



Plan for a Citywide System of Neighborhood Councils

Adopted: May 30, 2001

Amended: November 8, 2002 and May 20, 2005, October 25, 2006

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Article I

Goals and Objectives of the Neighborhood Council System

The goals and objectives of the Plan are to:

- 1.** Promote public participation in City governance and decision making processes so that government is more responsive to local needs and requests and so that more opportunities are created to build partnerships with government to address local needs and requests.
- 2.** Promote and facilitate communication, interaction, and opportunities for collaboration among all Certified Neighborhood Councils regarding their common and disparate concerns.
- 3.** Facilitate the delivery of City services and City government responses to Certified Neighborhood Councils' problems and requests for assistance by helping Certified Neighborhood Councils to both identify and prioritize their needs and to effectively communicate those needs.
- 4.** Ensure equal opportunity to form Certified Neighborhood Councils and participate in the governmental decision making and problem solving processes.
- 5.** Create an environment in which all people can organize and propose their own Certified Neighborhood Councils so that they develop from the grassroots of the community.
- 6.** Foster a sense of community for all people to express ideas and opinions about their neighborhoods and their government.

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Article II

Desired Characteristics of Neighborhood Councils

1. Inclusive Membership

Certified Neighborhood Councils shall be diverse, inclusive, and open to all Community Stakeholders. A Community Stakeholder is defined as any individual who lives, works or owns property in a Neighborhood Council area. In addition, Community Stakeholder status may be identified by participation in, among other things, educational institutions, religious institutions, community organizations or other non-profit organizations, block clubs, neighborhood associations, homeowners associations, apartment associations, condominium associations, resident associations, school/parent groups, faith based groups and organizations, senior groups and organizations, youth groups and organizations, chambers of commerce, business improvement districts, service organizations, park advisory boards, boys and girls clubs, cultural groups, environmental groups, codewatch, neighborhood watch, police advisory board groups, and/or redevelopment action boards.

2. Statement of Non-Discrimination

Certified Neighborhood Councils must encourage all Community Stakeholders to participate in all of their activities, and may not discriminate in any of their policies, recommendations or actions against any individual or group on the basis of race, religion, color, creed, national origin, ancestry, sex, sexual orientation, age, disability, marital status, income, or political affiliation.

3. Transparent Operations

Certified Neighborhood Councils shall adopt fair and open procedures for the conduct of their business.

4. Independent Entities

Certified Neighborhood Councils shall be as independent, self-governing, and self-directed as possible. The Department of Neighborhood Empowerment (DONE) shall assist Certified Neighborhood Councils to pursue options, including, but not limited to, tax-exempt status and/or non-profit incorporation, to strengthen their independence. Tax-exempt status and/or non-profit incorporation will have no effect on a Certified Neighborhood Council's eligibility for assistance, monetary or otherwise, from DONE.

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Article III

Certification of Neighborhood Councils

1. DONE responsibilities. On July 1, 2001, after the adoption of the Neighborhood Council Plan, DONE shall:
 - (a) Announce and inform the public of the Neighborhood Council certification process Citywide, but DONE shall not accept completed certification applications until October 1, 2001.
 - (b) Actively promote the formation of Certified Neighborhood Councils Citywide, giving emphasis to those areas and Community Stakeholder groups with traditionally low rates of civic participation in government.
 - (c) Facilitate and encourage collaboration and discussion among neighboring and overlapping applicant groups and provide technical assistance on how to proceed with a unified certification application, and provide dispute resolution services to applicants where more than one application is submitted for a Neighborhood Council boundary area to gain consensus on a unified certification application.
2. Components of a Certification Application. A certification application shall, at a minimum, include the components listed in this section.

Boundaries

- (a) A detailed description of proposed boundaries shall be provided, including a rationale for drawing the proposed boundaries. Neighborhood Council applicants within a proposed Neighborhood Council boundary shall, to the extent feasible, work together in setting boundaries.
 - In identifying proposed Neighborhood Council boundaries, applicants are encouraged to reference other types of existing boundaries, including, but not limited to, the following:
 - (i) Census tracts as a means of complying with the minimum population size of 20,000 Neighborhood Council Community Stakeholders.
 - (ii) City service and planning areas, such as police and fire districts or Community Planning Area boundaries.
 - A proposed set of boundaries should, to the maximum extent feasible, follow historic and contemporary community and neighborhood borders, and shall utilize natural boundaries or street lines and be geographically compact and contiguous.
 - The boundaries of two or more Certified Neighborhood Councils may not overlap with one another, unless the area for proposed inclusion into each.

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- Certified Neighborhood Council is designed for a public use, such as a park, school, library, police or fire station, major thoroughfare, or contains a landmark or facility with historical significance.
- The inaugural boundaries of all Certified Neighborhood Councils shall be the limits of the City of Los Angeles (City). The boundaries of a Certified Neighborhood Council are encouraged to remain within the City limits because the City can only guarantee delivery of its services to City residents.
- Neighborhood Council boundaries should be comprised of no less than 20,000 Neighborhood Council Community Stakeholders. Areas that have fewer than 20,000 Neighborhood Council Community Stakeholders may be certified provided they meet the following criteria:
 - (i) The proposed area is separated from adjacent communities by significant geographic features; or,
 - (ii) The proposed area is identified by name within any of the 36 adopted Community Plan Areas of the City Planning Department; or,
 - (iii) The proposed area represents a historic, identifiable neighborhood or community that is serviced by City service providers, such as a public library, park, recreation center, fire or police station, or a public school.
- A Neighborhood Council that comprises fewer than 20,000 Neighborhood Council Community Stakeholders must satisfy all requirements of this Plan.

Outreach

- (b) The outreach process used to identify Community Stakeholders within the proposed Neighborhood Council boundary must be described in detail. In order to demonstrate a good faith effort towards achieving a diversity of Community Stakeholder representation, an applicant(s) shall collect no less than 200 and no more than 500 signatures from Community Stakeholders that have an interest within the proposed Neighborhood Council boundaries. Signatures shall, to the maximum extent feasible, reflect the broadest array of Community Stakeholders who will actively participate in the proposed Neighborhood Council.

Bylaws

- (c) Bylaws shall be established, including the following information.
 - (i) Neighborhood Council name
 - (ii) Community Stakeholder Membership and the Governing Body
 - (1) The bylaws shall state that the Neighborhood Council membership is open to all Community Stakeholders.

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- (2) The bylaws 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. For the purposes of this Plan, the term Governing Body refers to Community Stakeholders of a Certified Neighborhood Council who are empowered to make decisions on behalf of that Certified Neighborhood Council.
 - (a) A Certified Neighborhood Council's Governing Body must, to the extent possible, reflect the diversity of the Neighborhood Council's Community Stakeholders. Accordingly, no single Community Stakeholder group shall comprise a majority of a Certified Neighborhood Council's governing body, unless extenuating circumstances are warranted and approved by DONE.
 - (b) In order to encourage diversity and innovation in leadership on the governing body, no person may serve more than eight consecutive years in any office of a Certified Neighborhood Council's Governing Body.
- (iii) Meeting procedures. Each Certified Neighborhood Council shall:
 - (1) Meet at least once per calendar quarter.
 - (2) Obey any or all sections of the State of California's open meeting procedures that apply to Neighborhood Councils (Ralph M. Brown Act), which includes posting meeting notices in generally accepted public places or through electronic media, such as e-mail or posting notice on DONE's Web page.
 - (3) Establish procedures for communicating with all Neighborhood Council Community Stakeholders on a regular basis in a manner ensuring that information is disseminated evenly and in a timely manner.
 - (4) A process for running meetings, including:
 - (a) The number of Governing Body members that constitute a majority and a quorum;
 - (b) The number of votes by a Governing Body for a Certified Neighborhood Council to take an official action, such as adoption of an item or position; and,
 - (c) The way in which a vote by the Governing Body or action by a Certified Neighborhood Council can be reconsidered, if applicable.
- (iv) A grievance procedure shall be established by which an individual Community Stakeholder or group of Community Stakeholders of a Certified Neighborhood Council shall be able to express concerns to their Governing Body about its decisions and actions.

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Financial Accountability

(d) A system of financial accountability shall be established that governs a Certified Neighborhood Council's use of its funds. Each Certified Neighborhood Council shall:

- (i) Prescribe a method for keeping a book of accounts that complies with applicable local, state, and federal laws, which includes any or all provisions of Generally Accepted

Accounting Principles that apply to a Certified Neighborhood Council, according to the type of entity established by a Certified Neighborhood Council.

- (ii) Discuss its finances at a regularly scheduled or special meeting, prior to submitting an account statement to DONE (as prescribed below), in order to gather input from Neighborhood Council Community Stakeholders.

- (iii) Ensure that each Certified Neighborhood Council's book of accounts shall be open to all Community Stakeholders of any Certified Neighborhood Council.

- (iv) Establish a process by which each Certified Neighborhood Council member can review the Certified Neighborhood Council's book of accounts.

- Each Certified Neighborhood Council's Governing Body shall include an officer named the Treasurer, whose duties shall include maintaining the Neighborhood Council's book of accounts, as prescribed by DONE, and submitting account statements to DONE no less than once and no more than twice during each fiscal year, the date(s) of which shall be prescribed by DONE. Refusal to submit accounting information as required by DONE shall be grounds for consideration of de-certification (as defined in Article VI, Section 5 of this Plan).

