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March 18, 2008

BY HAND DELIVERY

Hon. Michael Aguirre
City Attorney, City of San Diego
ATT: Michael Calabrese, Esq.
1200 Third Ave., Ste. 1620
San Diego, CA 92101

RE: La Jollans for Clean Government, Inc./ LJCPDAB/ Brown Act Violations

Dear Mr. Calabrese:

As you know this firm represents *La Jollans for Clean Government, Inc.*, a watchdog group created by La Jolla residents to insure openness and legal compliance in local City sponsored boards and committees.

La Jollans for Clean Government, Inc. has found evidence of serious and chronic violations of the Brown Act by the La Jolla Community Parking District Advisory Board ("LJCPDAB" or "Parking Board"). These violations go to the heart of the Board's functioning. The legal failings are particularly disturbing because the Board's primary mission was to solicit and synthesize public opinion into a recommendation for presentation to the City Council. Instead, the Parking Board plotted and planned, often in secret, how to achieve a pre-selected result. These violations have culminated in three Board-generated parking plans – all calling for paid street parking. To cure this violation, it is necessary for: (1) the Board to set aside the illegally developed plans; (2) have an open and public debate on a preferred plan; and (3) then (in accordance with its established process) provide that untainted plan to the public for a 45-day comment period before taking final action on it. While it is impossible to undo past violations of law, the Parking Board can take corrective action before proceeding and compounding prior illegal violations. The public deserves corrective measures, and the law demands it.

If the Board proceeds without taking corrective measures, the only option may be to seek an injunction or other relief, prove the violations through documentary evidence and depositions, and let a court decide whether the Board Members violated the law and, if so, the remedy.

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I LEGAL BACKGROUND

The Parking Board fails to comprehend the trust under which they operate, as explained in the Brown Act:

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. **It is the intent of the law that...their deliberations be conducted openly.**” Cal. Gov. Code §54950.

The nature of the violation is explained by the California Attorney General (84 Ops.Cal.Atty.Gen.30):

“The purposes of the Brown Act are thus to allow the public to attend, observe, monitor, and participate in the decision-making process at the local level of government. Not only are the actions taken . . . to be monitored by the public but also the deliberations leading to the actions taken. (See *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 373, 375; *Frazer v. Dixon Unified School Dist.* (1993) 18 Cal.App.4th 781, 795-797; *Stockton Newspaper, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 100; *Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs.* (1968) 263 Cal.App.2d 41, 45.) **“The term ‘deliberation’ has been broadly construed to connote ‘not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.’** [Citation.]” (*Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234; see *Roberts v. City of Palmdale, supra*, 5 Cal.4th at p. 376.)”¹

As used in the Brown Act, collective decisionmaking includes deliberations:

“The collective decisionmaking process consists of both “actions” and “deliberations” which must respectively be taken and conducted “openly”

¹ “It declares the law's intent that deliberation as well as action occur openly and publicly. Recognition of deliberation and action as dual components of the collective decision-making process brings awareness that the meeting concept cannot be split off and confined to one component only, but rather comprehends both and either.” *Frazer v Dixon Unified School District*, (1993) 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641.

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(§ 54950). Thus the meeting concept can not be confined exclusively to either action or deliberation but rather comprehends both and either (*id.*, at p. 47). Since deliberation connotes not only collective discussion but also the “collective acquisition and exchange of facts preliminary to the ultimate decision,” the Brown Act is applicable to collective investigation and consideration short of official action. (*Id.*, at pp. 47-49; see also *Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234, 175 Cal.Rptr. 292].) “In this area of regulation, as well as others, a statute may push beyond debatable limits in order to block evasive techniques. An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. There is rarely any purpose to a nonpublic premeeting conference except to conduct some part of the decisional process behind closed doors. Only by embracing the collective inquiry and discussion stages, as well as the ultimate step of official action, can an open meeting regulation frustrate these evasive devices.” (*Sacramento Newspaper Guild, supra.*, 263 Cal.App.2d at p. 50; fn. omitted.)” *Stockton Newspapers, Inc. v. Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95, 214 Cal.Rptr. 561. ²

The Board cannot escape its repeated violations by claiming it has only reached the penultimate step of preparing plans for a vote, but has not taken the final vote. Thus, the courts, hold that a violation occurs even if the private communications were:

“...for the avowed purpose of discussing items of general importance irrespective of whether the individual members of the legislative body intend or do not intend to take 'action' at such a gathering.” *Stockton Newspapers, Inc. v. Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95, 214 Cal.Rptr. 561. *Frazer v Dixon Unified School District*, (1993) 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641.

