



**Beverly Hills City Council Liaison / Sunshine Task Force
Committee will conduct a Regular Meeting, at the following time and place, and
will address the agenda listed below:**

**City Hall
455 North Rexford Drive
Municipal Gallery
Beverly Hills, CA 90210**

**November 25, 2019
5:00 p.m.**

AGENDA

1) Public Comment

Members of the public will be given an opportunity to directly address the Committee on items not listed on the agenda.

2) Approval of October 28, 2019 Highlights

3) Legislative Advocates

Follow up items:

- Provide draft revision to legislative advocate ordinance (City Attorney)
- Changes to the legislative advocate form
- Changes to legislative advocate email
- Lobbyist form correction re: Somers (City Clerk)
- Legislative Hearing follow up re: City Prosecutor (City Attorney)

New Items:

- Commissioner Advocacy (Steve Mayer)
 - o At what point can a Commissioner become an advocate.
- Applicant Sanction: should an applicant receive the same sanction (penalty) as the Legislative Advocate? (Steve Mayer)
- Legislative Advocate Registration: does an attorney, expeditor, etc need to register when they participate in a "Concept Preview" meeting? (Steve Mayer)

4) Notification/Outreach

Follow up items:

- Wording and appearance of notices (Community Development)
- Registered mailings to neighbors near projects (Community Development)
- Public noticing regarding AirBnB (Community Development)

New Items:

- City Attorney Closed Session Reporting (Mark Elliot)

5) Development Process/Projects

Follow up items:

- Meeting applicants, residents and staff when a project comes forward (Community Development)
- Construction in residential areas during Yom Kippur holiday (City Attorney)
- Resident participation in stop work order meetings (Steve Mayer)
 - o First agendized 10/28/19

New Items:

- Projects where permit obtained, but if misrepresentations made, permit can be contested after appeal period has passed (Debbie Weiss)

6) Transparency

Follow up items:

- Staff meetings with applicants regarding projects
- Closed captioning and transcripts of public meetings (Chief Information Officer/IT)
- Extend email retention schedule to 5 years
- Tracking system for STF initiatives (Assistant City Manager)
- Quarterly Library Board of Trustees meeting (Assistant City Manager)

7) Commissions

Follow up items:

- Upcoming commissioner training and revisions to commissioner handbook (Assistant City Manager)

8) Future Items

9) Next meeting: December 23, 2019

Recommended agenda items due to City Clerk's Office by Monday, December 16, 2019

10) Adjournment


Huma Ahmed, City Clerk

Posted: November 21, 2019

**A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW IN THE
LIBRARY AND CITY CLERK'S OFFICE.**



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CITY OF BEVERLY HILLS
455 N. Rexford Drive
Beverly Hills, CA 90210
4th Floor Conference Room A
Sunshine Task Force Committee

SPECIAL MEETING HIGHLIGHTS

October 28, 2019

Meeting called to order at 5:00 p.m.
Date / Time: October 28, 2019 / 5:00 pm

In Attendance: Mayor John Mirisch, Councilmember Lili Bosse, Charles Aronberg, Kathy Checchi, Mark Elliot, Fred A. Fenster, Marilyn Gallup, David Gingold, Steve Mayer, Michael Newmann, Elliot Ponchick, Edward Sigall, Debbie Weiss, Thomas White

City Staff: City Attorney Larry Wiener, Assistant City Manager Nancy Hunt-Coffey, Director of Community Development Susan Healy Keene, Director of Public Works Shana Epstein, Chief Information Officer David Schirmer, City Clerk Huma Ahmed, Assistant Director of Public Works Gil Borboa, Principal Performance Auditor Shawnee Pickney, Assistant City Clerk Lourdes Sy-Rodriguez

1) Public Comment

Members of the public will be given an opportunity to directly address the Committee on items not listed on the agenda.

