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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach,
California

Re: Final Report of the Ethics Review Task Force

At the request of the Ethics Review Task Force, its final Report is hereby transmitted to the City Council, along with the Task Force's recommendation that the Report be considered and approved by the Council.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

HEATHER A. MAHOOD
Assistant City Attorney

HAM:fl
Enclosure
01-05680

Report of the Long Beach Ethics Task Force

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June 18, 2002

REPORT OF THE LONG BEACH ETHICS TASK FORCE

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INTRODUCTION

The Long Beach Ethics Task Force, which was established by the City Council at its meeting of October 9, 2001, has concluded its work and now submits its recommendations. They include a Code of Ethics to guide City employees, elected and appointed City officials, those who would act to influence employees and officials, and candidates for City office. They also include recommendations regarding creation of an Office of Ethics to provide education and assistance for those individuals on ethics rules and regulations.

All government and especially local government should act in a manner consonant with the shared values of the community represented by the government. For this community three central values are identified:

- Public participation and trust;
- Transparency; and
- Accountability

These three values provide the framework for evaluating ethical proposals for Long Beach. The value of public participation and trust reflects the idea that in a democracy the government is expected to support and implement the will of the people, not the personal interests of those elected by the people or those hired to work on behalf of the people. The value of transparency reflects the idea that decisions effecting the public good ought to be made publicly with wide disclosure of how those decisions are made and opportunities for public input. The value of accountability reflects the idea that those charged with making decisions for the people and implementing those decisions should be held responsible for complying with applicable laws and for stating and achieving measurable objectives.

In arriving at the recommendations submitted, the Ethics Task Force adopted the values of public participation and trust, transparency and accountability and derived the following outcome statements as goals of the recommendations:

- Encourage public participation and enhance public trust
- Insure government activities and actions are conducted for the good of the community rather than for the benefit of narrow private interests
- Level the political playing field by increasing opportunities for meaningful participation and by assuring that incumbency or office are not exploited unfairly
- Make certain that all reports about campaign contributions and lobbying activities are timely submitted and made available to the public
- Develop implementation mechanism to insure that these principles are adhered to

Each of the recommendations below furthers one or more of the central values and is congruent with one or more of the outcome statements.

These recommendations follow a series of meetings at which the public was invited to express its concerns about the topic of ethics as it pertains to City employees and officials. Many of the recommendations set forth broad guidelines, as it is impossible to address every conceivable fact situation which employees and officials may encounter. The guiding principle must be that employees and elected and appointed officials conduct themselves in such a manner as to engender public trust in the official decision-making process of the City.

MISSION AND WORK OF THE LONG BEACH ETHICS TASK FORCE

The Long Beach Ethics Task Force was charged by the City Council "to develop a Code of Ethics with an ethics education component for recommendation to the City Council . . ." The Council specifically excluded from the charge to the Task Force consideration of any enforcement mechanism for the Code of Ethics developed. Twelve residents of the City were appointed to the Task Force and served voluntarily.

Task Force members spent substantial time educating themselves and each other about existing state and local laws that apply to City officials (i.e., elected officers, appointees, and employees), candidates for elective office, and others. The Task Force was provided with and obtained additional information about the ethics regulations adopted by other local government agencies and past efforts by the City to address this topic.¹

Numerous public meetings were held between December 2001 and June 2002.² Speakers with expertise in governmental ethics addressed the Task Force and interested members of the public provided valuable comment at Task Force and committee meetings. It is important to acknowledge that the Task Force was unable to delve into some topics raised by members of the public, such as the City's contract bid process.

¹ The Task Force wishes to extend its thanks to City staff, who provided assistance and expertise. Special recognition is extended to Senior Minute Clerk Nancy Muth, Deputy City Manager Christine Shippey, Assistant City Attorney Heather Mahood, City Contracts Officer Desiree Gooch, and Manager of Public/Governmental Affairs Roger Haley.

² Meetings of the Task Force were held on the following dates: December 12, 2001; January 9, 2002; January 31, 2002; February 13, 2002; February 25, 2002; March 13, 2002; March 26, 2002; April 8, 2002; May 8, 2002; May 21, 2002; June 10, 2002 and June 18, 2002.