Ethics

(e) Each Certified Neighborhood Council shall be subject to any or all applicable sections of the City of Los Angeles Governmental Ethics Ordinance (Los Angeles Municipal Code Section 49.5.1). All applicable laws of local, state, and federal government shall be the minimum ethical standard for a Certified Neighborhood Council, its Governing Body, and Community Stakeholders.

Contacts

(f) Every application shall include contact information for no less than three and no more than five people who shall act as official contacts between the applicants and DONE until the proposed Neighborhood Council is certified.

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Article IV

Certification Process

1. DONE staff shall evaluate a certification application to determine whether the application meets all of the criteria set out in Article III, Section 2, "Components of a Certification Application."
2. Once a certification application is submitted to DONE, the application shall be held by DONE for a period of 20 business days. During said period, DONE shall begin its evaluation of the application to ensure that it is complete.
 - (a) At the end of said 20 business-day period, if only one application is submitted that describes a specific set of boundaries for a proposed Neighborhood Council and if the application is complete according to DONE's evaluation, DONE shall:
 - (i) Forward the application, any accompanying information, and its recommendation to the Board of Neighborhood Commissioners (Commission) for consideration; and,
 - (ii) Notify the Neighborhood Council contacts (named in Article II, Section 2(f)), in writing, that the application has been forwarded to the Commission for its consideration.
 - (iii) If DONE fails to evaluate or forward the application (and any accompanying information, including its recommendation) to the Commission within said time period, DONE shall automatically forward the application without a recommendation to the Commission for consideration.
 - (b) If DONE receives two or more certification applications within said 20 business-day period that identify the same, similar, or overlapping proposed Neighborhood Council boundaries, DONE shall immediately notify, in writing, all contacts for all affected applicant groups in an effort to work with affected parties to produce a unified application. Applicants of the proposed Neighborhood Councils shall have 20 business days from the date notification is given by DONE to develop a unified application.
 - (i) If consensus is reached at any time within said 20 business-day period or at any time during an extended time period pursuant to Article IV, Section 2(b)(ii), said period shall be terminated and all applications shall be deemed received by DONE for evaluation. In the event that all affected applicant groups agree in writing to terminate, for any reason, the process of developing a unified application within the 20 business-day period, all applications, as originally submitted, shall be deemed received by DONE for evaluation. If no consensus is reached within or at the end of the 20 business-day period, the applications, as originally submitted, shall be deemed received by DONE for evaluation.

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- (ii) The 20 business-day period described in (i) above may be extended by DONE if all certification applicants make such a request in writing within the time period in (i) above. If no consensus is reached within or at the end of the 20 business-day period, the applications, as originally submitted, shall be deemed received by DONE for evaluation.
 - (iii) Once an application has been deemed received by DONE for evaluation through the processes described in (i) or (ii) above, DONE shall have ten business days to evaluate all applications as submitted. At the end of its ten business-day evaluation period, if DONE determines that all or some of the applications are complete according to DONE's evaluation, DONE shall forward the application, any accompanying information, and its recommendation to the Commission for consideration. If DONE fails to evaluate or forward the application (and any accompanying information, including its recommendation) to the Commission within said time period, DONE shall automatically forward the application without a recommendation to the Commission for consideration.
- (c) If, at any time during the processes described in this section, DONE determines that an application is incomplete, it shall return the application to the applicants along with a detailed list in writing of the missing components required in a certification application and suggestions on how to incorporate missing components. Applicants whose certification application was determined to be incomplete and returned by DONE may at any time re-submit the application after amending it to meet all the necessary criteria.
3. DONE shall have ten business days, from the date that it forwards an application to the Commission for consideration, to prepare, translate (if necessary), and post public notices that a group has applied for certification according to the following:
- (a) A copy of the notice shall be posted in at least five public, easily accessible places within the boundaries of the proposed Neighborhood Council. Examples of appropriate posting locations include, but are not limited to, libraries, police or fire stations, or DONE's Web site.
 - (b) Copies of the notice shall be posted for 15 business days.
 - (c) The notice shall be translated into all languages other than English that the City Clerk Election Division uses to produce sample ballot information if the proposed Neighborhood Council boundaries include communities where such languages are spoken. At the present time, a sample ballot is published in Chinese, English, Japanese, Korean, Spanish, Tagalog, and Vietnamese. This list of languages may change from time to time, and DONE shall be responsible for keeping current with said changes. DONE shall be responsible for translating the notice into any other language upon request.
4. Within the same ten business-day time period referenced in Article IV, Section 3, DONE shall provide written notice to the applicant group of the date that the Commission will conduct its public hearing during which the applicant's certification application will be considered.

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5. Within ten business days after the expiration of the 15 business-day public notice period described in Article IV, Section 3(b), the Commission shall conduct a public hearing to take testimony from members of the public regarding the submitted certification application. The following shall apply:
 - (a) The public hearing shall be conducted as part of the Commission's next regularly scheduled meeting or as part of a special meeting if no regularly scheduled meeting falls within said ten business-day period.
 - (b) The Commission meeting shall be conducted within the boundaries of the proposed Neighborhood Council.
6. During the meeting where the Commission conducts a public hearing for the purpose of considering a certification application, and at the close of the public comment period and after the Commission's deliberations, the Commission shall either approve or reject the certification application. With concurrence from the applicant, the Commission may defer its decision on a certification application until its next regularly scheduled meeting in order to receive additional information on a matter brought to its attention during its public hearing or to allow for more time to consider the application.
7. In a case where two or more certification applications have identified the same, similar, or overlapping Neighborhood Council boundaries, the Commission shall, based on all available information, make a final determination on how the final boundaries of each Neighborhood Council shall be drawn.
8. If the Commission approves the application, the applicants shall be deemed certified and recognized as a Neighborhood Council in the City of Los Angeles.
9. If the Commission rejects the application, the applicants may, within five meeting days of the City Council during which the Council has convened in regular session, file an appeal with the City Council. The appeal will automatically be placed on the Council's next regular agenda for consideration. The Council may, by ten votes, sustain, reverse, or modify the Commission's decision.

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Article V

Neighborhood Council Election Procedures*

1. Compliance

Neighborhood Councils which choose to elect their Governing Body must comply with the Neighborhood Council Election Procedures adopted by the City Council by Motion dated January 25, 2005, and as may be further amended by the Commission.

2. Violations

A violation of the Neighborhood Council Election Procedures shall constitute a violation of this Plan and may subject a Neighborhood Council to the decertification procedures set forth in Article VI of this Plan, either upon submission of a complaint as outlined in Article VI, Section 4 of this Plan, or by the DONE filing a report with the Commission asking it to consider decertification, after having first taken steps in an effort to achieve compliance with the Neighborhood Council Election Procedures.

* Added per Resolution dated May 20, 2005

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Article VI

Certified Neighborhood Council Self Assessment, Boundary and Bylaw Adjustment, Complaints, and De-Certification

1. Self Assessment

Each Certified Neighborhood Council shall, with the assistance of DONE as requested, survey its Community Stakeholders at least once biennially, to assess whether their Certified Neighborhood Council has met applicable goals set forth in the Charter and Article I, "Goals and Objectives of the Neighborhood Council System". The form of the review shall be prescribed by DONE, and the results of the review shall be made public and posted on DONE's Web site. A copy of the review shall be sent to the affected Certified Neighborhood Council.

2. Boundary Adjustment

- (a) A Certified Neighborhood Council may petition the Commission to adjust its boundaries. All such petitions shall remain in accordance with Article III, Section 2. Reasons for boundary adjustment may include, but are not limited to:
 - (i) Including an uncertified adjacent community;
 - (ii) Reconfiguring based on population decrease or increase; or,
 - (iii) Increasing or reducing a Certified Neighborhood Council's size to increase effectiveness and efficiency.
- (b) Petitions shall be reviewed by DONE which shall forward the petition, any accompanying information, and its recommendation, within 15 business days of receipt, to the Commission for consideration at its next regularly scheduled meeting. If the Commission approves the petition, the Neighborhood Council boundary shall be deemed changed. If the Commission rejects the petition, the Governing Body of the petitioning Certified Neighborhood Council may take an action to, within five meeting days of the City Council during which the Council has convened in regular session, file an appeal with the City Council. The appeal will automatically be placed on the Council's next regular agenda for Council consideration. The Council may, by ten votes, sustain, reverse, or modify the Commission's decision.
- (c) The Commission shall have the authority to expand a Certified Neighborhood Council's boundary in order to incorporate an area of the City that has not formed a Certified Neighborhood Council into the boundary of another, adjoining Certified Neighborhood Council, provided that:
 - (i) The proposed area to be incorporated into a Certified Neighborhood Council's boundary lies between two or more Certified Neighborhood Councils;

