

(6)

December 15, 2000

Rosalind Stewart, General Manager
Department of Neighborhood Empowerment
305 East First Street
Los Angeles, California 90012

Dear Ms. Stewart:

This letter responds to a question you posed to this office concerning whether a neighborhood council may raise its own funds and still receive City funding if it chooses to support political candidates or chooses to function as a political organization. Your specific question and our answer are set forth below.

Question

May a neighborhood council raise its own funds and still receive City funding if it chooses to support political candidates or chooses to function as a political organization?

Answer

Regardless of whether its activities are funded by City budgeted funds or private donations, a neighborhood council may not endorse candidates for public office or spend money under its control to support or oppose candidates for office. The individual members of the governing board of a neighborhood council are certainly allowed to make personal endorsements for candidates for public office, to work for their election and to contribute their own personal funds to political campaigns.

It is not clear from your request for advice what you mean by "function as a political organization." If you are asking whether a neighborhood council can become involved in political campaigns or use its official status and resources to influence the election or defeat of candidates and ballot measures, our advice is that, with the exception of taking a public position in support of or opposition to a ballot measure, a neighborhood council may not engage in that type of conduct.

Rosalind Stewart, General Manager
Department of Neighborhood Empowerment
City of Los Angeles
Page 2

Discussion

In our letter to you dated November 30, 2000, this office concluded that neighborhood councils will be local government agencies within the meaning of the Political Reform Act. In that letter, we indicated that "the Charter's design for the creation of a network of neighborhood councils evidences an intent that neighborhood councils be part of the governmental structure of the City, operating at a grass roots level." Although officially certified neighborhood councils may be authorized to receive monetary gifts to help fund their operations, the Charter also provides for the appropriation of City budgetary funds for the "functioning of neighborhood councils" Charter § 911.

Because neighborhood councils will be part of City government, gifts to the councils will be gifts to the City itself. Therefore, monetary gifts received by neighborhood councils would have the status of public funds. In *Albright v. City of South San Francisco* (1975) 44 Cal.App.3d 866, 869, the Court of Appeal stated, "An expenditure of public funds . . . must be confined to public purposes." Therefore, like funds appropriated by the Council for the operation of neighborhood councils, funds donated to neighborhood councils may not be used for private purposes, including support or opposition to candidates for public office or measures on the ballot. Neighborhood councils would, of course, be required to comply with all City rules governing the receipt and use of those funds.

The courts have repeatedly said that "the use of public funds for partisan campaign purposes is improper" *Stanson v. Mott* (1976) 17 Cal.3d 206, 218. See also, *People v. Nathanson* (1955) 134 Cal.App.2d 43; *People v. Sperl* (1976) 54 Cal.App.3d 43; *People v. Battin* (1978) 77 Cal.App.3d. 635.¹ In the *Stanson* case, the California Supreme Court discussed the rationale behind the prohibition:

¹ *Stanson* was a civil case that involved the use of public money by a department of state government to campaign in favor of a statewide bond measure. *Nathanson*, *Sperl* and *Battin* were all criminal cases involving the use of public funds and/or resources in connection with the election of candidates to public office.

Rosalind Stewart, General Manager
Department of Neighborhood Empowerment
City of Los Angeles
Page 3

"Underlying this uniform judicial reluctance to sanction the use of public funds for election campaigns rests an implicit recognition that such expenditures raise potentially serious constitutional questions. 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." *Id.* at 217.

The prohibition against the use of public funds for political campaign purposes applies to expenditures in support or opposition to both candidates and ballot measures. See cases cited above.

Nor may neighborhood councils endorse candidates for public office. As stated above, neighborhood councils will be part of the City's governmental structure, operating at a grass roots level. For basically the same reasons that the government may not spend public funds in support of candidates for public office, the government also may not officially endorse candidates for office. The Court in *Stanson, supra*, stated that "[a] principal danger feared by our country's founders lay in the possibility that the holders of government authority would use official power to improperly perpetuate themselves, or their allies, in office." *Id.* at 217. Just as the government may not "'take sides' in an election contest" (*id.*) by using public funds to assist candidates in obtaining office, the government may not "take sides" by endorsing candidates.

Please let us know if we can be of additional assistance to you in connection with this matter.

Very truly yours,

JAMES K. HAHN
City Attorney

cc: Mayor Richard J. Riordan
Each Member of the City Council
Each Member of the Board of Neighborhood Commissioners