² This holding is not isolated. It is now well settled that the term “meeting,” as used in the Brown Act (§§ 54950, 54953), is not limited to gatherings at which action is taken by the relevant legislative body; “deliberative gatherings” are included as well. (*Sacramento Newspaper Guild, supra.*, 263 Cal.App.2d at p. 48.) Deliberation in this context connotes not only collective decisionmaking, but also “the collective acquisition and exchange of facts preliminary to the ultimate decision.” (*Id.*, at pp. 47-48; *Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234 [175 Cal.Rptr. 292].)” *Frazer v Dixon Unified School District*, (1993), 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641.

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Likewise, the violation occurs even if the members did not reach a “collective agreement or commitment”:

“Respondents also argue that some sort of “collective agreement or commitment” must occur at a deliberative gathering to bring it within the “meeting” concept. This cannot be, and is not, the law. (*Sacramento Newspaper Guild, supra*, 263 Cal.App.2d at p. 48 [“deliberative gatherings are 'meetings,' however confined to investigation and discussion”]; *Rowen, supra*, 121 Cal.App.3d at pp. 233-234 [gathering to discuss qualifications of prospective consultants was a Brown Act “meeting” notwithstanding the fact that no commitment was made about retaining them]; 42 Ops.Cal.Atty.Gen. 61 (1963) [Brown Act applies to “briefing sessions” by which employees of local agency simply provide information to a gathering of members of the legislative body].” *Frazer v Dixon Unified School District*, (1993) 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641.

II THE BROWN ACT VIOLATIONS

The members of the Parking Board engaged in repeated violations of the Brown Act when developing parking plans, discussing parking issues and agreeing on strategies to address the public.

A Illegal Voting and Board Member Polls

Although there are many ways to violate the Brown Act, the most overt violations include email votes and email polls of board members. Sadly, the Parking Board proposed using these very illegal procedures. (Page number references are to Bates stamped numbers in the lower right hand corner of the enclosed exhibits- “BD” refers to the Parking Board):

04-17-06 Wagener email to the Board regarding Board Rules, calling for an email vote: “If all board members would be so kind to give me an email vote, we could include the results in our Minutes for the last meeting....**In order to vote all you need to do is reply to the email and state: I am in favor, or I am not in favor.**” Page 0384.

06-12-07 Consultant to the Board, Leslie Wade, circulates by email a draft of the FY 2007 Program and Budget for Parking District (subsequently presented to and approved by the City Council.) She writes to the Board: “**Please reply to all [by email] with any substantive changes or your vote of approval by 9.a.m. tomorrow.**” Then, in a subsequent email Wade announces the email vote. Pages 0644-45.

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10-19-07 McGee email to the Board regarding Questions and Answers for dissemination to public. "Please review it [Questions and Answers] and give me additions and changes. If there is disagreement, **I'll poll everyone....**" Page 0454.

B Non-Public Development of Parking Proposals (Including Fact-Findings, Investigation and Deliberation)

The Board engaged in an astounding number of unlawful and secretive violations of the Brown Act as it deliberated on and prepared parking proposals.

10-13-06 Metcalf email to Board applauding the thinking of paid-parking advocate, Dr. Donald Shoup. Metcalf announces to the Board that "**we have the ability to formulate a truly great plan...based on Dr. Shoup's [paid parking] philosophy**". He then addresses how to use PR consultant, Leslie Wade to assist in the process. Page 0629.

10-13-06 Evans email to Board, addressing need to gain public support and praising the "Board and **the consensus we seem to be developing**" on parking issues. Page 0628.

10-13-06 Email from King to Board thanking Metcalf and Evans for share their views on the merits of paid parking. Then, he announces the goal "**to bring a large number of La Jollans along the path we have taken,**" reflecting the collective position secretly adopted by the board on parking meters as of October, 2006. Page 0627.

01-31-07 By email, Board Member Evans circulates his draft of the parking plan to other members, in private communication. He explains that "**given the sensitivity of the document,**" he has "**deliberately limited the circulation of this message to Board members....and [PLJ] staff.**" After providing his commentary on the draft, Evans invites Board Members to "**send me your comments and suggestions by e-mail** (or marking up the draft)." Pages 0601, 0602.

02-13-07 As requested by in the prior email, the Board Members responded to Mr. Evans and privately provided comments on the draft plan. Evans acknowledges, that "**based on the comments I've received from you,**" he has identified twelve subjects which require further consideration. He privately conveys detailed thoughts (deliberative in nature) regarding these open issues. He adds that, "**once we have reached some degree of consensus on these questions, I will revise the plan accordingly.**" Pages 0593-95.

07-15-07 Email from Metcalf to Board regarding information gathered with respect to parking issue. Page 0640.