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- (ii) The area to be incorporated does not qualify for certification under the provisions of this Plan; and,
 - (iii) Community Stakeholders of the area to be incorporated and of the affected Certified Neighborhood Council(s) agree to the proposed incorporation.
- (d) If incorporation of an area into an existing Certified Neighborhood Council's boundary is initiated by an entity other than the Commission, Community Stakeholders of the area to be incorporated and of the affected Certified Neighborhood Council(s) must agree to the proposed incorporation prior to consideration by the Commission. The following process shall apply.
- (i) An Incorporation Petition, as prescribed by DONE, shall be completed in order to document the proposed incorporation. An Incorporation Petition shall be filed with DONE for evaluation.
 - (a) DONE shall have 20 business days from receipt of the Incorporation Petition to evaluate the incorporation request. If an Incorporation Petition is complete according to DONE's evaluation, DONE shall forward the Incorporation Petition, any accompanying information, and its recommendation to the Commission for consideration. If DONE fails to evaluate or forward the Incorporation Petition (and any accompanying information, including its recommendation) to the Commission within said time period, the Incorporation Petition shall be automatically forwarded to the Commission for consideration.
 - (b) If, at any time during the processes described in this section, DONE determines that an Incorporation Petition is incomplete, it shall return the petition to the applicants along with a detailed list in writing of DONE's objections to the Incorporation Petition and suggestions on how to revise the Incorporation Petition. An Incorporation Petition returned by DONE may at any time be re-submitted after it is amended to meet all the necessary criteria cited by DONE.
 - (ii) DONE shall have ten business days, from the date that it forwards an Incorporation Petition to the Commission for consideration, to prepare, translate (if necessary), and post public notices that an Incorporation Petition has been received, according to the following:
 - (a) A copy of the notice shall be posted in at least five public, easily accessible places within the boundaries of the proposed incorporated area and all affected Neighborhood Councils. Examples of appropriate posting locations include, but are not limited to, libraries, police stations, fire stations, or DONE's Web site.
 - (b) Copies of the notice shall be posted for 15 business days.
 - (c) The notice shall be translated into all languages other than English that the City Clerk Election Division uses to produce sample ballot information if the

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proposed Neighborhood Council boundaries include communities where such languages are spoken. At the present time, a sample ballot is published in Chinese, English, Japanese, Korean, Spanish, Tagalog, and Vietnamese. This list of languages may change from time to time, and DONE shall be responsible for keeping current with said changes. DONE shall be responsible for translating the notice into any other language upon request.

- (iii) Within the same ten business-day time period referenced in Article VI, Section 2(d)(ii), DONE shall provide written notice to the applicant group of the date that the Commission will conduct its public hearing during which the applicant's Incorporation Petition will be considered.
- (iv) Within ten business days after the expiration of the 15 business day public notice period described in Article VI, Section 2(d)(ii)(b), the Commission shall conduct a public hearing to take testimony from members of the public regarding the proposed incorporation. The following shall apply:
 - (a) The public hearing shall be conducted as part of the Commission's next regularly scheduled meeting or as part of a special meeting if no regularly scheduled meeting falls within said ten business-day period.
 - (b) The Commission meeting shall be conducted within the boundaries of the proposed incorporated area or within the boundaries of any of the affected Certified Neighborhood Councils.
- (v) During the meeting where the Commission conducts a public hearing for the purpose of considering an Incorporation Petition, and at the close of the public comment period and after the Commission's deliberations, the Commission shall either approve or reject the Incorporation Petition. With concurrence from the applicant, the Commission may defer its decision on an Incorporation Petition until its next regularly scheduled meeting in order to receive additional information on a matter brought to its attention during its public hearing or to allow for more time to consider the Incorporation Petition.
- (vi) If the Commission approves the Incorporation Petition, the proposed area shall be incorporated into the specified Certified Neighborhood Council named in the Incorporation Petition. If the Commission rejects the Incorporation Petition, the applicants may, within five meeting days of the City Council during which the Council has convened in regular session, file an appeal with the City Council. The appeal will automatically be placed on the Council's next regular agenda for Council consideration. The Council may, by ten votes, sustain, reverse, or modify the Commission's decision.

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3. Bylaw Adjustment

A Certified Neighborhood Council that wishes to change or adjust its bylaws shall complete an Application to Change or Adjust Bylaws, as prescribed by DONE, and submit the application to DONE for evaluation. DONE shall have ten business days from receipt of the application to complete its evaluation.

- (a) If DONE determines that the application is incomplete, it shall return the application to the Governing Body of the affected Certified Neighborhood Council along with a detailed list in writing of missing or incomplete items in the application and suggestions on how to complete the application successfully. An application returned by DONE may at any time be re-submitted after it is adjusted to meet all the necessary criteria cited by DONE.
- (b) If the application is complete and consistent with the principles governing a Certified Neighborhood Council's purpose or operations according to DONE's evaluation, DONE shall file the application and the change in the affected Certified Neighborhood Council's bylaws shall be deemed approved. Upon filing the change, DONE shall provide written notice to the affected Certified Neighborhood Council that the change in its bylaws was duly recorded with DONE.
- (c) If DONE determines that the changed bylaws are inconsistent with the principles governing a Certified Neighborhood Council's purpose or operations, DONE shall forward an evaluation to the Commission for its review. The Commission, at its next regularly scheduled meeting, shall approve or reject the change in bylaws application. If the Commission approves the change of bylaws, the Certified Neighborhood Council's proposed bylaws shall be deemed approved and become effective immediately. If the Commission rejects the change of bylaws application, the Certified Neighborhood Council's bylaws shall remain as adopted prior to the filing of the application.

4. Complaints Against Certified Neighborhood Councils

Complaints against a Certified Neighborhood Council of any nature shall be filed with DONE, on a form prescribed by DONE. A copy of the complaint shall be delivered by DONE to the affected Certified Neighborhood Council against which the complaint is made within five business days of receipt of the complaint. Exhaustive efforts to remedy all complaints shall be taken by DONE. In the case where a complaint is in regards to a violation of this Plan and a remedy cannot be reached, the process prescribed in Article VI, Section 5 shall be followed.

5. Involuntary De-Certification of a Certified Neighborhood Council

Before initiating de-certification of a Certified Neighborhood Council, DONE shall take all steps available to remedy a violation of the Plan. If DONE finds that efforts to comply with a proposed remedy have failed, the General Manager of DONE shall initiate a process of de-certification.

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- (a) DONE shall complete an Application to De-Certify a Certified Neighborhood Council, as prescribed by DONE, and immediately transmit a copy of the application to both the Commission, for consideration at its next regularly scheduled meeting, and to the affected Certified Neighborhood Council.
- (b) DONE shall, immediately after transmitting copies of the application to the Commission and affected Certified Neighborhood Council, post public notices that a de-certification application has been filed with the Commission according to the following:
 - (i) A copy of the notice shall be posted in at least five public, easily accessible places within the boundaries of the affected Neighborhood Council, and shall post the notice on DONE's Web site. Examples of appropriate posting locations include, but are not limited to, libraries, police stations, or fire stations.
 - (ii) Copies of the notice shall be posted for 15 business days.
 - (iii) The notice shall be translated into all languages other than English that the City Clerk Election Division uses to produce sample ballot information if the proposed Neighborhood Council boundaries include communities where such languages are spoken. At the present time, a sample ballot is published in Chinese, English, Japanese, Korean, Spanish, Tagalog, and Vietnamese. This list of languages may change from time to time, and DONE shall be responsible for keeping current with said changes. DONE shall be responsible for translating the notice into any other language upon request.
- (c) Within ten business days after the expiration of the 15 business day public notice period described in Article VI, Section 5(b)(ii), the Commission shall conduct a public hearing to take testimony from members of the public regarding the proposed de-certification application. The following shall apply:
 - (i) The public hearing shall be conducted as part of the Commission's next regularly scheduled meeting or as part of a special meeting if no regularly scheduled meeting falls within said ten business-day period.
 - (ii) The Commission meeting shall be conducted within the boundaries of the affected Certified Neighborhood Council proposed for de-certification.
- (d) During the meeting where the Commission conducts a public hearing for the purpose of considering a de-certification application, and at the close of the public comment period and after the Commission's deliberations, the Commission shall either approve or reject the de-certification application. With concurrence from the affected Certified Neighborhood Council, the Commission may defer its decision on the application until its next regularly scheduled meeting in order to receive additional information on a matter brought to its attention during its public hearing or to allow for more time to consider the application.

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- (e) If the Commission approves the application, the affected Certified Neighborhood Council shall be deemed de-certified and will no longer be recognized as a Certified Neighborhood Council in the City of Los Angeles.
- (f) If the Commission approves the application, any members of the Governing Body of the affected Certified Neighborhood Council may, within five meeting days of the City Council during which the Council has convened in regular session, file an appeal with the City Council. The appeal will automatically be placed on the Council's next regular agenda for Council consideration. The Council may, by ten votes, sustain, reverse, or modify the Commission's decision.
- (g) A Certified Neighborhood Council shall return all City-owned resources, including unexpended City-appropriated funds, to the City immediately upon its decertification.

6. Voluntary De-Certification of a Certified Neighborhood Council

A Certified Neighborhood Council may petition the Commission to be de-certified as a Certified Neighborhood Council in the City of Los Angeles.

