and that candidates are treated fairly and equally. Nothing that you do can show preference for one candidate over another. Several points are important to remember.
 - a) Invite candidates to your forum/meeting with sufficient advance time and provide the invitations at the same time.
 - b) Give each speaker the same amount of time to speak and/or answer questions. Be clear about time limits with the candidates before the event starts, and stick strictly to the limits so no one gets shortchanged.
 - c) Provide candidates with the same or similar seating options in terms of type and location.
 - d) Do not intervene, directly or indirectly, on behalf of a particular candidate.
 - e) Use an unbiased means to determine speaking or appearance order (e.g., drawing straws, alphabetical order).
 - f) Choose a moderator who will ask the questions and make sure that person uses the same wording for each candidate. Your moderator must be unbiased. If you want to take questions from the audience, give people index cards to write them on. The candidates should be given the same number of questions.
- 3) In order to encourage an informed electorate, it is necessary that persons who have limited English proficiency be offered an opportunity to obtain information regarding the candidates and election procedures. Neighborhood councils should distribute a copy of the candidate contact information in all languages (attached) at their meetings where the candidates will be participating.
- 4) Neighborhood councils should not depart from these guidelines, should not co-sponsor any private candidate forums, and should not permit any fundraising activities at neighborhood council meetings. In addition, if using public funds, a neighborhood council may not mail, including email, more than 200 invitations or flyers referencing any candidate. However, you may mail a Neighborhood Council agenda to those on your mailing list.