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07-23-07 The entire Parking Board receives an email from Evans with a new parking plan. Again, extensive analysis of the plan is privately conveyed to the Board Members (but not the public) through the email. His email also acknowledges that Board Member, "**Marty McGee circulated an e-mail containing a number of very thoughtful comments and suggestions.**" Then, Evans contrasts his views with those of McGee. Evans explains why he disagrees with certain views of Board Members Patrick Ryan and Ray Weiss regarding the use of consultants and the proper length for a pilot program. Pages 0499-501.

7-24-07 Marty McGee emails the entire Board providing commentary on the parking plan which Evans had circulated the prior day to the Board. His emailed comments are detailed, deliberative, and communicated privately. Pages 1034-36.

09-11-07 In an email to the entire Board, another revised plan is privately circulated with email commentary from Mark Evans. Pages 0474-76.

09-12-07 Evans circulating another revised plan to the entire Board. Pages 0473-4

09-17-07 Evans provides the Board with an annotated draft of a parking plan he authored which is "intended to explain the rationales behind the various provisions." He explains, that "**my goal was to lay out in greater detail my own reasons for supporting the proposal.**" Again, this constitutes a form of deliberation which should occur in public. Page 0471.

09-21-07 McGee email to entire Board addressing Ray Weiss's idea about providing for "opt-out" provisions in the plan. Page 0946.

09-21-07 Email from Ryan to entire Board acknowledging private oral discussions with other Board Members regarding parking issues. He then states that he has assembled a lot of material regarding parking meter options and proceeds to contrast the various options (pay and display; space/multi-bay; photo-violation meters), procurement options, and enforcement issues. 0945.

11-04-07 Email from Evans to entire Board arguing that the Board should revise its approach regarding paid parking. He then advises the board that he is **providing "advance notice of what I will likely propose at the next meeting."** He proceeds to "spell out his thoughts in writing," offering a detailed justification for "a significant shift in my previously expressed views." Pages 0834-836.

11-07-07 Email from Evans to Wagener, engaging in deliberations, and attempting to develop pre-meeting agreement regarding: (1) changes in parking plan; and (2) how to share changes with the whole board. Pages 0434, 0435.

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11-09-07 Wagener email to the Parking Board sharing his own parking plan and offering a detailed explanation of it, without publicly sharing that analysis and argument. Pages 0430-33.

11-09-07 Wagener emails the Board about "enhancements, clarifications, and changes to the pilot program" he favors. He offers analysis to support his position. In the email he attaches a revised parking plan. Pages 0797-98.

C Non-Public Board Deliberations on How to Inform/Shape Community Opinion on Parking Issues

The Board spent considerable time in private email deliberations discussing how to convince the public to share its views on parking proposals and issues. The purpose was to ultimately gain support for the Board's favored parking plan, which centered on parking meters.

06-27-07 Email (McGee to BD) re draft parking Q&As for future public dissemination. He requests others to "send out your suggestions for modifications on what I said, and also include your own questions and answers to everyone." Page 0521

07-03-07 Email (McGee to BD) circulating draft parking Q&As for future public dissemination. McGee advises the Board to "not pass the" document "to anyone until it is no longer a DRAFT of my thoughts." Page 0518

07-04-07 Email (McGee to BD) circulating a revised Q&A to the board for comment. Page 0517-8

07-05-07 The Executive Director for Promote La Jolla, Tiffany Sherer, advises the entire board that a member of the community wrote an editorial opposing meters. She urges "members of the parking board...to write their own "Guest Editorial" in support of parking meters. Pages 1061-62.

07-05-07 Weiss responds to the of PLJ's Executive Director with an email to the entire Board suggesting the editorial can come out the following week. Pages 1060.

10-19-07 Email (McGee to BD) presenting his "version of Q&As that can be made available to the public to explain how we are thinking about many issues with parking. Please review it and give me additions and changes. If there is disagreement, I'll poll everyone...." Page 0454

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10-28-07 Email (McGee to BD) discussing the Q&A. He states that "I will put the name it [The Q&A] rather than having it come from the group, just as Mark put his name on the plan and pilot program." Page 0870.

10-28-07 Email (Evans to Mosier, et al.) Evans comments "1. I'm troubled by the tenor of the draft, which seems to me to be more an advocacy piece than an educational tool. I believe that anything we put forward that looks like advocacy will be subject to attack and will gain us no converts." And "2. During the comment period, and until we actually approve a final proposal, the Board must remain, both in fact and in appearance, entirely open-minded. We cannot, consistent with that posture of open-mindedness, publish a set of Q&A's that presuppose the answers to the many questions currently on the table." The BD then had McGee claim the Q&A as his own, so that they could be out in the public domain (see preceding entry). This is key in illustrating how certain members of the BD functioned and shaped what was presented to the public as individual creations when they were in fact collective behind-the-scenes efforts in violation of the Brown Act. Pages 0870-0871

11-01-07 Email (McGee to BD) with revised Q&A. Page 0442

11-02-07 Email (King to BD) with proposed revisions to Q&A. Page 0439

11-02-07 Email (King to BD) re proposed change to Q&A. Page 0438

D Brown Act Violations in the Development of Board Rules

04-16-06 Email (Weiss to BD) distributing revised text for Standing Order No. 5, asking Board, by email, to "please reply- to-all with your approval (or with your disapproval and/or further comments." Page 1564.