1. Debbie Weiss re: legislative advocacy. It was shared with the group, that she is now also a registered legislative advocate.
2. David Gingold re: his claim
3. Michael Newmann re: demolition of multi-family buildings
 - Mayor Mirisch announced that an item on demolition moratorium for rent-stabilized buildings will be placed on a future Council meeting agenda
4. Marilyn Gallup re: suggestion to Mr. Gingold to bring his claim up with the Ombudsman (which has been replaced by the City Auditor's office)

2) Legislative Advocates

- Follow up items:
 - Changes to the legislative advocate form
 - Clarification of revisions to the ordinance
- Accessibility of the legislative advocate registrations (Mark Elliot)
- Violation hearings, penalty process & FAQ (Debbie Weiss)
- Assistant City Manager Nancy Hunt-Coffey clarified that the ordinance needs to be revised and approved by the City Council first before the form can be changed.
- It was agreed that both the applicant and the lobbyist are responsible for calling the meeting of the neighbors before the application is submitted. City Attorney Larry Wiener will bring this matter before the City Council for approval.
- It was also suggested and agreed upon by the Committee that instead of 10 days, lobbyists should register 5 days before they begin lobbying. Mayor Mirisch reiterated that lobbyists should disclose that they are lobbyists at the beginning of the meetings they're attending.

- Mr. Mark Elliot requested that the email notification that the City sends out when a lobbyist form has been filed contain summary information of who the lobbyist is, the client and project on the body of the email to eliminate the need to open the pdf attachment in order to know the information.
- Mayor Mirisch recommended that all legislative advocate hearings should be livestreamed and archived for greater public access. He also recommended that City Attorney Wiener contact City Prosecutor Bill Litvak re. the legislative advocated process.
- Ms. Debbie Weiss reported that Jason Somers has not corrected the lobbyist form that he filed which was in violation. She also stated that some lobbyists are listing architects as the owner on the form and some are using LLCs as the owner.

3) Notification/Outreach

- Follow up items:
 - a. Wording and appearance of notices
 - b. Certified mailings to neighbors near projects
 - c. Public noticing regarding Airbnb
- Notifications regarding current discretionary/pipeline projects
- Report on water quality (Thomas White)
- Director of Community Development Susan Healy Keene clarified that notices are sent in an official City envelope and showed a sample of it.
- Some of the suggestions given on how to send City notices: put “urgent” or “contains information regarding construction in your area” or specific information on the envelope. It was also suggested to send notices by certified mail. Mr. Thomas White suggested that the envelope be properly addressed with the actual name of the resident instead of just “Occupant” so the resident doesn’t think it’s junk mail and discard it. He also recommended getting a proof of delivery to ensure that the residents received the notice. Ms. Kathy Checchi suggested sending notices by registered mail with return ticket showing the resident’s signature. Mayor Mirisch recommended that staff to make a good faith effort to reach residents by calling them and sending the notice by registered mail without need for a signature.
- Mr. Mark Elliot stated that he wants to hear more about the Airbnbs in the City and the City’s enforcement activities. Mayor Mirisch suggested “googling” Airbnb addresses in the City and doing “sting operations.” Mr. Steve Mayer requested that information be available on the City’s website and social media about enforcement operations being conducted by the City.
- Director of Public Works Shana Epstein provided a report on water quality and what the City is doing. Mr. Thomas White stated that he read a report about water contamination that had different statistics from the Public Works water quality report. Ms. Epstein invited Mr. White to a meeting to discuss the report in detail.

4) Development Process/Projects

- Follow up items:
 - Meeting applicants, residents and staff when a project comes forward
- Loma Vista Inspection (Debbie Weiss)
- Construction in residential areas during Yom Kippur holiday (Steve Mayer)
- Resident participation in stop work order meetings (Steve Mayer)
- Director of Community Development Susan Healy Keene passed a sign-in sheet for those interested to get a copy of the current projects list by email. Another option to get the list is by going to the City’s website and signing up to get enotices.
- Mr. Mark Elliot inquired on how to get information on certificates of ineligibility.