- (a) An Application to De-Certify a Certified Neighborhood Council, as prescribed by DONE, shall be completed and signed by at least 3/4 of the Governing Body of the affected Certified Neighborhood Council seeking de-certification. The application shall be filed with DONE.
- (b) DONE shall have ten business days, from the date of receipt of an application, to prepare, translate (if necessary), and post public notices that a group has applied for de-certification according to the following:
 - (i) A copy of the notice shall be posted in at least five public, easily accessible places within the boundaries of the affected Neighborhood Council, and shall post the notice on DONE's Web site. Examples of appropriate posting locations include, but are not limited to, libraries, police stations, or fire stations.
 - (ii) Copies of the notice shall be posted for 15 business days.
 - (iii) The notice shall be translated into all languages other than English that the City Clerk Election Division uses to produce sample ballot information if the proposed Neighborhood Council boundaries include communities where such languages are spoken. At the present time, a sample ballot is published in Chinese, English, Japanese, Korean, Spanish, Tagalog, and Vietnamese. This list of languages may change from time to time, and DONE shall be responsible for keeping current with said changes. DONE shall be responsible for translating the notice into any other language upon request.
- (c) Within ten business days after the expiration of the 15 business day public notice period described in Article VI, Section 6(b)(ii), the Commission shall conduct a public hearing to take testimony from members of the public regarding the proposed de-certification application. The following shall apply:

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- (i) The public hearing shall be conducted as part of the Commission's next regularly scheduled meeting or as part of a special meeting if no regularly scheduled meeting falls within said ten business-day period.
 - (ii) The Commission meeting shall be conducted within the boundaries of the affected Certified Neighborhood Council proposed for de-certification.
- (d) During the meeting where the Commission conducts a public hearing for the purpose of considering a de-certification application, and at the close of the public comment period and after the Commission's deliberations, the Commission shall either approve or reject the de-certification application. The Commission may defer its decision on the application until its next regularly scheduled meeting in order to receive additional information on a matter brought to its attention during its public hearing or to allow for more time to consider the application.
- (e) If the Commission approves the application, the affected Certified Neighborhood Council shall be deemed de-certified and will no longer be recognized as a Certified Neighborhood Council in the City of Los Angeles.
- (f) If the Commission rejects the de-certification application, Community Stakeholders of the affected Certified Neighborhood Council, who have regularly attended the affected Certified Neighborhood Council's meetings, that has filed for de-certification and who disagree with the Commission's decision may appeal. The applicants may, within five meeting days of the City Council during which the Council has convened in regular session, file an appeal with the City Council. The appeal will automatically be placed on the Council's next regular agenda for Council consideration. The Council may, by ten votes, sustain, reverse, or modify the Commission's decision.
- (g) A Certified Neighborhood Council shall return all City-owned resources, including unexpended City-appropriated funds, to the City immediately upon its decertification.

PLAN FOR A CITYWIDE SYSTEM OF NEIGHBORHOOD COUNCILS

Article VII

Responsibilities of the Department of Neighborhood Empowerment

At a minimum, the Department of Neighborhood Empowerment shall:

1. Implement and oversee compliance with City ordinances and regulations relating to a Citywide system of Neighborhood Councils.
2. Assist neighborhoods and Certified Neighborhood Councils with public and civic education, outreach, and training with an emphasis given to areas that have traditionally low rates of participation in government.
3. Assist applicants and neighborhoods with preparation of all petitions and forms referenced in this Plan, identify suitable Neighborhood Council boundaries, and organize Neighborhood Councils in accordance with this Plan.
4. Help coordinate meetings and facilitate communication among Certified Neighborhood Councils that request assistance.
5. Help coordinate, arrange, and convene the biannual Congress of Neighborhood Councils meetings.
6. Promote and facilitate open communication among City agencies and Certified Neighborhood Councils, and provide education, guidance, and assistance in developing strategies for providing comments and feedback to the City Council and its committees and City boards and commissions.
7. Assist Certified Neighborhood Councils with the election or selection of their Governing Body.
8. Provide operational support to and facilitate the sharing of resources among Certified Neighborhood Councils, including, but not limited to, meeting and office space, office equipment, and mail and communications in order to communicate among constituents, Certified Neighborhood Councils, and government officials.
9. Create and maintain a database of information about Certified Neighborhood Councils, including, among other information, names and contact information that will be available for public use.
10. Act as an information clearinghouse and resource to Certified Neighborhood Councils.
11. Create and maintain an Early Notification System as prescribed in this Plan.
12. Assure equal opportunity to form and develop Certified Neighborhood Councils. DONE shall assist groups and Community Stakeholders seeking Certified Neighborhood Council status by:

PLAN FOR A CITYWIDE SYSTEM OF NEIGHBORHOOD COUNCILS

- (a) Helping understand the processes and procedures for establishing a Certified Neighborhood Council.
 - (b) Assisting with completion of certification application.
 - (c) Providing assistance to areas with traditionally low rates of participation in government.
 - (d) Mitigating barriers to participation, such as the need for translation and childcare services.
- 13.** Review and evaluate the Citywide system of Neighborhood Council. As part of its annual report, DONE shall provide information on the size, geographic scope, and economic and demographic conditions of areas of the City in which Certified Neighborhood Councils have and have not been certified.
- 14.** Report quarterly, commencing from the adoption date of this Plan, to the appropriate Council Committee on the Department's certification efforts, and on strategies and recommendations for certifying areas with traditionally low rates of civic participation in government to ensure participation by all the City's neighborhoods in the certification process.
- 15.** Arrange training for Neighborhood Councils' officers and staff.
- 16.** Provide adequate levels of staffing, with consideration to resource availability, for each Certified Neighborhood Council.

PLAN FOR A CITYWIDE SYSTEM OF NEIGHBORHOOD COUNCILS

Article VIII

Early Notification System

DONE shall create and maintain an Early Notification System (ENS) in accordance with City Charter Section 907. The ENS is designed to supplement current state and local laws regarding public notification. The ENS will operate according to the following:

1. Subject to all other provisions of this Plan, all Certified Neighborhood Councils shall be provided access to a computer and to the Internet. DONE shall provide technical training on the use of a computer to each Certified Neighborhood Council.
2. An ENS Web site shall be created and maintained where information regarding the City Council and its committees and City boards and commissions will be available.
3. In addition to accessing information through the ENS Web site, Certified Neighborhood Councils will be able to subscribe to services whereby they will receive electronic mail notifications regarding updates to the information on the ENS Web site.
4. Information on the ENS Web site shall be provided as soon as is practical so that Certified Neighborhood Councils are afforded an opportunity to prepare and provide comments before decisions are made.
5. The City shall provide each Certified Neighborhood Council with an electronic mail (e-mail) address. The use of this e-mail address shall be limited strictly to official Certified Neighborhood Council business, such as communicating with Neighborhood Council Community Stakeholders about meeting times and places and communicating with the City on matters of importance to the Certified Neighborhood Council. Each Certified Neighborhood Council shall be required to use the City's officially designated e-mail address to correspond with City departments and agencies if the Certified Neighborhood Council expects their correspondence to be entered into the public record.
6. Certified Neighborhood Councils shall be allowed to provide comment and feedback electronically to the City Council, its committees, and City boards and commissions via the ENS. Comments from a Certified Neighborhood Council's officially designated e-mail address (as described in Article VIII, Section 5) shall be printed and placed into the public record.
7. DONE may coordinate additional information for distribution through the ENS from public or private entities as they directly relate to Certified Neighborhood Councils and issues affecting Certified Neighborhood Councils, provided that they are subject to all regulations and requirements of this Plan.

PLAN FOR A CITYWIDE SYSTEM OF NEIGHBORHOOD COUNCILS

Article IX

Funding*

1. At the beginning of each fiscal year, the Mayor and Council shall appropriate money for Certified Neighborhood Councils for costs related to the functions, operations, and duties of being a Certified Neighborhood Council. Such functions, operations, and duties include, but are not limited to, meeting and office space, office equipment, computers, supplies, and communications, such as costs associated with newsletters, postage, or printing written materials. At the discretion of each neighborhood council, and as approved by the DONE, all or part of the money so appropriated may be used for neighborhood improvement projects.
2. Any money which the Mayor and Council appropriate as grant funds each fiscal year shall be made available to Certified Neighborhood Councils for various neighborhood improvement projects. In order to be eligible for grant money, a Certified Neighborhood Council shall submit an application to DONE, as prescribed by DONE. Grant money shall be awarded to Certified Neighborhood Councils based on criteria and procedures established by DONE and the Commission. Each Certified Neighborhood Council that receives grant money shall be required to account for its expenditures pursuant to this Plan (Article III, Section 2(d)).

*Amended 11/08/02 per Resolution dated November 8, 2002

PLAN FOR A CITYWIDE SYSTEM OF NEIGHBORHOOD COUNCILS

Article X

Financial Accountability and Technical Assistance Policy*

1. Preliminary Review of Expenditures

The DONE may make a preliminary review of any expenditure or financial transactions contemplated by a Certified Neighborhood Council to ensure that it is acceptable, appropriate, and comports with DONE guidelines and laws that pertain. Where a Certified Neighborhood Council is unsure whether a proposed expenditure is appropriate, it shall make a written request for guidance from the DONE on the matter before any commitment to expend funds is made or the transaction is completed.