04-16-06 Email (Evans to BD) responding to Weiss with proposed language modifications he wants to address "before I cast my vote" by email. Pages 1561-62.

04-17-06 Email (Weiss to BD) stating that he might be willing to adopt language changes to bylaws suggested by Evans but he is "content to see what other have to say" as part of the Board's email discussion. Page 1557.

04-17-06 Email (Evans to BD) sending another email at Wagener's urging re language changes to bylaws. Pages 1557-78.

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04-17-06 Email (Wagener to BD) referring to a version of "Standing Rule #5 that Mark has sent to you. Ray indicated that he could live with the wording," with certain language changes, which Wagener sets forth in his email. He then asks for "all board members...to give me an email vote...."
Page 1553.

04-17-06 Email (Weiss to BD) proposing changes in Revised Standing Order No. 5 pertaining to voting requirements. Page 0383

04-17-06 Email (Evans to BD) announcing support for changes that Weiss has proposed in email re Standing Order No. 5. Pages 0382-3

04-17-06 Email (Metcalf to BD) explaining his rationale for supporting the bylaw change, and stating "I therefore vote in favor of the language below." Pages 1550-51.

04-17-06 Email (Evans to BD) issuing still another proposed change to the language of the bylaws which he declares to be "a kind of hybrid version that draws on Ray's idea of absentee voting by email." Pages 1548-49.

04-19-06 Email (Wagener to BD) objecting to proposed use of email absentee voting. Pages 1539-40.

04-22-06 Email (King to BD) addressing draft standing order. Pages 1514-15.

E Board Members' Knowledge That They Were Violating the Brown Act

08-08-07 Evans objects to meeting at the PLJ office as a potential violation of the Brown Act.
Page 1007

08-11-07 Evans writes about how to have further meetings and not getting into Brown Act trouble. Page 1000

08-12-07 McGee's frustration at having potential future private meetings with merchants shut down. Page 1009

III CONCLUSION

If the government acts in secret it cannot be trusted or publically guided. In this instance, the Board engaged in private deliberations, fact-finding, and document drafting prior to public meetings. In

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fact, Board Members, in private emails, began speaking of an “emerging consensus” for paid on street parking as early as 2006. This may account for the Board’s refusal to accommodate overwhelming opposition to meters from the La Jolla residents and businesses.

The attached emails show that the Parking Board collectively discussed and shared parking plans amongst themselves prior to sharing them with the public. Arguments for and against provisions in the plans were circulated to the entire board prior to meetings, without providing copies to the public to read or possibly refute. Non-public investigations, information sharing, and parking arguments were circulated amongst board members for close to 18 months. Amongst themselves, the Board secretly applauded paid parking and those who were proponents of paid parking.

While the Parking Board never actually called for an email vote on any individual plan (like it did for other items), the Brown Act can be violated without an actual secret vote. By statute, the Legislature dictates that: “It is the intent of the law that...their deliberations be conducted openly.” Cal. Gov. Code §54950. “The term ‘deliberation’ has been broadly construed to connote ‘not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision..’” *Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234. “Respondents also argue that some sort of “collective agreement or commitment” must occur at a deliberative gathering to bring it within the “meeting” concept. This cannot be, and is not, the law.” *Frazer v Dixon Unified School District*, (1993) 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641.

The parking plans circulated most recently by the board emerged through secretive email exchanges and deliberations amongst the Board Members. They are premised on deliberations amongst the board that occurred secretly, on and off, for over a year. While it might be unusual to disband the board and start anew, it would be wrong to permit the Board to “get away” with long-term egregious violations by allowing the Board to proceed as though no violations occurred.

Rather, it should be recognized that the most recent proposals before the Board result from Brown Act violations. To restore trust – and to allow for proper public input on a plan – the Board must debate in public (without secret communications) regarding the terms of a draft plan for presentation to the public. Once that plan is presented it would receive a 45-day comment period pursuant to the Board’s practices. After that comment period, the Board could vote on the plan and have it presented to the City Council.

While this process might delay final action by several months, that delay is comparatively short because the process, to date, has already absorbed 30 months, and will still require additional time before the City Council.