- It was agreed to have a neighborhood meeting before the project is submitted to the Community Development Department.
- Ms. Debbie Weiss asked for a system to be put in place so that all projects are listed on the projects list and nothing is left out.
- Mr. Thomas White requested that the information on the Inspector assigned to the project be added to the projects list.
- Mr. Steve Mayer requested that there be no construction in residential areas during Yom Kippur. This will be added to the list of holidays and will be brought to City Council for approval.

5) Transparency

- Follow up items:
 - Staff meetings with applicants regarding projects
 - Closed captioning and transcripts of public meetings
 - Email retention schedule (Debbie Weiss)
 - Tracking system for STF initiatives (Steve Mayer)
 - Comments on 9/12/19 highlights (Thomas White)
 - Updates to City Council Policy Manual and Commissioner Handbook (Thomas White)
- Mr. Thomas White reiterated the request from Councilmember Bosse several meetings ago to put staff's calendar on the City's website. Councilmember Bosse recommended for the list to include all types of communications (phone, email, face-to-face) between staff and applicants. Mr. Michael Newmann posed the question of who will be overseeing the calendar. Mayor Mirisch recommended for this matter to be brought to City Council.
 - Chief Information Officer David Schirmer reported that his department is working with the vendor on the closed captioning and transcripts of public meetings.
 - All Committee members supported Ms. Debbie Weiss' suggestion to extend the retention period of records, including emails, from two years to five years.
 - Mr. Steve Mayer showed a sample of a Sunshine Task Force Status of Approved Initiatives table (handout) that he created and suggested that staff create a tracking system/table similar to this.
 - Mr. White suggested for every meeting to start with the approval of the minutes. He also recommended for the minutes to be posted seven days after the meeting and to be emailed to all members. He stated that he has corrections to the minutes of the 9/12/19 meeting for Item #3 and suggested that follow up items be automatically placed on the next agenda. He also asked that the titles of items he submits for the agenda be included as is and not changed. Assistant City Manager Nancy Hunt Coffey explained that staff is trying to streamline the titles and group similar items together for a smooth flow of discussion.
 - Mr. White asked when the revised versions of the City Council Policy Manual and Commissioner Handbook that were last revised in 2009 and 2016, respectively, will be published. Ms. Hunt-Coffey explained that a lot of changes are needed and will advise Mr. White at the next meeting when the revisions will be finished.

6) New Items

None

Future Items for Discussion:

- Mr. Mark Elliot requested improvements to the Comcate interface.
- Mr. Elliot requested more frequent Library Board of Trustees meeting and report, and an ability for the public to provide feedback/input.

7) Next meeting: November 25, 2019

Recommended agenda items due to City Clerk's Office by November 20, 2019

8) **Adjournment**

Date / Time: October 28, 2019 / 6:46 pm

TO: **SUNSHINE TASK FORCE COMMITTEE MEMBERS**
FROM: **STEVE MAYER**
DATE: **NOVEMBER 20, 2019**
RE: **COMMISSIONER "ADVOCACY"**

Should the City follow the state code when a Commissioner must be recused?

As an aligned issue, at what point does Council wish to draw a line between a Commissioner's "passion" for a particular subject versus "advocacy"?

During a recent Traffic & Parking Commission meeting, the City Attorney recommended that a Commissioner be recused.

The Commissioner acceded, but then sat in the audience. The Commissioner never left the room.

Further, 21 of 23 public written comments were emailed to the recused Commissioner and not the Commission secretary.

Lastly, the majority of people present in the audience seemed to have a personal connection to the Commissioner.

There are clearly potential Fair Political Practices Commission (FPCC) issues at play:

- (1) *Should a recused Commissioner leave the room?*

When a City Councilmember and/or Planning Commission recuses themselves, they are sequestered in a Room 280A.

The recused Councilmember and/or Commissioner can then watch the proceedings.

Per 18707(a)(1)(c) a public official must leave the room. The exception is whether the public official wishes to provide oral public comment. That did not occur in this situation.

