




City of Long Beach
Working Together to Serve

Office of Gerrie Schipske, R.N.P., J.D.
Councilwoman, Fifth District
Memorandum

R-11

Date: March 12, 2013

To: Honorable Mayor and City Council

From: Councilwoman Gerrie Schipske, Fifth District 

Subject: **AGENDA ITEM: Authorize the City Attorney's office to prepare an ordinance for Council consideration precluding use of the City Seal for anything other than official City business or when approved by the City Council approval. Ordinance to include penalties for violation.**

Discussion:

The City seal and logo are the property of the City of Long Beach and are designated to identify official City business, facilities, events, and publications.

Long Beach does not currently have code specifying allowable and prohibited uses of the City seal and logo. Therefore, there is no mechanism to prevent unauthorized use that could lead to public misperception that an event, candidate, endorsement, or position is officially sanctioned by the City.

Such an ordinance would designate the City Clerk as the custodian of the City seal and logo, and establish that the City seal and logo shall only be used to conduct official business, and make the unauthorized use or reproduction of the City seal or logo a misdemeanor punishable with a \$1,000 fine.

Deception and Gift of Public Resources:

State law specifically prevents the use or the allowance of use of any reproduction of the seal of a local government agency in any campaign literature or mass mailing with the intent to deceive the voters. If the use of the seal is made in a manner which "creates a misleading, erroneous, or false impression that the document is authorized by a public official," this would be evidence of intent to deceive.

Use of the City Seal in campaign literature without the City's consent, and without the required disclaimer could very well constitute intent to deceive under these statutes.

Furthermore, the use of City property for political activity could also be deemed unconstitutional. If there is a determination that no public purpose was advanced by such use of City property, an illegal gift of public funds could result. Although the courts have liberally interpreted the definition of a public purpose, it would be difficult for the City to justify the allowance of such use, especially if the City limited such use to particular parties or individuals. Without an ordinance detailing the allowed and prohibited uses of the City Seal, it is difficult for the City to enforce its rights. This is why many cities in California have adopted an ordinance detailing uses of their logo and official seal.

HONORABLE MAYOR AND CITY COUNCIL

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March 12, 2013

Page 2

During the last campaign cycle, a councilmember utilized the City Seal on his campaign website giving the appearance that his solicitation for campaign funds and support were officially endorsed by the City. When residents complained to the City Attorney, they were told that the councilmember made a "mistake" and that he would remove the City seal.

To prevent future "mistakes" by elected officials and candidates for office, the City needs an ordinance that details under what conditions the seal and logo may be used or not used:

Under this ordinance, the seal and logo may be used as follows:

- Placed on stationery or other written or printed materials used for individual correspondence by City officials or employees for official city business.
- Placed on uniforms, name badges, clothing, and other identification materials worn or used by City officials and employees.
- Placed on promotional items such as plaques, pins, and mugs if approved by the City Manager.

Prohibited uses of the seal and logo include:

- Making, reproducing, manufacturing, displaying, or using the seal or logo or any design so closely resembling the same as to be deceptive or reasonably mistaken for the City seal or logo for any purpose other than official City business, City sponsored event or publication, or City endorsed event or publication without the consent of the City Council.
- Using the City seal or logo for any private or commercial purpose without the approval of the City Council.
- Placing any imitation of the City seal or logo on any written or printed material that is intended or likely to confuse or mislead the public into believing it to be an official City publication. Nor may any person circulate or distribute any such written or printed material or website.
- Placing any imitation of the City seal or logo on social media that is not an official site of the City of Long Beach.
- Using the City seal or logo on or in connection with any advertisement or promotion for any product, business, organization, service or article.

Also prohibited:

- Using the city logo, or any facsimile thereof, for purposes of supporting or opposing the nomination or election to any city or other public office of himself or herself or any other person, or for purposes of supporting or opposing any ballot measure, nor include such city logo on any writing distributed for purposes of influencing the action of the electorate, or any part thereof, in any election. This would not be applicable to writings issued by the City of Long Beach or the City Council as a whole pursuant to law.

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Page 3

Fiscal Impact:

None

Recommendation:

By motion of the City Council, request the City Attorney to prepare an ordinance for Council consideration precluding use of the City Seal for anything other than official City business or when approved by the City Council approval. Ordinance to include penalties for violation