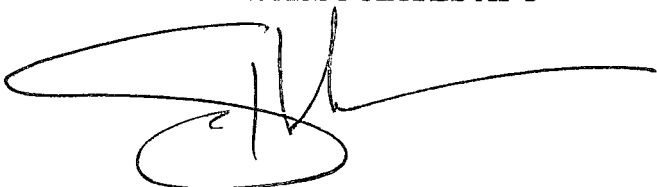
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These Brown Act violations are too serious to ignore. We request that meaningful corrective action be taken by the Parking Board once it is in a position to resume legal and substantive action. If corrective action is not taken, all legal rights are reserved, including suits for injunctive relief, declaratory relief, and invalidating the Board's recommendations due to chronic and deliberately uncorrected violations of the Brown Act.

We appreciate your prompt attention to this matter.

Yours very truly,

HASKINS & ASSOCIATES APC

A handwritten signature in black ink, appearing to read 'S. Haskins', with a large, sweeping horizontal stroke extending to the right.

Steven W. Haskins, Esq.

Encl.

cc: Client

Subject: RE: Revised Standing Order #5 and Our Name

I will jump in here, in the first days of the City Managers Task Force, the PMD's were Parking Management Districts and created too much confusion with PMD's that were Parking METER Districts. To avoid an acronym that was related with the word "meter" for any new group coming online, it was proposed that all the new groups be called Community Parking Districts, thereby CPD's. It took awhile to shake the Parking Management District moniker, hence the confusion.

It was our intent for the group's name to be La Jolla Community Parking District Advisory Board, as addressed in our proposal document.

Best,
Tiffany

From: Ray Weiss [mailto:rfweiss@ucsd.edu]
Sent: Monday, April 17, 2006 2:45 PM
To: 'Evans, Mark L.'; 'Peter Wagener'; 'Ken King'; 'Lynn Noble'; 'Martin Mosier'; 'Paul Metcalf'; 'Reza Ghasemi'; 'Yvette Marcum'
Cc: 'Chanelle Barry'; 'Deborah Marengo'; gpence@sandiego.gov; 'Leslie Wade'; 'Jeff Broido'; 'Pennie Carlos'; 'Marty McGee'; 'Tiffany Sherer PLJ'; 'Sherri Lightner'; Ray Weiss
Subject: Revised Standing Order #5 and Our Name

Dear LJPMD (or LJCPDAB) Members,

Mark is correct. I do support his proposed changes to this Standing Order, and I thank him for his diligence. My only remaining suggested change is that somehow through its recent iterations the word "Board" became "Advisory Board" in this text. I believe it is sufficient to refer to us after the first complete citation as simply "the Board".

In looking further into the background of our name, I note that even though the PLJ proposal was indeed to establish a "La Jolla Community Parking District Advisory Board", Councilmember Scott Peters' letter of November 18, 2005, officially appointed us to the "La Jolla Parking Management District Board".

Perhaps Chanelle Barry can clarify this for us, but in either case the word "Advisory" is not needed after the first citation. If we are indeed the LJPMD, then this will have to be changed in our Standing Orders as well as in our meeting minutes and agendas.

Ray

From: Evans, Mark L. [mailto:mevans@khhte.com]
Sent: Monday, April 17, 2006 1:50 PM
To: rfweiss@ucsd.edu; Peter Wagener; Ken King; Lynn Noble; Martin Mosier; Paul Metcalf; Reza Ghasemi; Yvette Marcum
Cc: Chanelle Barry; Deborah Marengo; gpence@sandiego.gov; Leslie Wade; Jeff Broido; Pennie Carlos; Marty McGee; Tiffany Sherer PLJ; Sherri Lightner
Subject: RE: Revised Standing Order #5

At the risk of exhausting your patience, I'd like to make one final proposal, a kind of hybrid version that draws on Ray's idea of absentee voting by e-mail. Ray and I have exchanged views on this version separately, and I believe that he endorses this hybrid approach, with the possible exception noted below.

5. At-large Representative Elections:

Following their initial terms, the positions of the two at-large representatives shall be filled by a majority of those members of the Board who cast a vote, with each open seat to be filled independently. Members of the Board who are absent may submit their vote by e-mail. If there are three or more candidates for a position and if no candidate receives the necessary majority vote, there shall be a run-off between the two candidates who have received the most votes. In the event of a tie in the run-off, the winner shall be chosen by a coin flip conducted by the Chair at a scheduled meeting. In selecting the at-large representatives, the Advisory Board shall strive to maintain a diverse representation of the La Jolla community in the Board membership, rather than expanding the representation of the community groups that are allocated the seven remaining seats. Nominations to fill at-large representative positions will be solicited from throughout the La Jolla community through public notices, newsletters and community newspapers. At least two candidates must be nominated for each open seat. If fewer than two candidates are nominated for each seat, the Advisory Board will form a three person nominating committee to solicit this required minimum number of candidates consistent with the principle of diversity expressed above. Candidates' names and statements of qualification will be made available for public comment for a period of at least thirty days prior to the election.