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- (2) *Did the Commissioner solicit the public written comment from a City email account or a personal account?*

In this case, from a practical standpoint it is comparatively irrelevant, but using a City email account could be a violation of FPCC and/or City rules.

- (3) *Did the recused Commissioner directly solicit members of the audience to attend?*

If yes, is that a disclosable issue?

- (4) *Did the Commissioner lead (and/or participate) in the applause for the speakers?*

Please understand, criticism is not being leveled at the Commissioner. The Commissioner Handbook is mute on such issues.

Nonetheless, standards should be defined to distinguish when a Commissioner is acting in an advisory role versus becoming an advocate.

Attachment

- § 18707. Disqualification Requirements.

2 CCR § 18707

Title 2. Administration

Division 6. Fair Political Practices Commission

Chapter 7. Conflicts of Interest

Article 1. Conflicts of Interest; General Prohibition (Refs & Annos)

§ 18707. Disqualification Requirements.

- (a) **Public Officials under Section 87200.** For recusal under Section 87105, all of the following apply when a public official who holds an office specified in Section 87200 has a financial interest in a decision within the meaning of Section 87100, and the governmental decision relates to an agenda item that is noticed for a meeting subject to the provisions of the Bagley-Keene Act (Section 11120 et seq.) or the Brown Act (Section 54950 et seq.):
- (1) **Content and Timing of Identification.** Following the announcement of the agenda item to be discussed or voted upon but before either the discussion or vote commences, the public official must do all of the following:
- (A) **The public official must publicly identify each type of financial interest held by the official that is involved in the decision and gives rise to the disqualifying conflict of interest (i.e. investment, business position, interest in real property, personal financial effect, or the receipt or promise of income or gifts), and the following details identifying each financial interest:**
- (i) If an investment, the name of the business entity in which each investment is held;
 - (ii) If a business position, a general description of the business activity in which the business entity is engaged as well as the name of the business entity;
 - (iii) If real property, the address or another indication of the location of the property, unless the property is the public official's principal or personal residence, in which case, identification that the property is a residence;
 - (iv) If income or gifts, the identification of the source; and
 - (v) If personal financial effect, the identification of the expense, liability, asset or income affected.

- (B) **Form of Identification.** If the governmental decision will be made during an open session of a public meeting, the public identification must be made orally and be made part of the official public record.
 - (C) **Recusal and Leaving the Room.** The public official must recuse himself or herself and leave the room after the identification required by this regulation is made. He or she will not be counted toward achieving a quorum while the item is discussed.
- (2) **Special Rules for Closed Session.** If the governmental decision is made during a closed session of a public meeting, the public identification must be made orally during the open session before the body goes into closed session and may be limited to a declaration that his or her recusal is because of a conflict of interest under Section 87100. The declaration will be made part of the official public record. The public official must not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the governmental decision.
- (3) **Exceptions:**
- (A) **Uncontested Matters.** The exception from leaving the room granted in Section 87105(a)(3) for a "matter [that] has been placed on the portion of the agenda reserved for uncontested matters" means agenda items on the consent calendar. If the public official has a financial interest in a matter that is on the consent calendar, the public official must comply with subdivisions (a)(1)(A) and (a)(1)(B) of this regulation, and recuse himself or herself from discussing or voting on that matter, but the public official is not required to leave the room during the consent calendar.
 - (B) **Absence.** If the public official is absent when the agenda item subject to subdivision (a) of this regulation is considered, there are no public identification duties on the public official for that item at that meeting.
 - (C) **Speaking as a Member of the Public Regarding an Applicable Personal Interest.** When a personal interest found in Regulation 18704(d)(2) is present, a public official may speak as a member of the general public if he or she complies with subdivisions (a)(1)(A) and (a)(1)(B) of this regulation, recuses himself or herself from voting on the matter and leaves the dais to speak from the same area as the members of the public. He or she may listen to the public discussion and deliberations of the matter with the members of the public.

