

INFORMATION FOR NEIGHBORHOOD COUNCILS

Prepared by The City Ethics Commission
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City Charter Section 900 creates Neighborhood Councils to have an advisory role on issues of concern to the City's neighborhoods. Because Section 906 of the City Charter requires Neighborhood Councils to petition for certification by the Department Of Neighborhood Empowerment and will be primarily funded by public funds, the Office of the City Attorney has concluded that they are local government agencies within the meaning of the California Political Reform Act. Consequently, that office has determined that Neighborhood Councils are subject to City and state laws that help ensure that decisions are made in the public interest and without regard to the personal financial gain of the decision maker.

The City Charter and the Citywide Plan for a System of Neighborhood Councils approved by the City Council give the Neighborhood Councils the authority to advise the Mayor and City Council on matters concerning their neighborhoods, to monitor the delivery of City services, and meet periodically with City departments. In addition, they may engage in decision-making, including the hiring of staff and spending the public funds they receive.

The information below was prepared by the City Ethics Commission to help those organizing Neighborhood Councils better understand how state and City ethics laws may apply to them. For additional information, please contact the City Ethics Commission at (213) 978-1960, or the City Attorney's office at (213) 847-3141. You may also wish to visit the City Ethics Commission's website at www.lacity.org/ETH for additional information.

Who in the Neighborhood Council might have decision-making authority?

- ✓ The by-laws of the Neighborhood Council will determine who has decision-making authority for that Council.
 - It may be the Officers of the Governing Body.
 - It may be the entire Governing Body.
 - It may be all Stakeholders if a vote of Stakeholders attending a particular meeting is required to make a final decision on any of the actions listed below.
 - It may be an employee hired by the Neighborhood Council.

What does it mean to have decision-making authority?

- ✓ Decision-making authority means that you are able to make a final decision to:
 - Commit the City or a City agency to a course of action,
 - Spend public funds,
 - Hire employees,
 - Enter into a contract for goods and services, or
 - Make recommendations which, over a significant period of time, are accepted without change.

A note about public funding

- Neighborhood Councils will receive City budgeted funds through the Department of Neighborhood Empowerment. These are public funds because they are appropriated through the City budget.
- The City Attorney has also opined that any monetary donations raised by the Neighborhood Councils would also have the status of public funds.
- Because the Neighborhood Councils are considered part of City government, in accordance with state regulations, gifts donated to a Neighborhood Council would be considered gifts to the City for use by the Neighborhood Council.

What are the responsibilities that go along with decision-making authority?

- ✓ According to the California Political Reform Act, any public official with decision-making authority is required to annually disclose any financial interests that may be materially affected by a decision in which he or she participates.
- ✓ The Political Reform Act defines a “public official” as any member, officer, employee, or consultant of a state or local government agency.
- ✓ Any individual in your Neighborhood Council who participates in the decision-making process and has the authority according to your by-laws to make a “non-advisory” decision on behalf of your Neighborhood Council is a “public official” and therefore must
 - File a Statement of Economic Interest with the City Ethics Commission on an annual basis.
 - Disqualify him or herself on any decision that might foreseeably have a material financial effect on his or her economic interests.
- ✓ *What is a “non-advisory” decision?*
 - A non-advisory decision is a decision to:
 - o Hire staff,
 - o Spend public funds on behalf of the Neighborhood Council, or
 - o Enter into a contract for goods and services.

✓ *What is a Statement of Economic Interests?*

- A Statement of Economic Interests is a public disclosure form that a public official uses to disclose his or her financial interests as required by his or her agency's Conflict of Interest Code.
- State law requires public officials to file these statements within 30 days of assuming office, annually each April, and within 30 days of leaving office.

✓ *What types of financial interests would have to be disclosed?*

- Depending on the nature and scope of your decision-making authority, the types of financial interests you may have to disclose could include:
 - o Stocks, bonds, and other interests (for ownership interest of less than 10%)
 - o Investments, income, and assets of business entities/trusts (for ownership interest of 10% or greater)
 - o Interests in real property
 - o Income and business positions
 - o Loans (received or outstanding)
 - o Gifts
 - o Travel payments, advances, and reimbursements

An Important Note: The specific types of interests that any public official must disclose are tied narrowly to the types of decisions they make or participate in making. Not all public officials disclose all of the interests noted immediately above. In addition, there are a number of common interests (such as checking and savings accounts, and government salaries or income) that are not required to be disclosed. A Neighborhood Council's Conflict of Interest Code will determine how broad disclosure will be.

✓ *What is a Conflict of Interest Code?*

- The positions that involve the making or participating in the making of a decision within the Neighborhood Council are listed on a document called a "Conflict of Interest Code." A Conflict of Interest Code is a tool that helps assure the public that decisions are being made without regard to personal financial gain. It lists:
 - o The positions within your Neighborhood Council that have decision-making authority, and
 - o The types of financial interests that must be disclosed by those persons with decision-making authority to help them identify and avoid possible conflicts of interests.