Ray was not sure about the need for a tie-break mechanism, believing that under Robert's Rules the Chair votes only if necessary to break a tie. Although I do not have my copy of Robert's Rules at hand, the official Robert's Rules of Order Website (<http://www.robertsrules.com/faq.html#1>) suggests that the Chair may vote on all questions and, even if he or she elects to refrain from voting in most circumstances, may always vote either to break a tie or to create a tie. For that reason, I think it's safer to include a tie-break provision.

We are dealing here with remote contingencies, and perhaps we're over-thinking the issue. But we might as well write the provision in a manner that will cover as many of those contingencies as possible.

Mark

From: Ray Weiss [mailto:rfweiss@ucsd.edu]
Sent: Monday, April 17, 2006 9:36 AM
To: 'Peter Wagener'; 'Ken King'; 'Lynn Noble'; 'Martin Mosier'; 'Paul Metcalf'; 'Reza Ghasemi'; 'Yvette Marcum'; Evans, Mark L.
Cc: 'Chanelle Barry'; 'Deborah Marengo'; gpence@sandiego.gov; 'Leslie Wade'; 'Jeff Broido'; 'Pennie Carlos'; 'Marty McGee'; 'Tiffany Sherer PLJ'; 'Sherril Lightner'; Ray Weiss
Subject: RE: Revised Standing Order #5

Peter, Mark et al.,

Just to clarify my concerns about the first sentence, please note that under Mark's proposal, with a 5-member quorum an at-large representative could be elected with only 3 votes. When we dropped the 2/3 requirement, I thought it was reasonable to expect an at-large representative to be elected to be elected by a majority of the entire Board, that is by a minimum of 5 votes. My reasoning in this was that in these modern times we ought to be able to get votes from nearly all our members, even if some of them do so by e-mail, telephone or absentee ballot. For these reasons, after thinking about this overnight, I tend to favor my original wording for the first sentence. If a majority of you agree, we might also add a provision to explicitly allow absentee voting. After all, we already have a 30-day noticing period, so I don't see a down side to absentee voting.

Ray

From: Peter Wagener [mailto:hp@php-mgmt.com]
Sent: Monday, April 17, 2006 8:55 AM

To: rfweiss@ucsd.edu; Ken King; Lynn Noble; Martin Mosier; Paul Metcalf; Reza Ghasemi; Yvette Marcum; 'Evans, Mark L.'
Cc: Chanelle Barry; Deborah Marengo; gpence@sandiego.gov; Leslie Wade; Jeff Broido; Pennie Carlos; Marty McGee; Tiffany Sherer PLJ; Sherri Lightner
Subject: FW: Revised Standing Order #5

I suppose all of you have seen the latest revision of Standing Rule #5 that Mark has sent to you. Ray has indicated that he could live with the wording provided we can find a majority for this on the board. Just for clarification this is the language in question.

5. At-large Representative Elections:

Following their initial terms, the positions of the two at-large representatives shall be filled by a majority vote of those members of the Advisory Board who are present and voting, with each open seat to be filled independently. If there are three or more candidates for a position and if no candidate receives the necessary majority vote, there shall be a run-off between the two candidates who have received the most votes. In selecting the at-large representatives, the Advisory Board shall strive to maintain a diverse representation of the La Jolla community in the Board membership, rather than expanding the representation of the community groups that are allocated the seven remaining seats. Nominations to fill at-large representative positions will be solicited from throughout the La Jolla community through public notices, newsletters and community newspapers. At least two candidates must be nominated for each open seat. If fewer than two candidates are nominated for each seat, the Advisory Board will form a three person nominating committee to solicit this required minimum number of candidates consistent with the principle of diversity expressed above. Candidates' names and statements of qualification will be made available for public comment for a period of at least thirty days prior to the election.

If all board members would be so kind to give me an e-mail vote, we could include the results in our Minutes for the last meeting and we could move on to bigger and more exciting things. In order to vote all you need to do is reply to the e-mail and simply state: I am in favor, or I am not in favor.

Thanks,

Peter Wagener

From: Peter Wagener [hp@php-mgmt.com]
Sent: Monday, April 10, 2006 9:23 AM
To: Chanelle Barry; Deborah Marengo; gpence@sandiego.gov; Glen Rasmussen; Jeff Broido; Ken King; Leslie Wade; Lynn Noble; Mark L. Evans; Martin Mosier; Marty McGee; Paul Metcalf; Pennie Carlos; Ray Weiss; Reza Ghasemi; Sherri Lightner; Tiffany Sherer PLJ; Yvette Marcum
Subject: LJCPB - Minutes of March meeting

Please find attached the minutes for last month's meeting.

