

CORRECTED COPY

(R-2006-1125)

5500

7/20/06

RESOLUTION NUMBER 301580

DATE OF FINAL PASSAGE JUN 30 2006

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ALLOWING THE CITY ATTORNEY TO RESOLVE LITIGATION AGAINST THE LA JOLLA COMMUNITY PLANNING ASSOCIATION, INC., WITH NO AUTHORIZATION FOR PAYMENT OF LEGAL FEES FOR OUTSIDE LEGAL COUNSEL FOR THE LA JOLLA COMMUNITY PLANNING ASSOCIATION, INC.

WHEREAS, on May 4, 2006, the La Jollans for Clean Government, Inc., served a lawsuit on the La Jolla Community Planning Association [LJCPA] seeking declaratory relief for violations of LJCPA bylaws, manipulation of its election and membership procedures, and other related allegations; and

WHEREAS, the lawsuit is entitled *LA JOLLANS FOR CLEAN GOVERNMENT, INC., a California non-profit corporation, SALLY FULLER, an individual, and DONNA REICHERT, an individual, Plaintiffs, v. LA JOLLACOMMUNITY PLANNING ASSOCIATION, INC., a California non-profit corporation.* San Diego Superior Court Case No. GIC 865370; and

WHEREAS, on May 18, 2006, La Jollans for Clean Government, Inc., filed a first amended complaint; and

WHEREAS, La Jollans for Clean Government, Inc., is a community based nonprofit corporation formed by La Jolla residents to investigate and expose corruption and conflict of interest in our local government sponsored boards and committees; and

WHEREAS, the LJCPA is a nonprofit municipal corporation and the recognized community planning group for the community of La Jolla; and

WHEREAS, on May 8 and June 15, 2006, President Timothy Golba, President of the LJCPA, requested the City Attorney defend the LJCPA in that lawsuit; and

WHEREAS, the City Attorney met with representatives of both organizations on June 1, 2006, in an attempt to obviate the need for litigation in this matter; and

WHEREAS, on June 16, 2006, the City Attorney advised the LJCPA that he is not providing a defense or indemnification until he completes an investigation of the allegations against the LJCPA; and

WHEREAS, on May 1, 2006, the City Attorney's Office sent a letter to the LJCPA to remind trustees of their responsibility to recuse themselves from votes and discussion of items when they have a conflict of interest, including a direct economic interest in the matter before the board. Additionally, the letter includes an explanation of the Council Policy 600-24 provision for indemnification of community planning groups and individual members and the limitation that, "A planning group found to be out of compliance with the provisions of Council Policy 600-24 or its adopted bylaws risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS"; and

WHEREAS, one contention of the complaint concerns violations of Article VI of the LJCPA bylaws which requires trustees having a direct economic interest in any project that comes before the Board to disclose that interest and not participate in the project discussion or vote; and specifically, the complaint alleges that "several architects who are voting trustees of the LJCPA have proposed projects within the boundaries of the LJCPA and will receive direct economic benefits if and when certain proposed changes to the La Jolla Planned District Ordinance are approved"; and

WHEREAS, in light of changes to the California Constitution and recent case law, the City Attorney will reanalyze the application of the Brown Act to the community planning groups; and

WHEREAS, the Planning Department and the Mayor's Office are working on uniform bylaws for all community planning groups and expect that uniformity across all community planning groups to address some of the concerns mentioned in the lawsuit; and

WHEREAS, La Jollans for Clean Government, Inc., represented to the City Council that the lawsuit would be dismissed if the City Council did not provide outside legal counsel for the LJCPA; and

WHEREAS, the City Council, City Attorney, and City Staff recognize the importance of the role of the community planning groups and want to demonstrate continued support for those volunteers; and:

WHEREAS, the City Attorney will establish an ethical wall in the City Attorney's office to provide legal counsel to the LJCPA; and

WHEREAS, the City Attorney will conduct a fact-finding investigation regarding the allegations in the La Jollans for Clean Government, Inc., complaint and amended complaint; and

WHEREAS, the Planning Department and the LJCPA have represented they will revise the LJCPA bylaws by October 2006.

WHEREAS, Jim Waring of the Mayor's Office has agreed to work with the LJCPA, the La Jollans for Clean Government, Inc., and the City Attorney to resolve the allegations in the lawsuit.

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney will settle this dispute internally, with no authorization for outside counsel nor payment of legal fees for outside counsel to resolve this dispute.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By *Karen Heumann*
Karen Heumann
Assistant City Attorney

KH:jb
06/28/2006
Or.Dept:Council President Peters
R-2006-1125

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 20 2006.

ELIZABETH S. MALAND
City Clerk

By *Elizabeth Maland*
Deputy City Clerk

Approved: 6. 30 - 06
(date)

Jerry Sanders
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Passed by the Council of The City of San Diego on JUN 20 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 30 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Debbie Severson Cruz, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-301580