The five committees established by the Task Force to carry out its work were:

- Campaign Activities
- Lobbying
- Conflicts of Interest
- Education and Training
- Report Drafting

Each of the committees met to develop recommendations to present to the full Task Force for consideration. The full Task Force then voted whether to adopt, reject, or modify those recommendations.

EXECUTIVE SUMMARY

The primary goal of the Ethics Task Force was to develop a Code of Ethics to assist appointed and elected City officials and City employees to meet their ethical obligations and comply with applicable laws. To that end, the report gathers in one place relevant federal, state, and local laws which address campaign finance and governmental ethics, which are found in Appendix A.

The Task Force initially divided itself into three substantive committees to address three general areas: campaign activities, lobbying, and conflicts of interest. Each of the committees issued their own reports, which are included as Appendix B, C, and D, and which provide the reasons behind many of the recommendations being made.

Recommendations are made to amend the City's laws to accomplish the following:

- Establish an Office of Ethics for the City of Long Beach
- Require registration of lobbyists and disclosure of lobbying activities
- Make campaign finance reports available on-line in a timely manner
- Enhance the City's matching fund program
- Establish a local campaign finance audit program
- Provide for disclosure on the record of gifts recently received by City officials from those connected with any matter coming before the official for action
- Set guidelines for outside employment for all full-time City employees
- Establish revolving door policies for former elected and appointed officials and employees

On January 30, 2002, the Task Force received a memo from Councilmembers requesting that we address issues surrounding the use of "discretionary funds" by the City Council. The Task Force assigned the topic to the existing Campaign Activity Committee for further study.

After reviewing the report of the Campaign Activity Committee, the Task Force debated whether the existence of discretionary funds was a policy issue rather than an ethical issue. Eventually, a majority of the Task Force voted to adopt the specific recommendations developed by the Campaign Activity Committee for regulation of discretionary funds, but the Task Force did not decide whether such funds should be abolished. A minority of the Task Force members believed that the Task Force should recommend that they be abolished and have written a dissenting report on this issue.

CODE OF ETHICS

City officials, elected and appointed, and all City employees should pledge to follow these principles:

- To place the best interests of the City above all other interests
- To uphold all laws, regulations, and policies
- To take no action for the purpose of benefitting the official or employee personally
- To avoid even the appearance of a conflict of interest
- To avoid disclosure of confidential information obtained in the performance of their duties or in their official capacity
- To exercise prudence and good judgment at all times
- To be fair, impartial, and unbiased in the decision-making process
- To treat each other and the public with respect

1. Recommendation

A Code of Ethics for elected officials, appointed officials and employees should be adopted.

Although the Task Force provided opportunities for public input on the topic of ethics at meetings of the Task Force and its committees, the City Council should have the benefit of public comment on the recommendations contained in this Report and the broader topic of governmental ethics.

2. Recommendation

The City Council should hold a widely publicized public meeting to receive public input on the Long Beach Ethics Task Force Report and the topic of governmental ethics in the City of Long Beach.

EDUCATION AND TRAINING

Background

Little is being done to keep ethics in the forefront of the minds of public officials and employees. There is no central office to which City officials and employees can bring inquiries. Occasionally, City Council members ask questions of the City Attorney's Office, members of whom are knowledgeable about the applicable laws. However, there is no system in place to educate officials and employees about the many rules and laws that exist, to teach ethical principles by posing hypotheticals and ethical conundrums, or to test understanding of ethical concepts. Even the oath of office that elected and appointed officials take does not contain any pledge that they will try to consider issues and conduct themselves in an ethical fashion. In this setting, it is too easy for residents to distrust City government and it is very easy for them to criticize local officials and employees.

Office of Ethics

It is presumed that the City Council established this Task Force because the Council values ethics and ethical behavior. To further establish those values in the conduct of City affairs, the Council should create an Office of Ethics to educate, inform, and advise City officials and employees, as well as the public, regarding ethical issues in government. There is precedent for this. Sometime ago, Long Beach established an Historic Preservation Office, the existence of which validates and demonstrates the value which Long Beach places on its history.

3. Recommendation

Establish an Office of Ethics.

The purpose of the Office of Ethics would be to not only educate, inform, and advise, but also to draft and implement a more detailed Code of Ethics³ and to conduct a campaign inside and outside City Hall about the importance of ethics. The goal would be to make City officials and employees vigilant and aware of ethical issues, particularly of conflicts of interest and those situations which present the appearance of a conflict or impropriety. The result hoped for is a better understanding by residents of the process of City decision-making and a greater trust in local government, which is critical to the vitality of the City and its neighborhoods.