2. Expenditure Oversight

The DONE may monitor and review any and all financial transactions made by a Certified Neighborhood Council as follows:

- (a) Computer based [on-line] review of any information concerning Commercial Prepaid Card transactions, negotiable instruments, or any other applicable method by which Certified Neighborhood Councils may access City funds and make financial transactions.
- (b) On-site review of any Certified Neighborhood Council's accounts, statements, books, records, receipts, invoices, or any other document that evidences any financial transaction.
- (c) A DONE in-house review of any Certified Neighborhood Council's accounts and business records prior to releasing funds to the Certified Neighborhood Council for the conduct of its business.

3. Admonition

When the DONE determines that a Certified Neighborhood Council has failed to account for its funds or has misused its funds, then the DONE may issue a Fiscal Responsibility Admonition Letter informing the Certified Neighborhood Council of the problem. Where the DONE deems it necessary, the Financial Responsibility Admonition Letter may request as follows:

- (a) That the Certified Neighborhood Council take specific corrective action to comply with Generally Accepted Accounting Principles or those prescribed by the DONE under the Neighborhood Council Funding Program.
- (b) That the Treasurer, or any other Certified Neighborhood Council representative, shall meet with the DONE staff to discuss accounting practices or any other financial matter involving the Certified Neighborhood Council and, thereafter, follow a remedial plan as prescribed by the DONE.

PLAN FOR A CITYWIDE SYSTEM OF NEIGHBORHOOD COUNCILS

4. Corrective Action and Remedial Measures

If the DONE determines that a Certified Neighborhood Council has misused its funds, then the DONE may impose corrective action or remedial measures on the Certified Neighborhood Council. The DONE's decision to impose corrective action or remedial measures, or both, is final; except where de-certification is initiated as set forth in Section 22.810.1(e)(2) of the Los Angeles Administrative Code.

5. Corrective Action

As outlined in the DONE's Fiscal Responsibility Admonition Letter, the corrective action prescribed by the DONE may include, but is not limited to, the following:

- (a) Denying funding requests for payment on purchases or transactions deemed unacceptable or a misuse of public funds.
- (b) Suspending all access to and the use of Certified Neighborhood Council funds, including Commercial Prepaid Cards or City issued demand warrants.
- (c) Reducing funding to a Certified Neighborhood Council in amounts that equal or approximate the amount necessary to compensate for, or remedy, any unacceptable purchase or financial transaction, or to redeem misused public funds; including any administrative or incidental costs associated therewith.

6. Remedial Measures

The DONE is authorized to impose remedial measures on any Certified Neighborhood Council when the Department determines that an unacceptable purchase, financial transaction, or misuse of public funds has occurred, or may occur, in violation of accounting principles, DONE guidelines, or laws that pertain. Any remedial measures imposed by DONE will be identified in a Fiscal Responsibility Admonition Letter and may include any combination of corrective actions and remedial measures that the DONE deems appropriate under the circumstances.

In an effort to insure that the Certified Neighborhood Councils operate in a fiscally responsible manner and to support the financial integrity of the Neighborhood Council Funding Program, the Department may impose the following remedial measures:

- (a) Require mandatory supplemental training for any treasurer or fiscal agent of a board or, if necessary, the entire board of the Certified Neighborhood Council.
- (b) Require that the Certified Neighborhood Council develop and commit to a written remedial action plan within 45 days from the date when the DONE mails a Fiscal Responsibility Admonition Letter imposing such a measure.

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- (c) Require that the Certified Neighborhood Council be placed on formal probation when the DONE determines that a Certified Neighborhood Council has been repeatedly deficient in its accounting practices or has consistently mishandled or misused its funds.
- (d) Require that the Certified Neighborhood Council immediately relinquish all access to, and tender all control of, its business records and funds to the DONE. The DONE may impose this measure when it determines that the Certified Neighborhood Council has not complied with the corrective or remedial measures outlined in a previous Financial Admonition Letter, the prospect of rectifying the problem is unlikely, or the circumstances require immediate action to safeguard public funds.
- (e) Refer the matter to the Commission with a recommendation that the Certified Neighborhood Council be involuntary decertified as set forth in section 22.810.1(e) (2) of the Los Angeles Administrative Code. DONE may recommend decertification when it determines that a Certified Neighborhood Council is incapable of handling its accounts, its Governing Body refuses to follow the advice, corrective action, or remedial measures outlined by the DONE, or the circumstances require immediate action to safeguard public funds.
- (f) Refer the matter to the appropriate department, commission, or law enforcement agency when the Department has reasonable cause to believe that someone has engaged in unlawful or criminal activity involving a Certified Neighborhood Council's public funds.

* Added per Resolution dated October 25, 2006

**Congress of Neighborhoods
April 5, 2003**

THE BROWN ACT AND NEIGHBORHOOD COUNCILS

**Office of the City Attorney
Neighborhood Council Advice Division**

What Is The Ralph M. Brown Act?

The Brown Act is a state law which governs open meetings for local governmental bodies. The Brown Act (also "Act") is contained in the Government Code at § 54950 *et seq.*, and establishes rules designed to ensure that actions and deliberations of commissions, boards, councils and other public bodies of local agencies are taken openly and with public access and input.

Why Are Neighborhood Councils Subject To The Brown Act?

The Brown Act governs the meetings of all local "legislative bodies," that is, all multi-member councils, boards, commissions, committees and the like, of a local governmental agency. Only bodies created by charter, ordinance, or the formal action of another legislative body are covered by the Act. Neighborhood councils are covered by the Brown Act because the City Charter created the system of neighborhood councils, which required the approval of a plan to implement the system, and an ordinance to implement that plan. The ordinance provides for the City to certify, and otherwise recognize neighborhood councils, as an official component of the City. This combination of features, *i.e.*, the Charter-created system and adoption of the plan and ordinance, satisfies the "creation by charter, ordinance or formal action" test of the Act. Thus, meetings of neighborhood councils are covered by the Act.

What Constitutes A Meeting Of A Neighborhood Council?

A meeting of your neighborhood council will occur when a majority of the members of your board, or whatever term your bylaws use to define its "governing body," meet at the same time and place to *hear, discuss, or deliberate* upon any matter which is under the subject matter jurisdiction of your neighborhood council. The jurisdiction of your neighborhood council will be broad since neighborhood councils are advisory bodies to *all* of the City decision-makers. Some neighborhood councils may have defined the particular areas of importance to them in their bylaws, so those areas will also provide guidance as to matters over which a neighborhood council

will have jurisdiction.

Many neighborhood councils have provided in their bylaws that decisions of their governing body are made by a majority of the total number on the board. Others provide that decisions are made by a majority of the number of board members *present* at the meeting. Still others provide for decision by action by a majority of the *quorum* of the board. If your bylaws provide that some number *less* than a simple majority of the board can make a decision on behalf of the neighborhood council, the gathering of that group of people is an official meeting under the Act.¹ The least number of persons under your bylaws who can take an official action for your neighborhood council is the number to be aware of for purposes of compliance with the Act. Meetings subject to the Act may lawfully be held only if the notice and agenda requirements discussed in this paper are followed.²

One might think that the Brown Act applies only when a board is making decisions at a public meeting. In fact, the Brown Act will also apply whenever a majority of your neighborhood council board meet to simply *discuss, deliberate* or *acquire* information about a matter within the subject matter of your neighborhood council.

A meeting may also include a conference or retreat attended by a majority of neighborhood council board members. If a conference (or similar gathering) is open to members of the public, involves issues of general interest to the public or to a number of public agencies, it is not a meeting subject to the Act, and neighborhood council board members are free to attend so long as the majority of board members do not discuss among themselves, other than as part of the scheduled program, specific issues within the jurisdiction of the neighborhood council. Retreats held by a neighborhood council, however, would be subject to the open meeting laws of the Act because, by definition, they do not involve a number of different public agencies but rather, would likely involve issues relating solely to the neighborhood council. Thus, members of the public must be allowed to attend, and the retreat would be subject to the Act's notice requirements, as described below.

If your neighborhood council decided to hold a lunch meeting or dinner meeting, at which matters within the jurisdiction of your neighborhood council will be discussed, the lunch or dinner meeting would need to be noticed as a meeting of the

¹ Accordingly, whenever this paper uses the term "majority" to define a meeting, we include the term "quorum" as well.

² Less than a majority of board members may meet together or over the phone or by e-mail to discuss a subject within the jurisdiction of the neighborhood council without having to comply with the Act.

neighborhood council, and members of the public must be allowed to attend, without having to pay for the lunch or dinner although they need not receive the meal.

In addition, there are some common situations that you need to be particularly alert to, such as informal gatherings, "serial" meetings, including serial meetings that may be conducted through the use of electronic mail ("e-mail") and the conduct of neighborhood council elections, all of which raise Brown Act concerns.

Informal Gatherings. Since your board members will be stakeholders in the community of your neighborhood council, it is likely that they will have occasion to gather together informally at picnics, fund-raisers, carwashes or other community events. Not every gathering of a majority of neighborhood council board members will necessarily constitute a meeting under the Act. Informal, social gatherings of board members are not meetings and neighborhood council board members do not need to comply with the provisions of the Act in order to attend gatherings of that nature. However, even at these purely social occasions, a majority of the board may not gather together to discuss matters within the subject matter under the council's jurisdiction and must guard against discussing matters that are likely to be issues within the subject matter jurisdiction of your neighborhood council.

