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**OFFICE OF THE CITY ATTORNEY**  
ROCKARD J. DELGADILLO  
CITY ATTORNEY

REPORT NO. R02-0442  
OCTOBER 30, 2002

REPORT RE:

**LEGAL ISSUES RELATING TO A  
"TOWN HALL" SYSTEM OF GOVERNANCE  
FOR NEIGHBORHOOD COUNCILS**

The Honorable Education & Neighborhoods  
Committee of the Los Angeles City Council  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Honorable Members:

At your meeting of September 17, 2002, you requested a report from this office regarding legal issues relating to a town hall system of governance for neighborhood councils and suggestions as to how the Plan for a Citywide System of Neighborhood Councils ("Plan") and the implementing Ordinance (Ordinance No. 174006, hereafter "Ordinance") could be amended to accommodate a "town hall" style of governance. Your request was based upon a motion presented by Council member Gruel which described a "town hall" format as one which would allow neighborhood councils to "make decisions on community matters through votes of the general assembly in a traditional 'town hall' style of gathering." *Motion, dated August 16, 2002.*

**Background**

The Plan and Ordinance essentially describe a system of neighborhood councils that provide for representative governance.<sup>1</sup> The Plan and Ordinance provide that the bylaws for a

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<sup>1</sup> The City Charter provides that every neighborhood council seeking certification must include in their bylaws a method by which their officers are chosen but is otherwise silent in terms of how the neighborhood council is to be governed. Charter § 906 (a) (1). The Charter provides that it is the Plan and Ordinance that would set up

neighborhood council shall include a list of offices of the governing body and a method for regularly electing or selecting officers who shall serve as the governing body. Significantly, the term 'Governing Body' is defined in the Plan as "Community Stakeholders of a Certified Neighborhood Council who are empowered to make decisions on behalf of that Certified Neighborhood Council." Plan, Article III, §2 (c)(2).

The Plan and Ordinance set forth parameters and safeguards to ensure that neighborhood councils operating in a representative capacity comply with the spirit of the Charter. As such, the Plan and Ordinance require that the bylaws identify the number of Governing Body members that constitute a majority and quorum, the number of votes by which a Governing Body for a certified neighborhood council may take an official action, such as adoption of an item or position on a matter, and the way in which the action of the Governing Body may be reconsidered, if at all. In addition, the Plan prohibits a person from serving more than eight consecutive years in any office of a Governing Body, requires that the Governing Body reflect the diversity of the community stakeholders and stipulates that no single stakeholder group shall comprise a majority of a certified neighborhood council's Governing Body.

If a town hall format is adopted, consideration should be given as to what, if any, of these procedural mechanisms will be required should neighborhood councils opt to operate in a town hall format. There are several issues that arise for this Committee's consideration and decision if it decides to recommend changes to the Plan and Ordinance to accommodate this system of governance.

### **Legal Issues**

*Conflict of Interest*- An issue of threshold importance is how to define the terms "town hall"<sup>2</sup> and whether the Plan and Ordinance should be amended to allow every stakeholder to vote on "governmental" matters as well as make recommendations on "community matters" to the City decision-makers. This issue is significant because this office has concluded that

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the operating rules for neighborhood councils. Charter § 904.

<sup>2</sup> For the purpose of this discussion, this office assumes that a "town hall" format means a system where any stakeholder who attends a neighborhood council meeting holds one vote, and may exercise the right to vote, on each and every item that appears as an "action item" for voting by the community stakeholders. It would be this office's recommendation that this term be defined in both the Plan and Ordinance to reflect the Council's intention should it adopt recommendations to effect these amendments.

decision-makers of neighborhood councils (currently, members of the Governing Body) need to comply with the City and state conflict of interest rules if they make decisions regarding, what we have described as "governmental" matters, such as voting to expend public funds, entering into (or voting to enter into) contracts and the hiring of staff. See *City Attorney letter*, dated November 30, 2000 at p. 3.

If neighborhood council board members make these type of decisions, each board member will have to comply with the City's gift laws and conflict of interest rules. The conflict of interest rules require board members to fill out the annual Statement of Economic Interest and may result in board members having to recuse themselves from certain recommendations of their council, should a conflict of interest arise.<sup>3</sup> In addition, as members of an advisory body, members of neighborhood councils will be subject to the requirements of Government Code § 1090. That statute governs the disqualification of government officials in the context of government contracts. This statute would be triggered if a neighborhood council board member takes any action relating to a contract or when a neighborhood council merely advises a City agency concerning whether that agency should or should not enter into a particular contract. See, *City Attorney letter*, dated November 30, 2002, at p. 8.

In a town hall style of governance, the stakeholders become the decision-makers and if authorized to make governmental decisions, will be required to comply with the conflict of interest rules, including filling out the Statement of Financial Interest forms.

***Recommendation:*** To avoid these difficulties, it would be our recommendation to allow a town hall format for *only* advisory recommendations that do not involve decisions to: a) *hire staff* b) *enter into contracts for goods or services or make recommendations involving any City contract;* or c) *expend public funds on behalf of the neighborhood council.*

***Procedural Concerns-*** If the town hall style of governance will be limited to making advisory recommendations to the City decision-makers, this Committee should also consider what procedural rules that currently apply to the board members, should also apply to stakeholders who would be acting as the decision-makers. Below, we have identified some policy issues to be considered by this Committee in determining whether to recommend amending the Plan and Ordinance to allow neighborhood councils to govern by a "town hall" system:

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<sup>3</sup> Once the board member becomes a "public official" by virtue of taking actions on governmental matters, all the conflict of interest rules are triggered, including those that might require a member to recuse him/herself from taking even an advisory action.