The Office of Ethics should have at least one full-time person. The Task Force suggests a member of the City Attorney's Office would be best suited for this task because many of the rules and regulations in this field must be construed within legal interpretations. More specifically, the Office of Ethics would do the following:

- The Office of Ethics should draft a Code of Ethics for City officials and appointees which would represent standards by which all would strive to abide. The Office of Ethics would be responsible for publicizing that code as well.
- The Office of Ethics should develop a plan to educate all elected and appointed officials and City employees on ethical topics related to City business. The plan should include a training schedule tailored to meet the election/appointment schedule. It should establish minimum training requirements after initial training is completed.
- The Office of Ethics should develop and distribute written materials on ethics to each elected and appointed official, City employee, lobbyist, candi-

³ The Task Force has outlined a Code of Ethics, but the Office of Ethics would have responsibility for studying the Code and developing it further.

date, their staff and supporters, and anyone else whose conduct is likely to come within the purview of the issues and topics related to ethics.

- The Office of Ethics should develop a testing procedure which public officials would take on a periodic basis to test their awareness of ethical issues.
- The Office of Ethics should also serve as a resource to respond to inquiries on ethical matters. According to the City Attorney's Office, at present, there are few such inquiries being made; however, we expect that, after additional education of City officials and staff, appointees, and the public, the number of inquiries will increase.
- The Office of Ethics should create and conduct a campaign to increase awareness of ethical issues within and without City Hall. This could involve the posting of signs (perhaps listing standards of behavior or goals of conduct), and the development of video and on-line resources.
- The Office of Ethics should develop a program to inform candidates of laws and rules which apply to elections, including informational classes and on-line information.
- Annual training seminars for officeholders, their staff, and appointees should be required.

CAMPAIGN ACTIVITY

Background

Campaign activities are regulated by both state and local law. At the state level, the Political Reform Act of 1974 (Government Code §8100, *et. seq.*) is a comprehensive and complex state law requiring all candidates to maintain records of contributions and expenditures. Candidates are also required to file periodic reports disclosing a great amount of information, including the names, addresses, occupations, and employers of donors. At the local level, Measure M, adopted by Long Beach voters in 1994 (Long Beach Municipal Code, Chapter 2.01), supplements the Political Reform Act with provisions unique to Long Beach, such as contribution limits and matching funds.

The government of Long Beach belongs to the people of Long Beach. Voters and candidates deserve an electoral system that is fair, easy to understand, and encourages public participation. Accordingly, Long Beach should strive for a system that:

- Fosters open and competitive elections
- Promotes accountability and responsiveness of elected officials by ensuring that voters have a real choice among candidates
- Promotes competition in campaigns for elective City office by helping to reduce the advantages of incumbents or those with great personal wealth
- Encourages a broad participation in the political process, by placing limits on the amount any one person or group may contribute and increasing the value to candidates of small contributions
- Enables candidates to focus on ideas, issues of local importance, and sound public policy, rather than spending time and energy raising campaign funds
- Instills confidence in Long Beach residents that their elected City officials represent their interests, rather than the officials' own interests or the special interests of others
- Prevents any single person, entity, or interest group from unduly influencing elections or the electoral process

The following recommendations regarding campaign activities are presented by the Task Force.

Mandatory On-Line Posting of Campaign Reports

An informed electorate is critical to a strong democracy. The advent of technology makes access to campaign information immediately accessible at little cost. Therefore, all candidate campaign finance reports should be made available on the Internet. This includes information regarding who supports various candidates for elected office. Candidates should be required to file on-line using their own resources or computers available at public libraries. Voters could access from home almost instantaneously all information currently reported on paper forms (e.g., FPPC Form 460), including:

- Name and address of contributors (\$100+)

- If contributor is an individual, that person's occupation and employer (\$100+)
- Amount and date of the contribution (\$100+)
- The amount received in small contributions (-\$100)
- All expenditures made

4. Recommendation

All candidates should be required to file campaign reports electronically and the City should make the contents of reports available on-line.