- (b) **For All Other Public Officials.** For recusal from any decision other than a decision under subdivision (a), all of the following apply:
- (1) If a public official determines not to act because of his or her financial interest, the official's determination may be accompanied by an oral or written disclosure of the financial interest.
 - (2) When an official with a disqualifying conflict of interest abstains from making a governmental decision in an open session of the agency and the official remains on the dais or in his or her designated seat during deliberations of the governmental decision in which he or she is disqualified, his or her presence will not be counted toward achieving a quorum.
 - (3) During a closed meeting of the agency, a disqualified official must not be present when the decision is considered or knowingly obtain or review a recording or any other nonpublic information regarding the governmental decision.
 - (4) An agency may adopt a local rule requiring a disqualified official to step down from the dais or leave the chambers.
- (c) **Confidential Information.** Nothing in the provisions of this regulation is intended to cause an agency or public official to make any disclosure that would reveal the confidences of a closed session or any other privileged information as contemplated by law including but not limited to the recognized privileges found in Regulation 18740.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87101, 87105 and 87200, Government Code.

HISTORY

1. New section filed 6-22-2015; operative 7-22-2015. Submitted to OAL for filing and printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 26). For prior history, see Register 2015, No. 21.

This database is current through 10/25/19 Register 2019, No. 43 2 CCR § 18707, 2 CA ADC § 18707

TO: SUNSHINE TASK FORCE COMMITTEE MEMBERS
FROM: STEVE MAYER
DATE: NOVEMBER 20, 2019
RE: CLARIFICATION OF THE DEFINITION OF
"LEGISLATIVE ADVOCACY"

Does a "Concept Preview" constitute "Legislative Advocacy"?

At a recent Sunshine Task Force Committee meeting, the meeting was delayed due to a preceding meeting where a local landowner was meeting with elected officials and Staff.

The landowner exited the room carrying blueprints, along with an attorney, and possibly an architect. He was presenting a design concept and was seeking input.

At that point, were the attorney and architect engaging in "*Legislative Advocacy*"?

Per BHMC 1-9-102, it is not specific on this issue:

LEGISLATIVE ADVOCACY: Includes the following and similar conduct for compensation when the conduct is related to attempting to influence Municipal legislation:

- A. *Engaging in, either personally or through an agent, written, electronic, or oral direct communication with a City official;*
- B. *Drafting ordinances, resolutions, or regulations;*
- C. *Attempting to influence the position of any third party on Municipal legislation or an issue relating to Municipal legislation by any means, including, but not limited to, engaging in community or media relations activities;*
- D. *Advising clients regarding strategy for legislative advocacy.*

Since the ostensible purpose of the meeting was to discuss a concept, should that meeting be able to be conducted in private, and not be subject to the "*Beverly Hills Municipal Legislative Advocate Ordinance*"?

Attachment

- BHMC 1-9-102 (Definitions)
- BHMC 1-9-103 (Exemptions)

Article 1. Compensated Legislative Advocates (Excerpt)

1-9-102: Definitions:

LEGISLATIVE ADVOCACY: Includes the following and similar conduct for compensation when the conduct is related to attempting to influence Municipal legislation:

- A. Engaging in, either personally or through an agent, written, electronic, or oral direct communication with a City official;
- B. Drafting ordinances, resolutions, or regulations;
- C. Attempting to influence the position of any third party on Municipal legislation or an issue relating to Municipal legislation by any means, including, but not limited to, engaging in community or media relations activities;
- D. Advising clients regarding strategy for legislative advocacy.

1-9-103: EXEMPTIONS:

The following persons are exempt from the requirements of this article:

- A. Any public official or employee of a public entity acting in his or her official capacity and within the scope of his or her employment by the public entity.
- B. Any person who is engaging in legislative advocacy without compensation other than a financier.
- C. Any person whose only activity is submitting a bid on a competitively bid contract, who submits a written or oral response to a request for more information, or who participates in an oral interview process. This exemption shall not apply to any person who attempts to influence the actions of any City official with regard to any such contract outside an interview or public meeting.
- D. Any person making a request of the City staff for advice or for an interpretation of laws, regulations, or City approvals or policies; or who responds to a request from a City official. However, this exemption shall not include any substantive discussion of that advice or interpretation.