H. Peter Wagener

PHP Management

P.O.Box 415

La Jolla, CA 92038

858-551-5671x11

Email Confidentiality Notice:

e. The current Coastal Access and Parking employee parking program should be

immediately and substantially expanded in an attempt to better utilize existing

(if any) off-street (garage and surface) private parking facilities. This most

Parking likely will require a much larger financial subsidy (from both the

of Board and Promote La Jolla) in order to get a much larger number

employees to choose to participate in this program.

f. A feasibility study and possible preliminary design of a community parking

structure(s) that could increase the number of affordable parking spaces in the

community.

g. A stated goal in the plan of providing better and more affordable public

transportation, both within La Jolla and from outside origination points.

h. Infrastructure improvements to the community allowed under Council Policy

100-18 including landscaping, lighting, sidewalk, alley and street

improvements.

i. A recognition that most, if not all, of the above goals can be achieved only if

there were a sufficient future source of continuing revenue.

In anticipation of your agreement to most of these changes I have attempted to update the Pilot Program from 9-12-07 for your consideration as you will find attached.

Peter Wagener

Chair

_____ NOD32 2650 (20071109) Information _____

This message was checked by NOD32 antivirus system.

<http://www.eset.com>

From: Peter Wagener [hp@hotelparisi.com]

Sent: Friday, November 09, 2007 1:27 PM

:0430

To: mevans@khhte.com; 'Marty McGee'; 'Darcy Ashley'; 'Ken King';
rfweiss@ucsd.edu; T.Brady@Petersonco.com; TBrady@san.rr.com;
Lajollarugs@lajollarugs.com; MartininLJ@aol.com; 'Paul Metcalf';
patrick.ryan@yahoo.com; gpence@sandiego.gov; ksweeney@sandiego.gov
Cc: 'dmarengo'; 'Tiffany Sherer'; 'Heather Pollock'
Subject: LJCPDAB Agenda Nov. 14 2007

Boardmembers:

Having considered all the input from the various community groups and the general public over the last several weeks, I have listed the following as possible enhancements, clarifications and changes to the pilot program for consideration by the Board:

1. Change the Residential Parking Zone to a voluntary participation of opt in / opt out
decided by a majority of home owners (per street/block).
2. Change the Beach Zone to a voluntary participation of opt in / opt out of a majority of
property owners (per street/block).
3. Change the Beach Zone starting time from 10:00 AM to 11:00 AM. Consider changing the Beach time limit from 4 to 3 hours on weekdays.
4. Reduce the Pilot Program for paid on street parking to a core commercial area to the
hatched streets as designated on the map and allow voluntary participation (opt in /
opt out) by commercial property owners (per street/block) for the remaining streets in
pink in the commercial area.
5. Add a provision for increased regulation of Valet parking spaces to include a future
fee per space.
6. A mandatory split of revenues with the City of substantially greater than 45% with a
target of 80%. Any revenues greater than the 45% must be spent on Capital
Improvement Projects in the La Jolla Community Parking District as allowed under
San Diego City Council Policy 100-18. If a substantially higher percentage than 45%
cannot be obtained from the City, the Board should withdraw its recommendation to
the City Council.
7. Recommend changes to the City of San Diego to change the municipal code to
facilitate the use of GPS enabled equipment for improved enforcement.
8. Strengthen the evaluation criteria for success or failure of the program to possibly

include:

- a. The desired primary goal of a successful pilot parking program in La Jolla is to
assure the availability of affordably priced (which could include free) and
convenient parking for residents, shoppers, employees and visitors.
 - b. Secondary goals might include those other community improvements allowed
under Council Policy 100-18 including: community shuttles, alternate forms of
transportation, landscaping, maintenance, etc.
 - c. The pilot program will be continuously monitored by the Board for optimal
management and usage of available parking (both on-street and off-street) and
appropriate rates (if any) to achieve the above primary goal.
 - d. The overall effect of this program shall be measured continuously by obtaining
user feedback and response during the pilot one-year program.
9. The Pilot Program should have more emphasis on, and be reprioritized as follows:
- a. Increased parking enforcement to include more modern technology and
additional necessary manpower.
 - b. More uniform and understandable parking time limits within the
commercial
and beach areas.
 - c. Increased inventory of on-street parking by encouraging diagonal
parking and
reviewing the many different parking zones now in place (rainbow curbs).
 - d. Valet parking regulation.
 - e. The current Coastal Access and Parking employee parking program should
be
immediately and substantially expanded in an attempt to better utilize
existing
(if any) off-street (garage and surface) private parking facilities.
This most
likely will require a much larger financial subsidy (from both the
Parking
Board and Promote La Jolla) in order to get a much larger number of
employees to choose to participate in this program.
 - f. A feasibility study and possible preliminary design of a community
parking
structure(s) that could increase the number of affordable parking

spaces in the

community.

g. A stated goal in the plan of providing better and more affordable public

transportation, both within La Jolla and from outside origination points.

h. Infrastructure improvements to the community allowed under Council Policy

100-18 including landscaping, lighting, sidewalk, alley and street

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there were a sufficient future source of continuing revenue.