Contribution Limits for Special Elections

Measure M adopted the contribution limits in state law for "special elections." The state special election limit – \$1,000 – was applied to all special elections, whether for Mayor or City Council, etc. However, the limits in state law were recently repealed when state Proposition 34 became effective. Thereafter, the City Council expressly adopted the \$1,000 contribution limit into City law. Therefore, it is prudent to reconsider contributions for local special elections and align contribution limitations for special elections with the limitations for regular elections.

5. Recommendation

Adopt the same contribution limits for "special elections" as for regular elections — \$600 for Mayor, \$300 for City Council, and \$400 for all others with adjustments over time.

Improve Matching Funds

The availability of matching funds provides greater access to the political process. To qualify for matching funds, a candidate must: 1) agree to strict spending limits, 2) be

opposed by someone who has qualified for matching funds or who has received/spent a minimum amount, and 3) raise \$10,000 in contributions of \$100 or less (\$20,000 in contributions of \$150 or less for Mayor). Matching funds are also limited per candidate. Because matching funds may help level the playing field between incumbents and challengers, or between those with personal wealth and those without wealth, a strong matching funds program can be beneficial for democracy in Long Beach. Singling out increased matching funds for contributions by Long Beach residents increases the influence of local voters. Finally, there is no time limit within which the City must disburse matching funds thereby potentially dissuading candidates from participating in the political process.

6. Recommendation

Allow candidates to receive greater matching funds for contributions from Long Beach residents.

7. Recommendation

Require the City to transmit matching funds payments within five business days of receiving a complete application.

Use of City Resources for Campaign Activity

The use of City resources such as staff time, phones, e-mail and vehicles in election campaigns provides the candidate or ballot measure with an unfair advantage in elections and violates state law. Therefore, the City should adopt an ordinance specifying permissible and impermissible use of City resources for political activities.

8. Recommendation

Adopt an ordinance prohibiting the misuse of City position or resources for campaign purposes.

Campaign Finance Audit Program

The integrity of and public confidence in the election process is enhanced by periodic audits of local candidates and committees. Unfortunately, the only current audits are conducted by the Franchise Tax Board at the request of the Fair Political Practices

Commission and these are rare. To promote confidence in the electoral process, the City should seek additional means to audit candidates and campaign issues.

9. Recommendation

Create an auditing process to audit local campaign reports to promote greater compliance with existing laws.

LOBBYING

Background

Many Long Beach residents believe that certain industries and individuals that have an economic interest in particular decisions and give campaign contributions enjoy special access to decision-makers. As a result, there is an abiding skepticism that particular decisions are not made in the interest of the entire community. While it is important that those affected by particular decisions have their say, in the end, confidence in the decision-making process is paramount and requires transparency, i.e., that decisions be made publicly with disclosure of non-public efforts to influence those decisions. The following recommendations focus on issues relating to lobbying and employment by former City officials and employees as lobbyists for particular interests.

Lobbying

Public confidence in the decisions of elected and appointed officials requires that those who seek to influence decisions be identified and the extent of their activities be regularly documented. Presently there are no laws which regulate lobbying in Long Beach. The Task Force is advised that today there are only a handful of individuals and entities operating in the City who regularly attempt to influence City decisions. However, with increasing amounts of development and redevelopment, and the potential value of City contracts, it is anticipated that lobbying activities will increase. In addition, there are several corporations who have staff assigned to "lobby" the City in order to develop and maintain relationships with City officials. The following recommendations are presented to address lobbying in the City.

To emphasize the importance of ethical behavior by City officials and employees, a set of standards should be adopted and posted for all City officials and employees to consider in all their activities, including the disclosure of contacts with lobbyists.

10. Recommendation

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June 18, 2002

Adopt an ordinance identifying those compensated to influence City decisions as lobbyists and requiring them to register with the City annually. The lobbyist ordinance should include the following components:

- *Define "lobbyist" as any person or entity who receives or becomes entitled to receive compensation for communicating, on behalf of another person or entity, with any City official or employee in order to influence or persuade legislative or administrative action."*⁴
- *Define "lobbyist employer" as any person or entity who employs a lobbyist in house to communicate, on its behalf, with any City official or employees, in order to influence or persuade legislative or administrative action.*
- *Require each lobbyist to file a quarterly report identifying each client or employer on whose behalf lobbying is being conducted, the issue(s) upon which the lobbyist has been retained to lobby, and the identity of the persons in City government, including elected officials, commission members, and employees contacted in the course of the lobbying activities.*
- *Make the names of registered lobbyists and their reports available to the public and post them on the City's website.*
- *Post lobbying requirements in the offices of the mayor and all elected and appointed officials, and provide those requirements to all speakers at City Council and commission meetings.*