What is a conflict of interest?

- ✓ A City official has a conflict of interest if his or her public actions as a City official affect his or her personal financial interests, or the interests of his or her immediate family members, unless that effect is indistinguishable from the effect on the general public. State law (California Code of Regulations §18700 (a)) prohibits any City official from making, participating in making, or attempting to influence any government decision if it

is reasonably foreseeable that the decision will have a material financial effect on any of his or her economic interests or those of an immediate family member.

- ✓ State law also prohibits a City official from being financially interested in any City contract if his or her duties call on him or her to participate in any way or at any stage in the approval of the contract.

What do I do if I have a conflict of interest?

- ✓ If you have a conflict of interest, you are disqualified from taking any action or participating in the making of the decision. You may not do anything with regard to the matter.

If I have decision-making authority, what other ethics laws would apply to my work on a Neighborhood Council?

- ✓ According to the Citywide Plan developed by the Department Of Neighborhood Empowerment and approved by the City Council, Neighborhood Councils will be subject to the City's Governmental Ethics Ordinance. ***Individuals with decision-making authority will be subject to provisions of the Ordinance.*** Those provisions include:
 - No public funds or other public resources such as City facilities, equipment, or supplies may be used in any campaign related activities, including ballot measure campaigns
 - No campaign work may be conducted during hours for which he or she is paid with public funds,
 - Gifts from lobbyists and other individuals or businesses that do business in or with the City would be limited,
 - Travel advances and reimbursements from lobbyists and other individuals or businesses that do business in or with the City are prohibited, and

An Important Note: As part of the governmental structure of the City, a Neighborhood Council may not endorse candidates for political office or spend money under its control to support or oppose candidates for office, or in support or opposition to ballot measures. There are no restrictions on individual members of the Governing Body making personal endorsements for candidates, working for candidates, or contributing their personal funds, as long as this is being done as a member of the public and not on behalf of the Neighborhood Council.

In developing our structure, what are our options regarding who has decision-making authority?

- ✓ As you determine how your Neighborhood Council's decision-making authority will be structured, you should carefully consider how provisions of state law will apply.

- ✓ If your Neighborhood Council decides to **have the Department of Neighborhood Empowerment decide all non-advisory matters** (such as hiring staff, spending funds, and entering into contracts for goods and services), then
 - *Neither the Officers of the Governing Body, nor the entire Governing Body, nor the individual Stakeholders* would be able to vote on decisions to hire staff, enter into contracts or spend funds,
 - *None of the officials of the Neighborhood Council* would be listed on the Conflict of Interest Code,
 - *None of the officials of the Neighborhood Council* would be required to annually disclose on their Statements of Economic Interests any financial interests that may be materially affected by decisions they make, and
 - *None of the officials of the Neighborhood Council* would be subject to the provisions of the City's Governmental Ethics Ordinance, and
 - *None of the officials of the Neighborhood Council* would be required to disqualify themselves from any action to avoid a conflict of interest, because their actions would be only advisory.

- ✓ If your Neighborhood Council decides that **only the Officers of its Governing Body can vote on non-advisory matters**, then
 - *Only the Officers* would be able to vote on decisions to hire staff, enter into contracts, or spend funds,
 - *Only the Officers* would be listed on the Conflict of Interest Code,
 - *Only the Officers* would be required to annually disclose on their Statements of Economic Interests any financial interests that may be materially affected by decisions they make, and
 - *Only the Officers* would be subject to the provisions of the City's Governmental Ethics Ordinance, and
 - *Only the Officers* must disqualify themselves if they have a conflict of interest.

- ✓ If your Neighborhood Council decides that the **entire Governing Body can vote on non-advisory matters**, then
 - *Each member of the Governing Body* is able to vote on decisions to hire staff, enter into contracts, or spend funds,
 - *Each member of the Governing Body* will be listed on the Conflict of Interest Code,
 - *Each member of the Governing Body* would be required to annually disclose on their Statements of Economic Interests any financial interests that may be materially affected by decisions they make, and
 - *Each member of the Governing Body* will be subject to the provisions of the City's Governmental Ethics Ordinance, and
 - *Each member of the Governing Body* must disqualify him- or herself if he or she has a conflict of interest.

✓ If your Neighborhood Council decides that **ALL Stakeholders attending a particular meeting can vote on non-advisory matters**, then

- *All individual Stakeholders* are able to vote on decisions to hire staff, enter into contracts, or spend funds,
- *All individual Stakeholders* will be listed on the Conflict of Interest Code,
- *All individual Stakeholders* would be required to annually disclose on their Statements of Economic Interests any financial interests that may be materially affected by decisions they make, and
- *All individual Stakeholders* are subject to the provisions of the City's Governmental Ethics Ordinance, and
- *All individual Stakeholders* must disqualify themselves if they have a conflict of interest.