

From: Jim Waring
To: Tim Golba
Date: 4/5/2007 10:59:50 AM
Subject: Re: FW: Memorandum of Law re the La Jolla Community Planning Association, Inc., Election

Tim;

It is, of course, unfortunate, that the City Attorney did not respond to CPCI's request in February for an opinion and guidance relative to the La Jolla bylaw question. It is also unfortunate that the City Attorney did not follow through on his office's February suggestion, which CPCI supported, for a simple administrative action that would have eliminated any question about Council Policy compliance. Unfortunately, no city department any longer gets pro-active legal support from the City Attorney. This is truly a controversy that never had to happen, since all parties, both within the City and the La Jolla community, shared, and share, without exception the same goal of validating the new election per CP 600-24, even if the broader issue of the bylaws was deferred.

Every action I've seen during my time with the City, whether by the Mayor's office or the City Council, has been based on a desire to support the groups long term viability and operations. Every decision we have made has been made toward that same goal. For reasons I do not understand, the only person who has acted contrary to that goal has been the City Attorney. We all remember the controversy over the important issue of indemnification, where the Mayor and the Council took a position of unqualified support, contrary to the City Attorney's narrow interpretation. Now we have the "opinion" on the LJCPG election, which will, as it stands, further undermine the community planning group system.

From the beginning of the La Jolla controversy, we have consistently said the City's only interest is in preserving the broader system and being sure we have the ability to treat each planning group exactly the same. Never has this office said the election was invalid. What we have said, and still say, is that the LJCPG did not satisfy the provisions of CP 600-24, prior to the March vote. Bridging that gap and solving the procedural question was why the City Attorney's office and CPCI worked together in February on a simple administrative solution, which the City Attorney chose not to complete. Regardless, we are now in a situation where from a State law perspective the election has been properly conducted (which no one to my knowledge ever questioned), but it was conducted prior to the City required procedures per CP 600-24, which cannot be objectively denied.

No one in the City has any desire to decertify any planning group. In fact, all our actions speak loudly to the opposite goal. To avoid the possibility of LJCPG decertification with the least disruption of where the LJCPG is today, we immediately agreed to your idea that tonight, if the LJCPG Board votes to operate for the time being under the old bylaws, augmented by the two provisions relative to voting and democracy rights (which we all accepted in mid-February and under which the March election was conducted), the City would immediately recognize the March election as valid per CP 600-24, thereby totally eliminating any governance disagreement or the need for a new election.

We believe the City must take the procedural requirements of CP 600-24 seriously. Otherwise, where or how do we draw the line between 44 groups on what "counts" and what doesn't? The message I've tried to deliver to La Jolla on this issue has been very focused, limited and driven by this very real-world concern. Fortunately, with your help, we have on the table a procedure that hopefully satisfies the goals and needs of the LJCPG, all the other City planning groups that share an interest in equal process, and the City and its staff that tries hard every day to administer CP 600-24 and to support of the community groups.

It will be a great result if, after tonight, this issue is behind us all and the LJCPG can move forward with its goal of advising on land use issues and policies for La Jolla.

James T Waring, Deputy Chief

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>>> "Tim Golba" <tgolba@golba.com> 4/4/2007 2:05 PM >>>

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

From: Judy Bagwell [<mailto:JBagwell@sandiego.gov>]
Sent: Wednesday, April 04, 2007 1:58 PM
To: info@LaJollaCPA.org
Cc: Kathryn Burton; Karen Heumann
Subject: Memorandum of Law re the La Jolla Community Planning Association, Inc., Election

Mr. Golba:

Karen Heumann, Assistant City Attorney, asked that I forward you a copy of the attached Memorandum of Law entitled "Validity of the La Jolla Community Planning Association, Inc., Election Process, Election and Election Results for the March 1, 2007 Election." A hard copy will be mailed to you. Please give a copy of the Memorandum to the Board of Trustees.

Thank you.

CC: Betsy McCullough; Cecilia Williams; Chanelle Hawken; Keely Sweeney;
leowikstrom@cox.net; robwhitemore@mac.com