⁴ Some cities set a minimum amount of compensation which must be obtained before the definition applies (e.g., San Jose: \$2000/month; Los Angeles: \$4000/quarter; San Antonio has no threshold compensation). The Task Force considered this issue and decided any compensation was sufficient to trigger the definition.

The ordinance should exclude the following activities which do not constitute lobbying:

- *Requests for information about municipal matters with no attempt to influence.*
- *Communications directed to ministerial actions which do not require a City official or employee to exercise discretion.*
- *Communications involving applications for licenses, permits or entitlements for use, where no hearing is involved.*
- *The submission of a bid in response to a request for proposal from the City.*
- *Communications in response to questions from the City Department which issued requests for proposals regarding a bid which has been submitted or participation in an interview in connection with a bid or proposal that has been submitted.⁵*
- *Communications involving the negotiations of the terms of an agreement, once selected for a job.*
- *Communications by news organization representatives for the purpose of gathering and disseminating news to the public.*
- *Communications made in a speech, article, publication or other material that is disseminated to the public through a medium of mass communication.*

11. Recommendation

⁵ The Task Force considered the extent to which communications regarding issues and projects which are or may be the subject of bidding should be subject to registration and reporting requirements. Except for the exceptions set forth, the Task Force intends that communications regarding such contracts will be subject to the lobbying ordinance.

Train elected and appointed officials regarding lobbying activities registration and disclosure requirements.

12. Recommendation

Adopt a standard in the Code of Ethics which would include openness by elected and appointed officials regarding the lobbying activities to which they have been subject .

Lobbying After City Service

Permitting former elected or appointed officials or City employees who have recently left City service to lobby their former colleagues creates at least the appearance of impropriety and decreases public confidence that City decisions are made on the merits. It is important to avoid any appearance of unfair access or undue influence by City officials who have moved on. Former elected officials, appointed officials, and employees should avoid the appearance of using "inside" information for personal gain or on behalf of private companies or individuals because it creates the appearance of impropriety and decreases public confidence that City decisions are being made on the merits. Both federal and state law require a passage of time before a former employee or member of a public body can lobby or attempt to influence former colleagues on behalf of a third party, if he or she receives compensation to do so. Similar restrictions on such activities by former City officials and employees should be adopted.

13. Recommendation

For one year after leaving City service, prohibit:

- *Former employees from lobbying on behalf of or representing another before their former City department*
- *Former appointed officials from lobbying on behalf of or representing another before their former board/commission and the department connected to the board/commission*
- *Former elected officials from lobbying on behalf of or representing another before any City agency*

CONFLICTS OF INTEREST

Background

An actual or an apparent conflict of interest can be created when a government official has a financial interest in a matter, or a familial or other personal connection to or involvement with a matter upon which he/she is to make a decision. Such conflicts must be avoided and/or disclosed to ensure the integrity of the City's decision-making process.

State law contains extensive and highly technical laws regarding financial conflicts of interest for high-level public officials who are covered by an agency's Conflict of Interest Code. These laws also outline when the public official must be recused from involvement with matters due to a financial conflict of interest. A financial conflict of interest can be created due to:

- Sources of income, loans, gifts, and travel to the public official or his/her family members
- An entity that the public official or his/her family members have an investment or financial interest in (such as stock ownership or partnership interests)
- Real property in which the public official or his/her family members have an interest (such as ownership or a leasehold)
- A person or entity with whom the public official has an agreement concerning future employment

Gifts

Restrictions and prohibitions on the receipt of gifts by public officials and employees are established to prevent the perception that those making governmental decisions are being unfairly influenced. State law contains highly technical rules as to what constitutes a "gift."

(Government Code §81000, *et. seq.*) Generally, a gift is anything of value received for which monetary or other consideration of equal or greater value is not provided in exchange. For example, meals, event tickets, travel, discounts, flowers, and similar items may be gifts under state law.