- Whether the Plan and Ordinance should be amended to require a certain percentage or set number of stakeholders who will be allowed to make a decision (a "quorum") or whether this issue should be left to the individual neighborhood council to decide if it chooses to adopt a town hall style of governance?
- Whether the Plan and Ordinance should be amended to require each *neighborhood council* to identify the number of stakeholders necessary to attend a meeting to take action?
- Whether the Plan and Ordinance should require the neighborhood councils to set forth how a vote of the stakeholders can be reconsidered?
- What role, if any, do the officers or board members play in advisory decisions of the council? Whether a quorum of the board members also needs to be present to conduct business or only a quorum of stakeholders? Should these issues be addressed in the Plan and Ordinance or left for the neighborhood councils to decide?

**Recommendation:** Neighborhood councils should be required to identify a minimum requirement for a stakeholder quorum by which advisory votes may be taken, either in the form of a specific number or percentage based on stakeholder percentage of the population. Since the Charter, Plan and Ordinance is premised on the goals of diversity and inclusiveness, this will avoid small numbers of people who happen to show up at meetings, from dominating the entire neighborhood council.

**Domination By One Stakeholder Group-** Under the current Plan and Ordinance, assurances were written in so that the decision-makers (members of the Governing Body) were not dominated by one stakeholder group. Thus, the Plan and Ordinance provide that: "the governing body must, to the extent possible, reflect the diversity of the neighborhood council's community stakeholders" and "no single stakeholder group may comprise a majority of the neighborhood council's governing body, unless approved by the Department upon a showing of extenuating circumstances." This Committee may wish to consider the following questions in fashioning its recommendations to Council:

- What rules, if any, should be set forth in the Plan and Ordinance to assure that a majority of one type of stakeholder group does not dominate and control a stakeholder meeting and votes, or is this issue no longer relevant in a town hall system of governance?
- Whether stronger requirements of proof of outreach should be required for a town hall system of governance to ensure that stakeholder meetings will be inclusive and diverse as contemplated by the City Charter, and if so, what type of requirements?

*Youth Involvement-* The Committee should consider whether there should be any age restrictions for youth voting since in a “town hall” style of governance anyone who appears at a meeting is allowed to vote on a matter. Without any age restrictions, children of any age could theoretically attend a neighborhood council meeting and be able to exercise the right to vote.

**Recommendation:** This office recommends that a minimum age for youth voting be established to ensure that those youth who exercise their voting rights have the degree of maturity and responsibility to exercise these rights in accordance with City rules and procedures. We recommend the minimum age of 14 years, which is roughly the minimum high-school age. (Neighborhood Councils could be free to further restrict this age if they desired.)

*Delegation Of Authority To Conduct Public Hearings-* The City Charter allows the City Council to delegate the “authority to hold public hearings prior to the City Council making a decision on a matter of local concern.” Charter § 908. Should the neighborhood councils operate on a town hall system of governance, and the City Council should ever decide to delegate the authority to conduct public hearings to the neighborhood councils, the public hearing must be conducted in a manner to ensure that all City rules, procedures, and state laws (such as the Brown Act) are complied with.

**Recommendation:** Because of the complexities of these rules, should a town hall format be adopted, it should be made clear that, while the stakeholders may make recommendations based upon the testimony at public hearings, the public hearing must be conducted by officers of the neighborhood councils, who can be trained on how to conduct a public hearing, rather than to those members of the neighborhood council who happen to be in attendance at that meeting.

**Grievance Procedures-** Currently, the Plan and Ordinance require that neighborhood councils must provide a grievance procedure in their bylaws so that stakeholders may express concerns to their Governing Body about its decisions and actions. Issues for Committee consideration with regard to the applicability of a grievance procedure to a "town hall" system include:

- If the stakeholders in the community become the decision-makers, should the Plan and Ordinance require a grievance mechanism for neighborhood councils operating as a town hall form of governance?
- Should there be any vehicle by which an individual stakeholder or group of stakeholders can air concerns about the operation of their neighborhood councils? Should the Plan and Ordinance *require* that a grievance procedure or committee be established even for a town hall system of governance or should those decisions be left to the neighborhood council?

**Recommendation:** A grievance procedure should still be included in the town hall system even if the stakeholder votes are limited to advisory decisions, since there would still be a governing body charged with the ability to make governmental decisions. Furthermore, it may still be useful to have a grievance procedure set up for a town hall format even though the stakeholders are the decision-makers, to address issues of diversity, outreach, the manner in which notice of the meetings are provided, concerns with "packing the meetings," etc.

**Brown Act Concerns-** Currently, members of the Governing Body of certified neighborhood councils are the decision-makers for the neighborhood council, and are treated as a legislative body under the Brown Act. As such, board members of the neighborhood councils must understand and comply with the Brown Act. One of those requirements is that a majority of the legislative body may not meet to discuss, deliberate or receive substantive information to assist it in developing a concurrence on matters coming before it at a neighborhood council meeting. Should a neighborhood council operate in a town hall format, arguably the stakeholders attending any one meeting, who exercise the right to vote, become the decision-makers, and accordingly must also comply with the Brown Act. Training large numbers of individuals regarding these rules may prove to be challenging and should be taken in consideration when considering this matter.

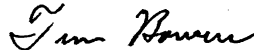
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These are the issues that we have identified to date for the Committee to consider in considering the motion that is before you. If you have any questions about the issues discussed in this report, please contact Assistant City Attorney Gwendolyn Poindexter at (213) 978-2236. An attorney from this office will be available at your committee meeting to answer any questions that might arise during the meeting.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By



TERREE BOWERS  
Chief Deputy City Attorney

TB:GRP:mg

cc: Greg Nelson, General Manager,  
Department of Neighborhood Empowerment  
All Members of the Board of Neighborhood Commissioners

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