Serial Meetings. The Act prevents, what courts have called, "serial meetings," that would be employed by a majority of your board members to develop a consensus as to action to be taken on a matter coming before your neighborhood council. This is because the Act's main goal is to ensure that the public's business is in fact conducted *in public*.

A serial meeting is a series of separate communications that ultimately involves a majority of a legislative body. The Act prohibits this type of communication if it contributes to the development of an agreement among the majority on any particular item.

For example, if you have an 11-person board, the quorum of your board is 6 people and official actions are taken by a majority of the entire board, a chain of communications between six of those members could result in a serial meeting in violation of the Act. This can occur either if one person contacts the other five members or if, for example, member A contacts member B who contacts member C, etc., until six or more of the board members have discussed and agreed to the action they want to take on a particular item. These types of communications are prohibited under the Act.

The Act also prohibits the use of technological devices to assist in a majority of a board in arriving at any decision. Therefore, as noted earlier, you must always be aware of the least number of board members under your bylaws who can take official

action on behalf of your neighborhood council and be particularly cautious of communicating by telephone, fax, or e-mails with a majority of your members on matters of substance coming before your neighborhood council. However, communications between board members and an executive officer, such as a Secretary, to discuss times, dates and placement of matters on the agenda, and the availability of board members to assess whether an upcoming meeting will have a quorum, may occur without violating the Act. Similarly, merely sending or receiving a written communication to or by a majority of the board members (including an e-mail), does not result in a serial meeting in violation of the Act if the communication becomes a public record and there is no *exchange* of these communications among board members on a substantive issue coming before your neighborhood council. A majority of board members should also refrain from circulating motions, proposals and similar documents among themselves for review and signature other than at a noticed public meeting.

In addition, a serial meeting may occur through the use of an intermediary. Thus, you cannot use any person for the express purpose of polling a majority of the neighborhood council board members to gain a consensus on an item coming before the council. In addition, you may not ask a third party to communicate among the board to obtain a consensus; you cannot use intermediaries to accomplish the actions that you are directly prohibited from undertaking.

Elections. For purposes of electing its officers or board members, a neighborhood council may hold an election day at which stakeholders, including board members, may cast their votes for their representatives. These type of elections which envision using a ballot to cast votes anonymously, *i.e.*, "secret ballots", would not constitute a "meeting" under the Act. As long as no other neighborhood council business is conducted, these gatherings, if conducted solely for election purposes, would not constitute a meeting subject to the Act. However, if any type of neighborhood council business is to be conducted at the venue for the election, the entire election would be subject to the Act. In that situation, traditional secret balloting would not be allowed since the Brown Act prohibits voting by secret ballot and all voting would have to occur openly where the person's voting choices are readily ascertainable.

Some neighborhood councils provide for the election of their *officers* to be conducted by the elected board members, rather than by a general vote of the stakeholders. This procedure does not occur at an election day, but instead at a public meeting. At a meeting for the election of officers, an item appears on the agenda for the election of officers. That meeting must otherwise comply with the notice and agenda requirements of the Act. In addition, the election itself may *not* be conducted by secret ballot. Thus, the board members exercising their right to elect their officers must record their votes openly, either by voice or hand vote or by a

written ballot that can be identified to the voter and the results are publicly tallied.³

What Type Of Rules Will Govern The Conduct Of Neighborhood Council Meetings Under The Act?

Regular Meetings. The Act will require that neighborhood councils hold their meetings at a regular time and place. The Plan for a Citywide System of Neighborhood Councils ("Plan") provides that every neighborhood council must meet at least quarterly. Your council may, of course, choose to meet more often than the minimum time set forth in the Plan. Your council should already have included the minimum meeting requirement in your bylaws and you should establish, either in your bylaws, or subsequently adopted Rules of Order, a regular meeting place as well.

Open Meetings. The Plan already provides that meetings of your neighborhood council must be open to the public. The Brown Act also specifically requires that your meetings must be open. This means open not only to your neighborhood council stakeholders, but to any member of the public. Your neighborhood council may not charge a fee for admittance, nor can you require members to sign in or identify themselves as a condition of attending a meeting. (For voting or membership identification purposes, although we recommend against any process that discourages stakeholder participation, it is appropriate for your group to create a registration form to identify your stakeholders as members of the neighborhood council, if you choose. However, if a registration form is posted or circulated at a meeting, *it must clearly state that completion of the document is voluntary and not a precondition for attendance.*) Discussion and deliberation of agenda items by your council's board must be done openly -- no secret ballots or secret deliberations are allowed. Again, the purpose of these requirements is to allow members of the public to hear and observe the proceedings. Finally, meetings may not be held in facilities that are inaccessible to disabled persons or in facilities that prohibit the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry or sex.

Location of Meetings. The Brown Act provides that regular and special meetings must be held within the boundaries of the territory over which the legislative body has jurisdiction. This means that your neighborhood council meetings should be conducted within the City of Los Angeles and probably should be held within the boundaries of your neighborhood council area. However, there are provisions that allow for the occasional "field trip" outside your boundaries. The Act does allow neighborhood council meetings to be held by teleconference. A teleconference is a meeting where your council members are not all at the same location and are

³ The Attorney General has opined that "members of a [legislative] body may cast their ballots either orally or in writing so long as the written ballots are marked and tallied in open ~~The Brown Act and all neighborhood council records.~~ public records."

connected by electronic means, through either audio or video or both. During a teleconferenced meeting, board members may discuss and vote on agenda items. However, the Act has strict requirements governing how teleconferenced meetings may occur:

☞ Agendas must be posted at *all* teleconferencing locations, all of which must be listed on the agenda;

☞ Members of the public must be allowed to attend any of the teleconferencing locations and to address the neighborhood council board directly at any of the locations;

☞ At least a quorum of the neighborhood council board must be located at one or more teleconferencing locations within the neighborhood council area;

☞ The neighborhood council must comply with all other provisions of the Brown Act.

Notice and Agenda Requirements.

Regular Meetings. The agenda for a regular meeting of a neighborhood council must be posted *at least* 72 hours (which *may* be calculated to include Saturdays and Sundays) before the meeting. The agenda must list all items that will be discussed or acted upon by your neighborhood council. That listing should be described in an informative way so that members of your council as well as members of the public understand the general nature of the agenda item and can make an informed decision whether to attend the meeting or not. The Brown Act provides that this description need not exceed 20 words, but you are certainly free to use more words if necessary. The goal of the description is to provide a reasonably clear understanding of what is to be considered by the board at its meeting. You may include general categories on your neighborhood council agendas, such as "General Announcements" or "Correspondence" or "Committee Reports."

However, if a committee of your neighborhood council plans on making a particular recommendation to the board, that report should be listed specifically with a reference to the committee's recommendation. The same would be true if your neighborhood council is making a recommendation about a particular project or issue that it wants to formally communicate to the City decision-makers. Those matters should be separately listed on the agenda with enough information to identify the project, such as the address, type of project, etc. Board members of the neighborhood council will be limited to acting on (as well as discussing) only those matters which have been listed on the agenda, with limited exceptions which are described below.

Special Meetings. The agenda for a special meeting (and the call and notice for it) must be posted, stating the time and place of the meeting, *at least 24 hours* prior to the special meeting and provided to each local newspaper, radio, or television stations that has requested in writing to be provided with these notices. Only matters that are on the agenda for that meeting may be discussed at that meeting. Your bylaws should specify whether your neighborhood council may hold special meetings. The Brown Act provides that special meetings may be called by the presiding officer of your neighborhood council or by a majority of the board members by delivering written notice to each board member of the council.

Emergency Meetings. Emergency meetings may be called under certain specified circumstances defined in the Act without having to comply with either the 24-hour notice or posting requirements. In the unlikely event that a neighborhood council would have the need to call an emergency meeting, at least one-hour notice must be given to media outlets that request notice of any emergency meeting.

Exceptions to the Agenda Requirement. The general rule is that a matter may not be discussed or decided unless it is listed on the agenda. *This is very important, but there are exceptions to this broad rule:*

a) **Board Member Comments**

☛ board members may make very limited comments and *briefly* respond to statements made or questions posed by persons exercising their general public comment rights (*no action may be taken on matters brought up during general public comment*);

board members may make a *brief* announcement or a *brief* report on his or her own activities; and board members may take action to direct their secretary (or whoever is in charge of placing items on the agenda) to place a specific matter on the agenda for a future meeting; *Note: It is preferable, if your neighborhood council wants to take board member comments, to have an item on your agenda called "Board Member Comments" as part of the agenda, even though the specific discussion under these parameters is not known in advance of the meeting.*

b) **Continuances**

☛ if an item was posted pursuant to the Act for a prior meeting of the neighborhood council occurring not more than five calendar days prior to the date action is taken on the item and the prior action had been continued to the meeting at which action is being taken, your neighborhood council may act on the matter even if it is not on the agenda. *Note: This situation is not likely to occur unless your council plans to hold weekly meetings;*

c) *Emergency Action*

board members may take action if, by two-thirds votes of the neighborhood council board, it determines that there is a need to act immediately, that the neighborhood council's consideration of the matter cannot await the next meeting of the council and that the need for immediate action arose after the posting of the agenda. *This should only occur in very rare occasions, and you should consult with the Department of Neighborhood Empowerment or the City Attorney's Neighborhood Council Advice Division before relying on this exception. (Note: If an item does come up after the posting of the 72-hour agenda, but before the meeting, you should consider whether you have time to notice a 24-hour special meeting that could follow your regular meeting and allow discussion only of that item.)*

What Rights Do Members Of The Public Have At Neighborhood Council Meetings?