Existing state law restricts the value of gifts that certain high-level public officials may accept from certain persons or entities. A financial conflict of interest is created if gifts valued above a specified amount are accepted by a public official and the public official

must refrain from participation in matters involving the source of the gifts. In addition, public officials must periodically disclose the gifts that they have received.

Because state law already imposes a limit on the value of gifts that can be received and requires the public official to recuse himself or herself if the value of gifts is above a certain threshold, an additional level of complexity and layer of regulation does not appear necessary at this time. Although public officials must disclose the gifts that they receive, that disclosure may not occur for several months after the public would be interested in knowing that the public official had received the gifts. Disclosure at the time that the elected or appointed officials are considering and voting on matters will foster confidence in the decisions they make.

14. Recommendation

Impose no additional gift restrictions on employees not covered by state gift laws.

15. Recommendation

Impose no additional gift restrictions on elected or appointed officials, but consider requiring elected and appointed officials to disclose on the record at public meetings any gifts they have received within a specified period of time from those with matters on the agenda.

Outside Employment

Most elected and appointed public officials have no restrictions on their regular employment. However, such public officials may not derive income from individuals, businesses, or other organizations which have matters before the body on which the public official sits, unless the official recuses himself/herself from making decisions on matters.

City

regulations also require full-time employees under the City Manager who wish to hold outside

employment to obtain approval to do so. Honest, gainful employment by public officials should not be unnecessarily curtailed by outside employment rules. However, their outside employment should be regularly reviewed to prevent conflicts of interest. Rules should be established under the principle of transparency to assure that the outside employment of City employees does not compromise the public interest.

16. Recommendation

Guidelines for acceptance of outside employment by all full-time employees should be established and full-time employees should be required to obtain prior approval to hold outside employment pursuant to those guidelines.

17. Recommendation

Review of the outside employment, including review of the financial disclosure forms of high-level employees, should be incorporated into employees' annual review process.

Political/Community Activities

Public officials may have many personal, professional, and political ties within the community. Candidates must raise funds from a variety of sources to run for office. These ties and fundraising activities can lead to the appearance of favoritism or bias if the public official acts on matters involving those with whom he or she has those connections.

City campaign contribution limits help avoid receipt of contributions in amounts that could appear to unduly influence or gain access to governmental decisions. Under state law, campaign contributions create a conflict of interest requiring recusal only if the candidate or elected official is serving in an appointed (i.e., not elected) capacity. Disclosure on the public record regarding the contribution may also be required by the public official under state law. The following recommendations will further ensure that campaign contributions do not appear to create undue access or influence.

18. Recommendation

If any public official is an officer, director, or holds another position of authority for an entity, or has any other relationship that may create an appearance of a conflict of interest, he or she should disclose any such relationship on the record and disqualify himself/herself.

The scope of these limits, such as what specific relationships (e.g., family relationships) should lead to disqualification will need to be more fully explored by City officials.

19. Recommendation

Personal solicitation, delivery and receipt of campaign contributions on City property should be prohibited.

20. Recommendation

A public official who is a candidate for City office should be prohibited from soliciting or receiving campaign contributions from individuals and entities while contracts or other matters involving those individuals and entities are pending before the public official.

Financial Disclosure and Conflicts of Interest

State law requires public officials to periodically publicly disclose certain personal financial interests including certain sources of income, gifts, business positions held, interests in real property and investments as described in their agency's Conflict of Interest Code. This disclosure assists the public official and the public in determining whether the public official has a financial conflict of interest which could necessitate recusal.

State laws in these areas are already highly complex, technical, and fact-based. It is highly doubtful that additional regulation, such as requiring more frequent full financial disclosure by those already filing, or requiring lower level public officials to also provide full financial disclosure will provide benefit that outweighs the burden.

21. Recommendation

Impose no further regulation or definitions for what constitutes a financial conflict of interest. Impose no additional financial disclosure requirements on public officials.

