

San Diego, 03-13-06

Park & Recreation Board and
Ms. **Hilda Mendoza**, Deputy City Attorney.

RE: Ralph M. Brown Act, February, 16, 2006 Board Meeting and Previous Actions.

Dear Board Members and Ms. Mendoza:

Departing from the point that:

§ “Public commissions, boards, councils and other public agencies in this state exist to aid in the conduct of the people’s business. It’s the intent of the law that their actions be taken openly and that their deliberations be conducted openly”. “The people of this state do not yield their sovereignty to the agencies which serve them”. “The people insist on remaining informed so that they may retain control over the instruments they have created”. **RMBA § 54950 inclusive.**

After attending the above mentioned Board meeting, I have the following concerns:

§ It is my neophyte understanding that “**REQUESTS FOR CONTINUANCE**” supercedes and vacates any motion, issue, or deliberations under consideration and that “**EVERY and/or ANY PERSON**” and or Board Member may raise a request for a continuance on any item posted in the noticed agenda. Once a request has been granted, any or every person present at such meeting has the right to speak on the questions to the continuance, requesting time, let it be written or not [*speaker slip*]. *Such right to speak is limited to that particular item and on the merits of the continuance, only.* **RMBA § 54953.3. and § 54954.3. (a)**

§ Mr. Varnadore had asked [*on a speaker slip*] and was called to speak, by the Chair, on the matters of a continuance. Without knowledge and domain of other people’s mind, Mr. Lopez did not. At such time, Mr. Lopez, understanding that a request for continuance supersede any deliberation on any item on the agenda, asked, *verbally*, to be given the opportunity to speak on the merits to the continuance. The Acting Chair rudely ruled him “**Out of Order!**” Quickly, Mr. Lopez filled a “*Request for Continuance slip*” and turned it to the Honorable Secretary, to no avail.

It is my **PROCEEDURAL** understanding that an action item [*motion*] on any particular issue under the jurisdiction of a board always **follows** an informational item, but:

§ As per the published minutes of **February 16, 2006**, under **COMMUNICATIONS**, it reads: “-Mr. Jim Varnadore asked that **information item # 202** (Fox Canyon Neighborhood Park Project) “**be continued**” to the March 16, 2006 Park and Recreation Board meeting and it be brought back as an action item in order to **allow the board to make a recommendation to City Council**”.

§ In the body of his prepared statement, Mr. Varnadore mentioned “*This item is before the City Council on March 21, [2006] and it will be appropriate for the Board to have a recommendation by then*”. *There’s time, the Board meets on the 16th*”.

§ Immediately after Mr. Varnadore finished using his speaking minutes, the Board took and action to continue Item-202. During the deliberation of such item, one Board Member, a retired **Attorney**, cautioned the Board, “***We need to be careful on how we apply the Brown Act. We need to remember that the January’s meeting was cancelled, on such grounds.***”

- § In addition, the procedure is defective and needs to be vacated, as Mr. Varnadore specifically asked the Board to continue “**information item # 202**”, yet, the Board went on ahead anyways to hear “information item-202” from both parties to the information, including Mr. Varnadore and Teresa Quiroz, as per the minutes. **Knowingly hearing the information item against a request for continuance.**
- § Further, at the end of Informational Item-202, “*Vice Chair Barnes asked staff to bring this item back to the March 16 Park and Recreation Board Meeting as an action item.*”

Therefore, Mr. Lopez strongly believes that the entire community that he represents [*a particular class of indigent people*] has been prejudiced and also his personal First Amendment rights to speak and under the Ralph M. Brown Act have been violated and denied. Notwithstanding the above, the procedures to which such action items have been concluded are defective and need to be vacated.

Staff Recommendations:

It is worthwhile to notice that professional, dedicated and excellent Park and Recreation Staff has duly recommended the Board to apply best practices and proper procedures, on this issue, all along.

- § **October 20, 2005**, in the published minutes, it is written: “Ms. **Kelly Rogers**, Civil Engineer and Project Manager, *The next step will be to go to the [Colina del Sol] Recreation Council early next year and **then** to the Park & Recreation Board*”. Please, remember that this is a report given to the P&R Board itself.
- § **November 17, 2005**, in the published minutes, it is written: “Ms. **Kelly Rogers**, Project Manager, Park Planning & Development Division, ***explained the process, [again] and apologized if somehow she wasn’t clear at the last meeting. Ms. Rogers further explained that On-site Development Permits are not [NOT] brought before this Board to vote upon, only the General Development Plan and in this case, the General Plan (GDP) process has not [NOT] begun yet. The GDP will be brought to the Board early next year.***”
- § **November 17, 2005**, in the published minutes, it is written: “Mr. **Medina** recommended that Ms. **Mendoza**, Deputy City Attorney, ***investigate further to determine what role the Park and Recreation Board would have, if any, in this matter***”.
- § **March 16, 2006**, in the noticed agenda for this date’s meeting, under **ACTION ITEMS: Item-102**, Fox Canyon Neighborhood Park Project: “*The Planning Commission is the advisory body to the City Council and Mayor for city-wide **land use**. The park and Recreation Board is the advisory body to the City Council and Mayor for **park land use**. However, the Park and Recreation Board would like to make a recommendation to the park and Recreation Director, City Council and Mayor regarding the **land use** for the Fox Canyon Neighborhood Park and the development of Ontario Avenue.*

Therefore, the Fox Canyon Neighborhood Association through the conduit of it duly elected president declares the following findings:

- § Clearly, City Park and Recreation Staff has adamantly and consistently recommended to the Board that all actions listed and taken [*so far and will embark on, so far*] are **NOT** procedurally appropriate and definitely **outside** its **purview** in all ways, as “***On-site Development Permits are not [NOT] brought before this Board to vote upon***”, and not even to recommend. In addition, some of the actions taken by the Board are contrary to the Ralph M. Brown Act.
- § It is clear that Ms. Mendoza has not yet finished her investigation determining what role the P&R Board should have, if any, in the matters of inappropriate recommendations.

§ However, in as much as, the P&C Board would love to play a role in recommending to the City Council, the Mayor and the Park and Recreation Director on the matter of the Fox Canyon Neighborhood Park, such recommendation would be completely extemporaneous, again inappropriate *[under the Board's own admission, outside its own purview]*, due to the fact the issues before the **City Council** on **March 21, 2006** are **NOT** the **On-site Development Permit**, or **NOT** even the **General Development Plan**, but the **Mitigated Negative Declaration**, and such recommendation will be completely futile and a waste of time. We do recognize that the Board is unduly influenced and pushed towards making a *[wrong]* decision when it should not, by few influential individuals that have prejudiced the Boards ears.

Therefore, we find that the P&R Board in unduly prejudicial and bias toward the development of the Fox Canyon Neighborhood Park which includes the Ontario Avenue connection, and to the indigent community, people, that proposed and supports the project, as against all adds the Boards continue to be negative about this project and has **NOT** had an **open mind** to the recommendations of its own staff. None the less all the volumes of evidence submitted by this neighborhood organization.

Let it be said, once again, the Fox Canyon community's consideration of the solutions to difficult traffic patterns and conditions gave genesis to the Ontario Avenue street connection, the park and creek restoration projects included in this one bundle of projects. The project before the Commission and City Council is a kind and generous project towards the park and creek restoration and includes a downsized 24 ft wide from a 40 ft wide, street; needed by the people of Fox Canyon and by the future park, as a frontage street.

Respectfully Submitted,



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