Except when closed sessions are permitted (see below), all meetings of your neighborhood council must be held in public. Members of the public, not just the stakeholders in your particular neighborhood council, are allowed to attend and participate by speaking about specific items on the agenda. Indeed, *before* your board takes action on any particular item on the agenda, members of the public have a right to testify or otherwise address the neighborhood council board members about each item.

Your agendas should also provide for an item designated "Public Comment" because the Act allows members of the public to comment on any item within the subject matter jurisdiction of your neighborhood council that is not specifically listed on the agenda. It is up to your neighborhood council where you want to put this item on the agenda. Some agencies put general public comment at the front of the agenda, while some place it at the end. It does not matter where you put it as long as you provide for that opportunity at every regular meeting of your neighborhood council. (Special meetings do not require a *general* public comment item; however, this does not mean that the public can be prohibited from speaking on the *agendized* items for the special meeting.) Your neighborhood council is allowed to adopt reasonable rules to govern the length of time for public comment on agenda and non-agenda items.

Members of the public also have a right to criticize the policies or practices of your neighborhood council during public comment and have a right to videotape and audiotape the proceedings. The Act does allow your neighborhood council to control disruptions and ask disruptive members to leave the meeting room. *However, this power must be exercised with caution and the City Attorney should be consulted to discuss how and when this provision of the Act may be invoked. At no time should*

you engage in physical confrontations or force or attempt to physically remove a disruptive person.

Members of the public also have a right to see materials that are distributed to your neighborhood council at its meetings. The Act provides that materials distributed during a public meeting be made available for public inspection *at the meeting* if prepared by the local agency or member of the legislative body. This means that if your neighborhood council or, if applicable, staff at the Department of Neighborhood Empowerment, prepare materials for distribution at your meetings, copies must be made available for the public. Otherwise, if materials are distributed by other individuals, such as other stakeholders or members of the public, these must be retained and be made available after the meeting.

Will Committee Meetings Of Neighborhood Councils Be Subject To The Brown Act?

Committee meetings of your neighborhood council may also be subject to the notice and agenda requirements of the Act. Standing committees, which are committees that have a continuing jurisdiction over a particular subject matter, are subject to the Act, even if the committee comprises less than a majority of board members or includes or is made up of only stakeholders from your neighborhood council. If your bylaws have created several standing committees, these will be subject to the provisions of the Act.

In addition, interim boards that act on behalf of the neighborhood council after certification but prior to the initial election of the board are subject to the Act. Similarly, the committee that is drafting your initial election procedures is subject to the Act.

Many neighborhood councils have *not* created an interim board, but have allowed the people who are listed on the original certification as "contact people" to be the liaisons with the Department, until a board is elected. The gathering of *those individuals* would not constitute a meeting of a legislative body unless they engage in making decisions on behalf of their neighborhood council.

Ad hoc, or temporary committees, created by the board from among its members, numbering less than a majority, are normally not subject to the Brown Act. Generally, a temporary committee is designed to address a specific issue for a limited time. As long as the committee is made up of *only* less than a majority of your neighborhood council board members and the committee is of a temporary nature, the committee will not have to meet in public, nor comply with the other provisions of the Act. However, if you include *any* non-board member on a temporary committee, the Brown Act provisions will apply. Standing committees, and temporary committees that are subject to the provisions of the Act, do not need to establish a

regular time and place for their meetings.

Are There Any Circumstances Where A Neighborhood Council Can Hold A Meeting That Is Closed To The Public?

It is not likely that there will be many circumstances which would allow your neighborhood council to discuss matters in closed session. The Act provides for very specific and limited circumstances under which a closed session may be held by a legislative body. The most likely circumstances, *if at all*, that would apply to a neighborhood council would be to discuss personnel matters or pending litigation.

Personnel Matters. The Act could allow your neighborhood council to meet in closed session to discuss the appointment, employment, evaluation of performance, discipline or dismissal of a public employee under limited circumstances.⁴

Pending Litigation. A neighborhood council *may* be allowed to meet in closed session with attorneys from the Office of the City Attorney to discuss pending litigation to which the neighborhood council is or may be a party under certain specific circumstances:

- ☛ when litigation has been formally initiated;
- ☛ there is significant exposure or threat of litigation.

What you cannot do is use a closed session to discuss items because you might be uncomfortable discussing the item in public or because you want to confer with legal counsel. As such, the need for a closed session is unlikely to arise for a neighborhood council. *Moreover, because these issues are complicated, before attempting to assert any of the exceptions under the Act to hold a closed session, your neighborhood council should consult the City Attorney's Neighborhood Council Advice Division for advice.*

May A Majority Of Neighborhood Council Board Members Attend Other Neighborhood Council Meetings Or Other Public Meetings Without Having To Notice That Attendance As A Meeting?

A majority of neighborhood council board members may attend meetings held by a person or organization as long as the board members do not discuss among themselves neighborhood council business. Similarly, a majority of a council's board

⁴ The term "public employee" in the City of Los Angeles context would mean a City employee.

may attend a meeting of another public body, including another neighborhood council meeting, City commission or City Council meeting without having to notice their attendance as a meeting, again, as long as the board members do not discuss among themselves neighborhood council business.

However, if a neighborhood council and another body or agency wishes to conduct a *joint meeting*, both the neighborhood council board and the other body or agency with which it wants to meet, will need to notice the meeting as a joint meeting of the two bodies.

A majority of council board members may attend meetings of its own committees without having to comply with the notice requirements for the board, as long as the board members attend *only* as observers. For example, if a majority of the board wanted to attend one of its standing committee's meetings, it may do so without having to comply with the Act. However, if any of the board members wish to participate by addressing the committee members, then the meeting would have to be noticed as both a meeting of the committee and the neighborhood council itself.

What Can Happen If A Neighborhood Council Board Member Violates The Brown Act?

Criminal Penalty. Violations of the Act can carry misdemeanor penalties for certain actions if a member of a neighborhood council board merely attends a meeting where action is taken in violation of the Act. However, a showing must be made that the member *intended* to deprive the public of information to which the member knows (or has reason to know) the public is entitled.

Civil Remedy. Violations of the Act may also result in a civil lawsuit being filed to seek judicial (injunctive or writ) relief to prevent or correct violations. Under certain circumstances, the court can declare a decision made in violation of the Act void. Before filing a civil action, a complaining party would have to first demand that your neighborhood council correct the violation. That demand must be made in writing within 90 days after the alleged violation occurs. In cases involving an alleged violation of the rules governing agendas, the written demand must be made within 30 days after the occurrence.

Interested In Learning More About The Brown Act?

For more information about the Brown Act, the Attorney General has an excellent pamphlet that discusses the Act, which can be accessed over the Internet at: <http://caag.state.ca.us>, by clicking into "Publications" and then scrolling down to: "Brown Act, Pamphlet 2003." With Adobe Acrobat Reader, it can be read on screen or printed. To request a copy by mail, simply call the Attorney General's Public Inquiry

Unit at: (800) 952-5225.

[88311]

THE

BROWN

ACT

OPEN MEETINGS FOR
LOCAL LEGISLATIVE BODIES



2003

CALIFORNIA ATTORNEY
GENERAL'S OFFICE

THE

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OPEN MEETINGS FOR
LOCAL LEGISLATIVE BODIES

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Office of the Attorney General

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Throughout California's history, local legislative bodies have played a vital role in bringing participatory democracy to the citizens of the state. Local legislative bodies - such as boards, councils and commissions - are created in recognition of the fact that several minds are better than one, and that through debate and discussion, the best ideas will emerge. The law which guarantees the public's right to attend and participate in meetings of local legislative bodies is the Ralph M. Brown Act.

While local legislative bodies generally are required to hold meetings in open forum, the Brown Act recognizes the need, under limited circumstances, for these bodies to meet in private in order to carry out their responsibilities in the best interests of the public. For example, the law contains a personnel exception based on notions of personal privacy, and a pending litigation exception based upon the precept that government agencies should not be disadvantaged in planning litigation strategy. Although the principle of open meetings initially seems simple, application of the law to real life situations can prove to be quite complex.

The purpose of this pamphlet is to provide a brief description of the Brown Act, along with a discussion of court decisions and opinions of this office that add to our understanding by applying it in specific factual contexts. We hope this pamphlet will assist both public officials and those who monitor the performance of local legislative bodies to minimize and resolve disputes over interpretations of the Brown Act. In recent years, both the California Supreme Court and the courts of appeal have recognized the benefit of pamphlets issued by our office. This recognition by the courts, along with many favorable comments from members of the public, strengthens our resolve to continue producing reliable informational materials on the Brown Act and other California laws. Publication of these materials constitutes a tradition of service that we value greatly.

