

TO: Department of Neighborhood Empowerment (DONE)

ATT: Lorenzo Briceno, Thomas Soong

FROM: Regional Grievance Panel Chair Dean Pentcheff

DATE: 14 August 2022

RE: Grievance #368 Panel Determination

BACKGROUND:

On 11 August 2022, the Regional Grievance Panel consisting of Birgitta Croil-Snell, Melanie Labrecque, and Dean Pentcheff convened at 6:00pm to hear Grievance #368 regarding the Central San Pedro Neighborhood Council. The Grievance Panel was convened and conducted pursuant to Administrative Code Sec. 22.818. Neighborhood Council Grievances. The hearing followed the “Special Hearing Agenda” as published by the Department of Neighborhood Empowerment (DONE). The Panel decisions were based entirely upon the grievance form and relevant paperwork provided by the Grievant and Neighborhood Council (NC) Representative, and the testimony of the Grievant and Neighborhood Council Representatives. The hearing was conducted as required by the Administrative Code.

Grievance #368 consists of the allegation that the Board of the Central San Pedro Neighborhood Council (CeSPNC), as a body, violated CeSPNC Bylaws VII § 3 and CeSPNC Standing Rule 9 § 3 by agendizing and acting on a Board motion entitled “Request board appoint new Chair of Homeless Committee.” Further material in the grievance and grievant’s verbal statement enumerated particular events preceding, surrounding, and following the Board’s agendizing and consideration of the motion, described the motion as improper and unnecessary, and therefore interpreted pursuit of the motion as “... a personal attack, which runs afoul of the *[sic]* both the Department’s Code of Conduct and the Bylaws’ Code of Civility.”

SUMMARY OF DELIBERATION:

The allegation of violation of the Bylaws and Standing Rules is that, since the Standing Rules prescribe that committee chairs are selected by committees, the agenda item by the Board to appoint a new committee chair “... should not have been agendized at all.” This is based on grievant’s citation of CeSPNC Bylaws VII § 3, which directs that committees shall be established by standing rules, and CeSPNC Standing Rule 9 § 3, which states that “Committee chairs shall be selected by the committee unless otherwise prescribed in these Bylaws and/or Standing Rules.”

The Panel disagrees with the contention by grievant that the Board did not have the authority to remove the committee chair, based on the central parliamentary principle that

the majority opinion of the assembly (the Board, in this case) always has governing authority over its subsidiary bodies (the Homeless Committee, in this case). Although CeSPNC Standing Rule 9 § 3 engages committees in the selection of their chairs, committees serve at the pleasure of their controlling body, including committee membership and chairmanship. Whether it is stated in the Bylaws and Standing Rules or not, the Board can remove committee members or chairs at any time.

However, because the wording of CeSPNC Standing Rule 9 § 3 does not acknowledge the ultimate authority of the Board over committees, it very easily led to the interpretation that created this grievance. Therefore we uphold this section of the grievance in part, and recommend the remedy listed below.

The allegation of violation of the Department's Code of Conduct and the Bylaws' Code of Civility is that pursuit of the motion to remove the chair of the Homeless Committee constitutes a personal attack. That allegation contends that the motion is not permissible, and furthermore that the motion is unnecessary since there were no pending committee items, no reason for the committee to meet, and that the committee would have to select another chair. For those reasons, grievant claims that pursuit of the Board's motion "... effectively was a personal attack."

The Panel disagrees with this contention by grievant, because the motion is permissible as a basic exercise of administrative oversight by the Board, and it is up to the Board to determine whether an action is necessary. Removal of a committee chair is a Board prerogative and, in and of itself, does not constitute a personal attack.

Beyond the allegations and information provided in the grievance statement, it is clear from both the grievant's and the CeSPNC representative's testimony that there is an ongoing and complex series of actions within the Board and its committees that are contributing to instability and disagreement on Board direction and action. However, the Panel deems those subjects outside of the scope of the grievance and beyond its ability to address with the information provided.

While the Panel concludes that the motion by the Board to remove a committee chair is permissible, and that pursuing that action does not constitute a personal attack, we contend that ambiguities and inconsistencies in the current Bylaws and Standing Rules contributed to the development of this grievance.

These include (but are not limited to): Standing Rule 9 § 1. K, which defines the standing Homeless Committee only by naming it (inconsistent with other committees which are more fully described), and instead contains text describing, in detail, constitution of a "Community Advisory Board" subcommittee of the Homeless Committee; and Standing Rule 9 § 3, which describes committee chair selection by committees without clarifying Board oversight.

PANEL'S REMEDY (include Panel's vote):

The Panel unanimously recommends the single following remedy from Administrative Code § 22.818(e): “(2) Issuance of a directive for the Neighborhood Council board to take corrective affirmative action” (which is equivalent to the following remedy listed as a choice on the grievance submission: “2) Required corrective action of the Neighborhood Council.”).

The Panel makes three specific recommendations in its directive:

- 1. CeSPNC shall review and revise their Bylaws and Standing Rules to improve their consistency and clarity.** Technically, Bylaws and Standing Rules must only document departures from the parliamentary authority that has been adopted. But because Bylaws and Standing Rules are the first point of reference for the Board, committee members, and stakeholders, judiciously referencing some of the underlying parliamentary rules may help avoid misperceptions.
- 2. CeSPNC shall engage participation from outside of CeSPNC itself to assist in the review and revision of Bylaws and Standing Rules.** Bylaws and especially Standing Rules have usually come about through a process of incremental accretion, rather than wholesale revision, easily leading to inconsistencies and contradictions. An external perspective may be very helpful in achieving clarity. Changes to Bylaws can be initiated quickly, but will take considerable time to take effect due to the stages of approval and review required by the Board and the Department of Neighborhood Empowerment; revisions to Standing Rules can be implemented as quickly as the Board can act responsibly.
- 3. CeSPNC shall thoroughly educate members of their Board, committees, and subcommittees on the rules governing their operation,** as derived from national, state, and local law, CeSPNC Bylaws, CeSPNC Standing Rules, and their adopted parliamentary authority (Robert's Rules of Order). Widespread and accurate knowledge of the rules of operation will help CeSPNC to spend more of its precious time on outward looking action, even in the face of disagreement, rather than on internal deliberations.