In anticipation of your agreement to most of these changes I have attempted to update the Pilot Program from 9-12-07 for your consideration as you will find attached.

Peter Wagener

Chair

_____ NOD32 2650 (20071109) Information _____

This message was checked by NOD32 antivirus system.

<http://www.eset.com>

From: MartininLJ@aol.com

Sent: Thursday, November 08, 2007 2:44 PM

To: tiffany@lajollabythesea.com

Subject: Fwd: Foundation Board Meeting

Thanks,
Martin
Martin Mosier

Southern Nevada Apartments -- Canyon Club Apartments
Los Arboles Apartments -- Park Vista Apartments
Summer Pacific Company -- Mosier Development Company
2146 Avenida de la Playa, La Jolla, CA 92037-3214
(858) 459-6943 Cell: (619) 981-8618 Fax: (858) 551-4374 E-mail:
MartininLJ@AOL.com

See what's new at
<http://www.aol.com>

_____ NOD32 2646 (20071108) Information _____

This message was checked by NOD32 antivirus system.
<http://www.eset.com>

From: Peter Wagener [hp@php-mgmt.com]
Sent: Thursday, November 08, 2007 2:17 PM
To: 'Tiffany Sherer'
Subject: Agenda 11-14 etc.

Tiffany:

The colored pieces will follow later this afternoon.

Peter

_____ NOD32 2646 (20071108) Information _____

This message was checked by NOD32 antivirus system.
<http://www.eset.com>

From: Peter Wagener [hp@php-mgmt.com]
Sent: Thursday, November 08, 2007 2:10 PM
To: 'Tiffany Sherer'
Subject: FW: my current thinking

From: Evans, Mark L. [mailto:mevans@khhte.com]
Sent: Wednesday, November 07, 2007 5:29 PM
To: hp@php-mgmt.com
Subject: my current thinking

Peter, here's my draft, which embodies my latest thoughts on what we should so. Once you've had a chance to look it over, I'll send it to you in PDF format for circulation. If I have time, I may include a short cover memo explaining the genesis of the proposal and taking personal responsibility for it.

If we are in agreement on the bulk of the draft and disagree only on whether the opt-in provision should apply to Prospect and Wall Streets, I will gladly help you write up an alternative draft that would implement your proposal and that could be offered up side by side with my draft with just a few key changes to reflect your thoughts.

I hope you will understand why I've come out where I have. Though it may be a pain in the butt to get someone to go around collecting signatures, I'll bet that a good chunk of Prospect, all of Wall, and maybe the stubs of Girard and Herschel will sign up. That should be enough for the rest of the business owners to see how paid working works. And the entire plan will be

a whole lot easier to defend if it is a 100% opt-in.

Mark

_____ NOD32 2646 (20071108) Information _____

This message was checked by NOD32 antivirus system.

<http://www.eset.com>

From: Paul Metcalf [pmdevcon@sbcglobal.net]

Sent: Thursday, November 08, 2007 6:24 AM

To: Ken King; Mark Evans; martininlj@aol.com; Marty McGee; Peter Wagener; Ray Weiss; Reza Gashemi; Tiffany Sherer; Tom Brady; patrick.ryan@yahoo.com; darcys01@hotmail.com

Cc: 'Joe LaCava'; 'Chuck Patton'

Subject: 11-6-7 BRCC PPT

All: For those of you that were unable to attend the BRCC meeting on Tuesday I've attached a copy of the Power Point presentation for your review. Paul

Paul Metcalf

Tactically sound, Strategic Land

Planning, Development & Management

5681 Bellevue, La Jolla California 92037

ph 619-733-6056 fax 858-459-9517

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From: Peter Wagener [hp@php-mgmt.com]

Sent: Sunday, November 04, 2007 2:51 PM

To: 'Tiffany Sherer'

Cc: 'Deborah Marengo (E-mail)'

Subject: FW: Clarification of CPA Presentation by LJCPDAB

FYI... let's discuss Monday morning.

-----Original Message-----

From: Sherri Lightner [mailto:sherri@lightner.net]

Sent: Saturday, November 03, 2007 5:42 PM

To: Peter Wagener

Cc: Mary Coakley; Jim Heaton; Andy Coy; Isabel Tihanyi; Suzanne Weissman; Ken King; Sharon Luscomb; Workman-Dicks Family; Carol duPont; John Metzger; Andrea Dahlberg; Sherri Lightner; Gregory Salmon; Todd Lesser; Shirley