DISCRETIONARY FUNDS

Background

After the Task Force began deliberations, two Councilmembers requested that the Task Force address issues surrounding the use of “discretionary funds.”⁶ They wrote: “Guidelines for such expenditures would provide direction to the council and increase public assurance that the amounts expended are for agreed upon public purposes.”⁷

Speakers at the Task Force meeting on February 25, 2002, which was devoted to public comment on ethical issues, addressed this subject. At the meeting of the Task Force held on March 13, 2002, City Attorney Robert Shannon stated his opinion that no councilmember had acted unlawfully or in bad faith in allocation of funds, but suggested that discretionary funds violated the spirit of the City Charter and the Municipal Code budget process. He raised concerns about the process involved in the award of such funds, including insufficient public input. Members of the public spoke both in favor and against discretionary funds. Written communications on the topic were also received. The Task Force then assigned the topic to the already established Campaign Activity Committee for further review.

The committee’s recommendation was to “adopt comprehensive regulations for discretionary funds. . . or end all discretionary funds.” The committee’s report (see Appendix D) summarized the concerns that a very serious perception exists that discretionary funds are used by council members for campaign or political advantage, but also noted that funds had been used for worthwhile projects.

The entire Task Force considered the topic and extensively discussed the committee’s report. The Task Force debated whether a decision regarding the existence of discretionary funds is a policy issue for the Council and Mayor rather than an ethical issue which fell within the scope of the Task Force’s assignment. Ultimately, the Task Force, by a majority, adopted the committee’s recommendations for specific regulations regarding discretionary funds.

The Task Force did *not* decide and did *not* recommend whether discretionary funds should be abolished or continued. Many members on the Task Force argued strongly that the use of discretionary funds should end, and, as noted, the Campaign Activity Committee’s recommendation was to end discretionary funds or regulate them. There was a spirited debate. It was argued that the funds, while going to good causes, created so much potential for “mischief,” gave the appearance of impropriety, and took up so much time at

⁶ “Discretionary funds” is shorthand for funds which, in recent years, the Council has allocated to each council district for use in that district, on the recommendation of the particular councilmember, subject to the approval of the full Council.

⁷ See Appendix H.

City Council meetings that any benefit that the funds yielded was lost. Others suggested that the funds were a means of getting City monies to small community groups involved in worthwhile causes that could not or would not otherwise access City funds if they were required to participate in the bureaucracy of the budget process. It should be noted that the Task Force discussions occurred contemporaneously with ongoing City Council and mayoral elections and considerable publicity in the local press regarding the concurrent award of discretionary funds by incumbent City Council members who were running for office.

22. Recommendation

Adopt regulations for discretionary funds consistent with the following:

- *Limitation on Recipients. Limits should be made for who (or what organizations) are eligible to apply for discretionary funds. For example, eligible groups may include charitable organizations tax-exempt under 501(c)(3) of the Internal Revenue Code, neighborhood associations in Long Beach, or City departments.*
- *Written Applications. Written applications should be required describing specifically how the money would be spent and when the program/project will be completed. An application must include:*
 - (a) *Name and background of proposed recipient*
 - (b) *Project description*
 - (c) *Expected benefits*
 - (d) *Project time frame*
 - (e) *Person responsible for the total project*
- *District Meetings. Applications for funds should be discussed at a public meeting held in each council district to discuss the merits of the applications received. The City Councilmember who represents the district should preside over the meeting, which may be held in a town hall format.*
- *Final Report. At the completion of each project, a final report should be submitted that certifies the objectives were met and provides an accounting for all funds.*
- *Status Reports. If the project lasts longer than six months, then semi-annual reports should be required until all funds are spent and a final report is completed and filed.*

- Council Approval/Discussion. All proposed discretionary fund disbursements should be listed as an "action item" on the City Council agenda so they may be discussed by the Council and be subject to public comment.
- Audit Procedures. The City Auditor or the Department of Financial Management should be given jurisdiction to audit all discretionary fund allocations to ensure they were spent as appropriated. Audits should be conducted on a specified number of recipients (e.g., 15% of the total each year), on allocations for large amounts (e.g., over \$5,000), on allocations where, after review of the final report, discrepancies are found, or any other auditing procedures that makes sense.
- Public Disclosure of Projects. The City Clerk must maintain a list of all funding approvals (e.g., project description, amount, current status). This list should be included on the City web page.
- Timing for Allocations. Discretionary funds should be approved only at certain meetings, either quarterly or monthly (subject to black-out period, see below).
- Black-Out Period. Approval or disbursement of discretionary funds should be prohibited within 90 days before and 60 days after a City election (including special elections), whether or not the councilmember proposing the allocation is up for re-election.

