

**Congress of Neighborhoods
August 3, 2002**

**General Issues Regarding Neighborhood Councils
Office of the City Attorney-Neighborhood Council Advice Division**

History Of Neighborhood Councils

The system of neighborhood councils was created when the City of Los Angeles embarked on what has come to be known as "Charter Reform." In June of 1999, an amended Charter was submitted to the voters of the City of Los Angeles for adoption. That Charter was adopted and become operative on July 1, 2000. For the first time in the City's history, a citywide system of neighborhood councils and a Department of Neighborhood Empowerment was created, which was designed to "promote more citizen participation in government and make government more responsive to local needs. . . ." Charter § 900.

What *is* A Neighborhood Council?

Now that the City has embarked on certifying neighborhood councils, some councils are still asking the question: What *is* a neighborhood council in relationship to the City of Los Angeles and how does it fit in the "City family" compared to other City boards or commissions?

The City Charter states that neighborhood councils will have an "advisory role on issues of concern to the neighborhood," provide input to decision-makers before decisions are made and should include representatives of the "diverse interests in their area." However, nowhere in the Charter is there a precise *definition* of a neighborhood council.

Neighborhood councils, once certified, are local governmental agencies and are a part of the City family. As a City body, neighborhood councils are not unlike other advisory boards and commissions. As such, the City Attorney concluded that as "*advisory bodies* to the City created by the City Charter . . . neighborhood councils fall within the provisions of the Brown Act." City Attorney letter dated November 16, 2000. (Emphasis added). The City Attorney also concluded, in a separate letter, that the "Charter's design is for neighborhood councils to be official components of the organization of City government organized at a 'grass roots' level." City Attorney letter dated November 30, 2000. Thus, neighborhood councils are all of these things: advisory bodies to the City, which are organized at a grass roots level and, once certified, become an official component of City government, a local governmental agency.

The difference between neighborhood councils and other City advisory boards or commissions is that the jurisdiction of the neighborhood council is, in some sense, self-defined, as opposed to being defined by ordinance, and the board members are self-selected, rather than appointed. The system was designed to allow neighborhood councils to decide for themselves what issues are important to them and what input they wish to give

to the various decision-makers on these issues. Because they *are* part of the City's governmental structure, they are doing the public's business and must comport with the same type of rules, as do other advisory bodies, such as the Brown Act, Public Records Act and the City's conflict of interest and ethics rules. However, as a City advisory body, neighborhood councils are protected from liability in the same manner as other City boards and commissions. (See discussion below.)

What Is The Status Of Their Advice?

The Charter provides that neighborhood councils should have input before decisions are made. Charter § 907. This means that neighborhood councils may take positions at their meetings as to what recommendations or advice they wish to communicate (either in writing or orally) to the decision-makers. The City decision-makers will take the recommendations of the neighborhood council into consideration when they render a decision on whatever matter is before them.

May A Neighborhood Council Also Incorporate Itself As A Non-profit Corporation?

As discussed above, a neighborhood council, once certified, becomes a local governmental agency. However, the Plan for a Citywide System of Neighborhood Councils ("Plan") also recognizes that "certified neighborhood councils shall be as independent, self-governing, and self-directed as possible" and that the Department shall assist certified neighborhood councils to pursue tax-exempt or non-profit incorporation "to strengthen their independence." Plan, Article II, Section 4. Thus, neighborhood councils may also pursue non-profit status, but the creation of that entity, a non-profit corporation, becomes a separate and distinct entity that is *not* part of the City family. One of the reasons for this is because a non-profit corporation has separate obligations to the state of California that may differ from the rules established under the Charter and the Plan. Thus, the City Attorney has stated that "a neighborhood council could incur separate and distinct liability for a breach of its duties as a non-profit corporation. . . ." City Attorney letter dated April 5, 2001. For these reasons, in part, the City only certifies the neighborhood council as a City entity since it cannot necessarily assume responsibility for actions that the neighborhood council takes as a non-profit corporation.

What Kind Of Liability Protection Is There For A Neighborhood Council?

Generally, as an advisory body to the City, members of governing boards of neighborhood councils are subject to the same immunities as other City employees, boards and commissions. While the legal liability arena is complex and often is fact dependant, the general rule is that the City has an obligation not only to defend, but to indemnify a City official or employee for a court judgment against him or her as long as the conduct that resulted in the award of liability was within what the law defines as the "scope of employment." In the context of a neighborhood council, official activities that result from its role as an advisory body (such as conduct of meetings, recommendations that it makes, neighborhood improvement projects under Departmental rules and guidelines) would undoubtedly fall within this rule. However, often what activities fall within the "scope of employment" depends on the facts of a particular case. The objectives of the Plan and

Charter as well as each neighborhood council's by-laws will provide some general guidance should issues of liability arise based upon a particular set of facts.

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