- E. Persons seeking any ministerial action that does not involve a development project. An action is ministerial if it does not require the City official involved to exercise discretion concerning any outcome or course of action.

(Ord. 00-O-2347, eff. 9-1-2000; amd. Ord. 06-O-2507, eff. 11-17-2006; Ord. 18-O-2749, eff. 2-9-2018; Ord. 19-O-2787, eff. 10-18-2019)

TO: SUNSHINE TASK FORCE COMMITTEE MEMBERS
FROM: STEVE MAYER
DATE: NOVEMBER 20, 2019
RE: DEVELOPER SANCTIONS

Should the Developer receive the same sanctions as his or her Legislative Advocate?

The purpose of the Beverly Hills Municipal Legislative Advocacy Ordinance (BHMLVO) is to ferret out the “bad actors.”

One way to send a very convincing message to developers that the City means business relative to the BHMLVO is to make the ultimate beneficiary responsible for all of the actions of those he or she ultimately employs.

As an analogy, if a code violation is issued on a property, it is the Applicant, Developer, and/or Owner who is penalized. It is irrelevant that the actual code violation was committed by a contractor or a vendor.

Should it not be the responsibility of every Applicant, Developer, and/or Owner to be certain that the people he or she employs is following the law?

To effect the change, all that is required to change a phrase “*a legislative advocate*” to “*a legislative advocate and/or a client*” in BHMC 1-9-108 (“Remedies For Violations”).

In this sense the “client” is the Applicant, Developer, and/or Owner.

Attachments

- BHMC 1-9-108: Remedies For Violations

Article 1. Compensated Legislative Advocates (Excerpt)

1-9-108: REMEDIES FOR VIOLATIONS:

Pursuant to the administrative remedies and procedures set forth in chapter 3 of this title, any person who knowingly and willfully violates any provision of this article, may be assessed an administrative penalty not to exceed five hundred dollars (\$500.00) per violation.

Additionally, the City Prosecutor is delegated the authority to investigate any charge that a person has knowingly and willfully violated this article. If the City Prosecutor determines that there is probable cause to believe that a legislative advocate and / or a client has knowingly, willfully and materially violated the provisions of this article, the City Prosecutor may request that the City conduct an administrative hearing to determine whether such a violation has occurred and, if so, whether the legislative advocate and/ or a client should be prohibited from engaging in legislative advocacy for a period of time.

Upon the request of the City Prosecutor, a Hearing Officer shall be retained and an administrative hearing shall be conducted substantially in accordance with the procedures set forth in chapter 3 of this title for conducting hearings on administrative citations.

If, after conducting a hearing pursuant to this section, a Hearing Officer determines that the legislative advocate and / or a client has knowingly, willfully and materially violated the provisions of this article, then for the first violation of this article, the Hearing Officer shall prohibit the legislative advocate and / or a client from engaging in legislative advocacy for a minimum period of six (6) months, for a second violation, the Hearing Officer shall prohibit the legislative advocate and / or a client from engaging in legislative advocacy for a minimum period of one year, and for a third or subsequent violation, the Hearing Officer shall prohibit the legislative advocate and / or a client from engaging in legislative advocacy for a minimum period of four (4) years. The Hearing Officer may issue an order prohibiting the legislative advocate and / or a client from engaging in legislative advocacy for a period of less than the maximum period set forth in this paragraph if the Hearing Officer determines that mitigating circumstances justify a lesser period of prohibition.

If the Hearing Officer determines that the legislative advocate and / or a client has knowingly, willfully and materially violated the provisions of this article, or if the legislative advocate and / or a client accepts the allegation of knowing, willful and material violation and waives the opportunity for a hearing, then the City's website shall identify the legislative advocate and / or a client and indicate that the legislative advocate has violated the City's regulations governing legislative

advocacy. The website identification shall remain posted on the website for one year.