Although discretionary funds may not violate the letter of the law, some believe it violates the spirit. Only after the voters have approved the method and limits of discretionary funds will the practice be made legitimate.

23. Recommendation


Within the next year, Long Beach voters should have the issue of discretionary funds presented to them, whether in the form of an advisory vote or actual change to the City Charter or Municipal Code.

CONCLUSION

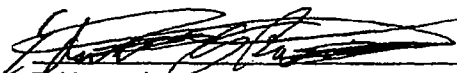
The Task Force hopes that the City Council will give serious and prompt consideration to the recommendations provided. The Task Force is convinced that the adoption of these recommendations and adherence to them will foster greater trust by Long Beach residents in their government.

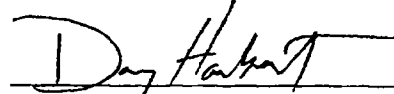
DATED: June 18, 2002

Respectfully submitted,


Honorable Robert W. Parkin, Chair

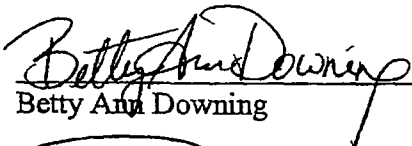

Mario Cordero, Vice Chair

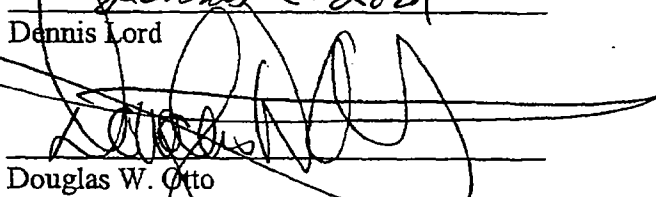

Ed Barwick



Doug Hauber

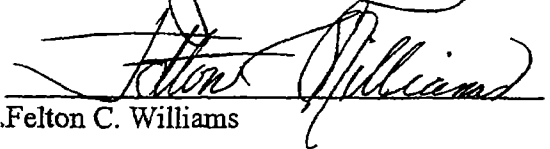

Sandy Blazer


Dennis Lord


Betty Ann Downing


Douglas W. Otto


Richard Green


Felton C. Williams


Pastor Garon Harden


Susan E. Anderson Wise

APPENDIX B

Report of the Long Beach Ethics Task Force

Education & Training Committee Materials

Memo to Dennis Lord/Felton Williams

May 8, 2002

Memo to Education Committee-Ethics Task Force

May 29, 2002

Committee Members

Dennis Lord
Mario Cordero
Felton Williams

APPENDIX C

Report of the Long Beach Ethics Task Force

Campaign Activity Committee Materials

Campaign Activity Committee Summary of Discussion

Summary of Recommendations and Discussion

Committee Members

Felton Williams
Doug Haubert
Ed Barwick

APPENDIX D

Report of the Long Beach Ethics Task Force

Lobbying Committee Materials

Memo to Ethics Task Force

February 13, 2002

Recommendation of the Committee on Lobbying, etc.

March 26, 2002

Committee Members

Sandy Blazer
Richard Green
Susan Wise
Mario Cordero

APPENDIX E

Report of the Long Beach Ethics Task Force

Conflicts of Interest Committee Materials

Conflicts Related Issues

February 13, 2002

Conflicts of Interest Committee Report

March 26, 2002

Committee Members

Doug Otto
Reverend Garon Harden
Dennis Lord
Betty Ann Downing

APPENDIX F

Report of the Long Beach Ethics Task Force

Minority Report(s)

Dissenting Report on Discretionary Funds

Memo Re. *Dissent Regarding "Discretionary Funds" Recommendation* June 18, 2002

APPENDIX G

Report of the Long Beach Ethics Task Force

Task Force Meetings Agendas & Minutes

December 12, 2001

January 9, 2002

January 31, 2002

February 13, 2002

February 25, 2002

March 13, 2002

March 26, 2002

April 8, 2002

May 8, 2002

May 21, 2002

June 10, 2002

June 18, 2002

APPENDIX H

**Report of the Long Beach Ethics Task Force
January 30, 2002 Letter from Councilmembers
Regarding Discretionary Funds**

APPENDIX A
THROUGH
APPENDIX H

Available upon request at the City Clerk Department.