

Date: March 6, 2002

To: Neighborhood Council Leaders

From: Greg Nelson, General Manager, Department of Neighborhood Empowerment

## SECRET BALLOTS/BROWN ACT

A legal question arose regarding whether or not secret ballots could be used whenever Neighborhood Councils have elections. The City Attorney was consulted.

The answer is yes, in the proper circumstances.

After being certified, the interim or temporary board uses their approved bylaws and election procedures to organize an election for its Governing Body.

After a neighborhood council is certified, if its temporary board is provided for in the bylaws, it would become a "legislative body." And after the election, the elected/selected Governing Body would also be a legislative body.

A certified Neighborhood Council is a component of City government, and its Governing Body will be subject to the open meeting requirements of the Brown Act. And the Brown Act prohibits the use of secret ballots. That's why City Councils and City commissions can't have votes using secret ballots.

If an interim board of a certified Neighborhood Council holds a formal meeting to conduct business, AND elect their officers, then the strict provisions of the Brown Act would apply even though the stakeholders are not, strictly speaking, a "legislative body."

However, if the interim board of the newly-certified Neighborhood Council chooses to simply conduct an election where the stakeholders gather together either at a polling place or a location solely for the purpose to elect their Governing Body, and no other business is conducted, then this would NOT be considered a "meeting" for the purposes of the Brown Act.

What this all means is that Neighborhood Council elections could be conducted by secret ballot, mail-in ballot, or an absentee system, if they chose to do so, without involving the Brown Act.

The bylaws should make clear, and be specific as to how the election (if that is the chosen method to create their Governing Body) is to be conducted. The requirements for fairness and inclusiveness would require notification of stakeholders about the rules, time, etc., for the election of a permanent Governing Body. Stakeholders should be told how they can run for office, and vote for those who do run.

Coming next will be lists of those things that the department will do to help Neighborhood Councils with their elections, of legal and ethical pitfalls to avoid, and of the pros and cons of the different voting methods, such as secret or public ballots.

## TOWN HALL SYSTEMS

In a traditional Town Hall system, there would be no Governing Body, and all of the decisions would be made by whichever stakeholders show up for each meeting.

The attorneys concluded that the Plan for a Citywide System of Neighborhood Councils does not contemplate this type of system of governance. The Plan provides that “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 Certified Neighborhood Council.” See Article III, Section 2 (c)(ii) (2).

Since the Town Hall style generally means that whichever stakeholders show up at a meeting get to vote and become a decision maker, this system is not compatible with the language of the Plan that requires a defined set of offices and a method for selecting or electing those officers who then become the Governing Body.

Therefore, the conclusion reached was that a Town Hall style of governance in which the stakeholders as a group are the decision makers is not allowed under the Plan.

## CERTIFICATION UPDATE

Since the last newsletter, some additional applicants have been added to hearings that have already been scheduled. I've underlined the groups that have just been added.

March 19, 6:30 p.m., Tuesday. Northridge, Northridge Middle School, 17960 Chase St., Northridge. Added Old Northridge.

March 23, 9:00 a.m., Saturday. Empowerment Congress Central Area NDC, Audubon Middle School, 4120 11<sup>th</sup> Ave., Los Angeles. Add Park Mesa Heights, and these three Empowerment Congress Councils: North Area, Southeast Area, Southwest Area.

## SPAM

The e-mail list of neighborhood council leaders is growing. And this list is the smaller of the ones we have.

So what we're running up against is the “spam filtering” that some e-mail providers have built into their systems to protect you from junk mail. Since each provider uses a different and secret system, this will take some experimentation. If you receive an e-mail from me, or Barbara Arita, it isn't spam. I often do this so that Barbara will have the undeliverable messages sent back to her.

I'll include the letters “DONE” in each subject line. And we'll experiment with breaking up the

large e-mail group into smaller ones to avoid falling into someone's spam profile. We're trying to include as many leaders from each group as possible to make sure that the information gets through to at least one leader in each group. Whenever we get returned mail, we'll resend it on the hope that it is still a good address, and something that got kicked back by the spam filtering on your end.

## NEWSLETTER ARCHIVES

New people are being added to this list all the time, so I will regularly list some of the past newsletters that might be of interest to people, likely because they include policy decisions.

11-21-01 Governing Bodies cannot be elected until after certification.

11-30-01 Letter of Intent policy. Questions that commissioners are likely to ask at hearings. List of City Hall elected officials.

12-5-02 Sample bylaws.

1-31-02 Governing Body options. District voting method.

2-6-02 Overlapping boundary report available on demand.