Notwithstanding the provisions of chapter 3 of this title, any decision by a Hearing Officer pursuant to this section shall be a final decision and not subject to appeal or review by the City Council.

(Ord. 18-O-2749, eff. 2-9-2018)

Closed-session Reporting

Introduction

In recent months there has been a new item added to city council formal meeting agendas: REPORT FROM CITY ATTORNEY ON CLOSED SESSION ITEMS. This important addition reflects some concern among Sunshine Task Force members that the public was not being informed about council decisions taken behind closed doors. While the outcome of a closed-session discussion may find its way to the consent calendar item or (very occasionally) announced in a press release, there was interest in having a report. Hence a standing city attorney report on closed session items was added to the formal session agenda starting this fiscal year.

Problem

Starting around September 10th a standing city attorney report item was added to the formal agenda. That evening like each of the five meetings since: "There is no reportable action," the city attorney said.

Over the past two-and-a-half years (fiscal year 2017-18 through the present) there was held about 55 regular meetings. *The public received only three closed-session reports.* According to the meeting minutes:

- 11/6/18 "City Attorney Laurence Wiener reported that the City Council approved the settlement of a short term rental case Beverly Hills v. Janet Farzan"
- 10/9/18 "City Attorney Wiener announced the Council's Closed Session decision regarding the writ for Rosen" — no detail in minutes
- 3/5/19 "City Attorney Laurence Wiener reported on the results of four cases that were discussed at the City Council Closed Session."

(There was no more substantive detail provided in the minutes on these items beyond what is excerpted here.)

Certainly there was more to report over two-plus years of city council closed session decision-making!

Discussion

I am no attorney; I have never even played on on TV. But thinking through whether a discussion item may or may not be reportable I have identified five possible categories:

- 1) An undecided item that can't be reported – like a carryover item which is either not discussed or is not yet decided.
- 2) A decided item that can't be publicly reported like an employee issue.

To: Sunshine Task Force
Re: City attorney closed session reports

- 3) A decided item that appears in a formal agenda item (like consent calendar) in a timely fashion (for example a property lease agreement).
- 4) A decided item that will not appear on a public agenda in a timely fashion pending some subsequent action by council or commission (for example a property purchase).
- 5) A decided item that will appear on no agenda (such as settlement of a civil action).

I am sure the city attorney can help clarify my understanding about whether and when the outcome of a closed-session discussion may be reported. I may have gotten these categories all wrong!

Recommendation

City attorney's standing report to Council should identify any decision that city council has taken subsequent to the last regular meeting (inclusive of any special meeting or the same-day study session). That would include lease agreements, property purchases, and civil settlements, and employee hiring (but of course excluding disciplinary actions and other actions which are confidential under the law). If no decision is reached then of course the appropriate city attorney report is "No reportable action."

The objective is to better inform the public about city council actions especially when a closed-session item would not otherwise be discussed in formal session or publicly announced.

TO: SUNSHINE TASK FORCE COMMITTEE MEMBERS
FROM: STEVE MAYER
DATE: NOVEMBER 20, 2019
RE: STOP WORK ORDER – NEW NEIGHBORHOOD MEETING REQUIREMENT

When a “Stop Work Order” is issued, should not the neighborhood be involved with the rescinding of the “Stop Work Order”?

A “Stop Work Order” is issued when an Applicant (contractor and/or owner) has violated the terms of its permit, the policies of the Community Development Department and/or the Beverly Hills Municipal Code (BHMC).

A “Stop Work Order” is usually initiated after a series of local neighborhood complaints.

To remove the “Stop Work Order,” the Applicant must receive a written rescission from the designee of the Community Development Director (nee “Building Official”) [BHMC 9-1-118(B)]. By internal policy, there is supposed to be a meeting with the Building Inspection Manager.