Ideas and suggestions for future editions of this pamphlet are welcomed and should be addressed to the editor.

Sincerely,

BILL LOCKYER
Attorney General

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INTRODUCTION

This pamphlet concerns the provisions of the Ralph M. Brown Act, which govern open meetings for local government bodies. The Brown Act is contained in section 54950 et seq. of the Government Code. Accordingly, all statutory references in this pamphlet are to the Government Code unless otherwise noted. The pamphlet contains a table of contents, which may also serve as a topical outline for the reader. The pamphlet also includes a brief summary of the main provisions of the Brown Act, along with references to the appropriate Government Code sections and chapters of the text. The text includes a discussion of the law along with tips on how the law should be applied in particular situations. Numerous references are made to legal authorities throughout the text. A copy of the Brown Act in its entirety is set forth in the appendix to the pamphlet. Lastly, the pamphlet contains a table of authorities so that the reader can determine all of the places in the text where references are made to a particular authority.

In preparing this pamphlet, we relied on a variety of legal resources. Appellate court cases were consulted and are cited throughout the pamphlet. While most of the more significant cases are discussed, this pamphlet is not intended to be a compendium of all court cases in this area. In addition, we drew upon published opinions and unpublished letter opinions issued by this office. Attorney General opinions, unlike appellate court decisions, are advisory only and do not constitute the law of the state. However, with respect to the Brown Act, the courts have frequently adopted the analysis of Attorney General opinions, and have commented favorably on the service afforded by those opinions and this pamphlet. (*Bell v. Vista Unified School Dist.* (2000) 82 Cal.App.4th 672; *Freedom Newspapers v. Orange County Employees Retirement System* (1993) 6 Cal. 4th 821, 829.)

Published opinions are cited by volume and page number (e.g., 32 Ops.Cal.Atty.Gen. 240 (1958)). Unpublished letter opinions are cited as indexed letters by year and page number (e.g., Cal.Atty.Gen., Indexed Letter, No. IL 76-201 (October 20, 1976).) Published opinions are available through law libraries and some attorneys' offices. As a general rule, indexed letters are available only in the Office of the Attorney General. Copies may be obtained by a request to the Public Inquiry Unit of the Office of the Attorney General.

If you have specific questions or problems, the statutes, cases and opinions should be consulted. You also may wish to refer the matter to the attorney for the agency in question, a private attorney or the district attorney.

The pamphlet is current through January 2003 with respect to statutes, case law, and Attorney General opinions.

SUMMARY OF KEY BROWN ACT PROVISIONS

COVERAGE

PREAMBLE:

Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people's business. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created.

54950 Ch. I

GOVERNING BODIES:

Includes city councils, boards of supervisors, and district boards. Also covered are other legislative bodies of local government agencies created by state or federal law.

54952(a) Ch. I & II

SUBSIDIARY BODIES:

Includes boards or commissions of a local government agency as well as standing committees of a legislative body. A standing committee has continuing subject matter jurisdiction or a meeting schedule set by its parent body. Less-than-a-quorum advisory committees, other than standing committees, are exempt.

54952(b) Ch. II

PRIVATE OR NONPROFIT CORPORATIONS OR ENTITIES:

Covered only if:

- a. A legislative body delegates some of its functions to a private corporation or entity; or 54952(c)(1)(A) Ch. II
- b. If a legislative body provides some funding to a private corporation or entity and appoints one of its members to serve as a voting member of entity's board of directors. 54952(c)(1)(B)

MEETING DEFINED

INCLUDES:

Any gathering of a quorum of a legislative body to discuss or transact business under the body’s jurisdiction; serial meetings are prohibited. 54952.2 Ch. III

EXEMPTS:

- (1) Individual contacts between board members and others which do not constitute serial meetings; 54952.2(c)(1) Ch. III
- (2) Attendance at conferences and other gatherings which are open to public so long as members of legislative bodies do not discuss among themselves business of a specific nature under the body’s jurisdiction; 54952.2(c)(2), (3) and (4)
- (3) Attendance at social or ceremonial events where no business of the body is discussed. 54952.2(c)(5)

LOCATIONS OF MEETINGS:

A body must conduct its meetings within the boundaries of its jurisdiction unless it qualifies for a specific exemption. 54954 Ch. IV

TELECONFERENCE MEETINGS:

Teleconference meetings may be held under carefully defined conditions. The meeting notice must specifically identify all teleconference locations, and each such location must be fully accessible to members of the public. 54953 Ch. III

PUBLIC RIGHTS

PUBLIC TESTIMONY:

Public may comment on agenda items before or during consideration by legislative body. Time must be set aside for public to comment on any other matters under the body’s jurisdiction. 54954.3 Ch. IV & V

NON-DISCRIMINATORY FACILITIES:

Meetings may not be conducted in a facility that excludes persons on the basis of their race, religion, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. 54953.2; 54961 Ch. V

COPY OF RECORDING:

Public may obtain a copy, at cost, of an existing tape recording made by the legislative body of its public sessions, and to listen to or view the body's original tape on a tape recorder or viewing device provided by the agency. 54953.5 Ch. V

PUBLIC VOTE:

All votes, except for those cast in permissible closed session, must be cast in public. No secret ballots, whether preliminary or final, are permitted. 54953(c) Ch. VI

CLOSED MEETING ACTIONS/DOCUMENTS:

At an open session following a closed session, the body must report on final action taken in closed session under specified circumstances. Where final action is taken with respect to contracts, settlement agreements and other specified records, the public may receive copies of such records upon request. 54957.1 Ch. IV, V & VI

TAPING OR BROADCASTING:

Meetings may be broadcast, audio-recorded or video-recorded so long as the activity does not constitute a disruption of the proceeding. 54953.5; 54953.6 Ch. V

CONDITIONS TO ATTENDANCE:

Public may not be asked to register or identify themselves or to pay fees in order to attend public meetings. 54953.3; 54961 Ch. V

PUBLIC RECORDS:

Materials provided to a majority of a body which are not exempt from disclosure under the Public Records Act must be provided, upon request, to members of the public without delay. 54957.5 Ch. V

REQUIRED NOTICES AND AGENDAS

REGULAR MEETINGS:

Agenda containing brief general description (approximately twenty words in length) of each matter to be considered or discussed must be posted at least 72 hours prior to meeting. 54954.2 Ch. IV

SPECIAL MEETINGS:

Twenty-four hour notice must be provided to members of legislative body and media outlets including brief general description of matters to be considered or discussed. 54956 Ch. IV

EMERGENCY MEETINGS:

One hour notice in case of work stoppage or crippling activity, except in the case of a dire emergency. 54956.5 Ch. IV

CLOSED SESSION AGENDAS:

All items to be considered in closed session must be described in the notice or agenda for the meeting. A model format for closed-session agendas appears in section 54954.5. Prior to each closed session, the body must orally announce the subject matter of the closed session. If final action is taken in closed session, the body generally must report the action at the conclusion of the closed session. 54954.2; 54954.5; 54957.1 and 54957.7 Ch. IV

AGENDA EXCEPTION:

Special procedures permit a body to proceed without an agenda in the case of emergency circumstances, or where a need for immediate action came to the attention of the body after posting of the agenda. 54954.2(b) Ch. IV

CLOSED-SESSION MEETINGS

PERSONNEL EXEMPTION:

The body may conduct a closed session to consider appointment, employment, evaluation of performance, discipline or dismissal of an employee. With respect to complaints or charges against an employee brought by another person or another employee, the employee must be notified, at least 24 hours in advance, of his or her right to have the hearing conducted in public. 54957 Ch. VI

PUBLIC SECURITY:

A body may meet with law enforcement or security personnel concerning the security of public buildings and services. 54957 Ch. VI

PENDING LITIGATION:

A body may meet in closed session to receive advice from its legal counsel concerning existing litigation, initiating litigation, or situations involving a significant exposure to litigation. The circumstances which constitute significant exposure to litigation are expressly defined in section 54956.9(b)(3). 54956.9 Ch. VI

LABOR NEGOTIATIONS:

A body may meet in closed session with its negotiator to consider labor negotiations with represented and unrepresented employees. Issues related to budgets and available funds may be considered in closed session, although final decisions concerning salaries of unrepresented employees must be made in public. 54957.6 Ch. VI

REAL PROPERTY NEGOTIATIONS:

A body may meet in closed session with its negotiator to consider price and terms of payment in connection with the purchase, sale, exchange or lease of real property. 54956.8 Ch. VI

REMEDIES AND SANCTIONS

CIVIL REMEDIES:

Individuals or the district attorney may file civil lawsuits for injunctive, mandatory or declaratory relief, or to void action taken in violation of the Act. 54960; 54960.1 Ch. VII

Attorneys' fees are available to prevailing plaintiffs. 54960.5

CRIMINAL SANCTIONS:

The district attorney may seek misdemeanor penalties against a member of a body who attends a meeting where action is taken in violation of the Act, and where the member intended to deprive the public of information which the member knew or has reason to know the public was entitled to receive. 54959 Ch. VII

Return to Main Body