The problem is that the neighborhood is specifically excluded from the “rescission” meeting.

It is highly unusual for a “Stop Work Order” to be issued. A “Stop Work Order” means that both the Applicant and the oversight process have failed.

In a complaint-based system, it is not uncommon in a “Stop Work Order” that only some issues were uncovered. While the neighbors are highly annoyed, some have not come forward with every complaint.

It is proposed that the ordinance be changed to include the provision that a community meeting must take place, as a condition of rescinding the “Stop Work Order”

It is also proposed that a new policy be implemented when a “Stop Work Order” has been issued:

- (1) A 10-day notice is mailed to the neighbors (block and blockface) inviting them to a “Stop Work Order Rescission Meeting”
- (2) The meeting is no sooner than 6:30 p.m. at City Hall

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Stop Work Order - New Neighborhood Meeting Requirement
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- (3) The meeting is mediated by a Hearing Officer between the neighborhood, the Applicant, and the Community Development Department.

At this meeting, the neighbors could raise any and all issues and have them dealt with.

The reason for this proposed revision of existing policy is to due to two recent situations in the Oakhurst neighborhood:

- (4) At 9171 West Third, a “Stop Work Order” was issued.

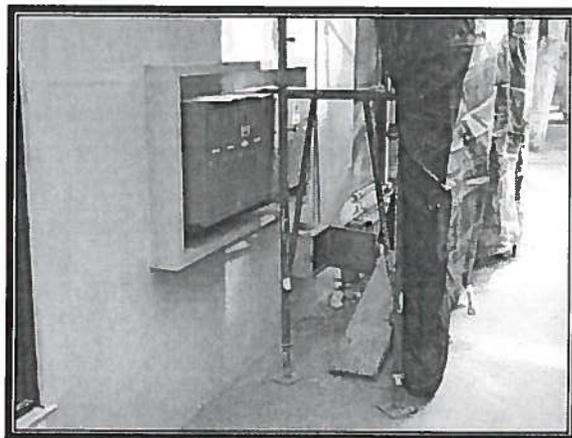
The “Stop Work Order” rescission was issued *the day before* Staff met with neighbors.

After a “Stop Work Order” was issued for 9171 West Third, the neighbors raised additional issues. The neighbors, however, were treated dismissively. The issues of parking, construction delivery times, dust mitigation, noise mitigation, were considered irrelevant.

- (5) At 337 North Oakhurst, a “Stop Work Order” was issued.

The “Stop Work Order” was rescinded. What was not fixed was a clear violation of the BHMC and, more importantly, common sense.

Scaffolding, for example, was erected in front of the tenants’ mailboxes, blocking access. An elderly tenant fell and had to be hospitalized, after she unsuccessfully tried to obtain access her mailbox.



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It is obvious that the Community Development Director's designee did not visit the property, nor looked at some other very obvious code violations, such as a deteriorated walkway.

The tenant did not complain because she had no faith in City staff.

If she knew that an independent individual (such as a Hearing Officer) was running the meeting, she would have greater faith in the process.

Attachment

- Beverly Hills Municipal Code 9-1-118 (Stop Work Orders)

ARTICLE 1. ADMINISTRATIVE CODE FOR BUILDING STANDARDS

9-1-118: STOP WORK ORDERS:

- A. **Authority:** Where the building official finds any work being performed in a manner either contrary to the provisions of this Beverly Hills administrative code or the code, or other laws and ordinances, or that the work is dangerous and unsafe, the building official is authorized to issue a stop work order.
- B. **Issuance:** The stop work order shall be in writing and shall be given to the owner of the property involved, the owner's authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. No person shall continue with, or allow the continuance of, any work that is subject to an issued stop work order, unless first authorized by the building official in writing, after a community meeting has occurred.
- C. **Unlawful Continuance:** Persons who disregard or violate, or who permit or allow a stop work order to be disregarded or violated, are subject to section 9-1-117 of this chapter. (Ord. 16-O-2719, eff. 1-20-2017)