

Request # 1958

Mayor Bao Nguyen's
Emails

Feb. 24, 2016

To

Feb. 25, 2016

Subject: North Net JPA Meeting

From: Andrea Brooks <abrooks@cityoforange.org>

Date: Wed, 24 Feb 2016 01:55:24 +0000

To: Bao Nguyen - Garden Grove <baon@ci.garden-grove.ca.us>, "Brenda Carrion - North Net" <BCarrion2@anaheim.net>, Bryn Morley - Anaheim <bmorley@anaheim.net>, Chad Thompson - Anaheim <CThompson@anaheim.net>, Connie Jo Smith - WSS - Law <csmith@wss-law.com>, David DeBerry <ddeberry@wss-law.com>, Debbie Gabler <dgabler@cityoforange.org>, "Debbie Moreno" <dmoreno@anaheim.net>, Elsie Yee <EYee@anaheim.net>, Gaylen Barnes <GBarnes@anaheim.net>, Jack Thomas <jthomas@cityoforange.org>, "Jean Ibalio " <JIbalio@anaheim.net>, Kris Beard <kbeard@garden-grove.org>, "Kris Beard - Garden Grove" <beard4gg@gmail.com>, Lucille Kring - Anaheim <lkring@anaheim.net>, Margaret Hoiem - Anaheim <mhoiem@anahiem.net>, "Mark A. Murphy" <mark.a.murphy@hp.com>, "Mark A. Murphy " <mark@markamurphy.com>, "Mayor Tita Smith " <tsmith@ccoc.org>, Michael Diersing <mdiersing@cityoforange.org>, Omar Sandoval - Garden Grove <OSandoval@wss-law.com>, Pam Haddad - Garden Grove <pamha@ci.garden-grove.ca.us>, "Randy Bruegman " <rbruegman@anaheim.net>, Sheryl Montgomery <ssmontgomery@anaheim.net>, "Svetlana Moure " <smoure@garden-grove.org>, Tom Schultz <toms@garden-grove.org>
CC: Svetlana Moure <smoure@ci.garden-grove.ca.us>

NEW North Net JPA meeting date -

Subject: Re: March 11, 2016 GAC Meeting
From: Bao Nguyen <baon@ci.garden-grove.ca.us>
Date: Tue, 23 Feb 2016 17:57:49 -0800 (PST)
To: Cindy Spindle - GG Chamber <ceo@gardengrovechamber.com>
CC: Pam Haddad <pamha@ci.garden-grove.ca.us>

Hi, Cindy,

Thanks for your kind invitation. I'd like to attend, however we have a council and executive management team retreat at 8am the same day. Please let me know if there is anything I can assist with. Thanks.

Yours truly,
Bao

On Feb 23, 2016, at 5:00 PM, Cindy Spindle - GG Chamber <ceo@gardengrovechamber.com> wrote:

Hello,

I am reaching out to you to ask that you attend our upcoming GAC Meeting next month on Friday, March 11, 2016. We have Congressman Alan Lowenthal speaking and we would like to have our local representatives there too.

Our meeting takes place at the Orange County Emergency Pet Clinic at 12750 Garden Grove Blvd. at 7:30 am.

Hope we see you there.

--

Regards,

Cindy Spindle, CEO/President
Garden Grove Chamber of Commerce
12866 Main Street, Suite 102
Garden Grove, CA 92840
714-638-7950
ceo**@gardengrovechamber.com <CEO@gardengrovechamber.com>
<March_GAC_-_Alan_Lowenthal.jpg>

Subject: RE: North Net JPA Meeting

From: Teresa Smith <tsmith@ccoc.org>

Date: Wed, 24 Feb 2016 02:51:50 +0000

To: Andrea Brooks <abrooks@cityoforange.org>, Bao Nguyen - Garden Grove <baon@ci.garden-grove.ca.us>, Brenda Carrion - North Net <BCarrion2@anaheim.net>, Bryn Morley - Anaheim <bmorley@anaheim.net>, Chad Thompson - Anaheim <CThompson@anaheim.net>, Connie Jo Smith - WSS - Law <csmith@wss-law.com>, David DeBerry <ddeberry@wss-law.com>, Debbie Gabler <dgabler@cityoforange.org>, Debbie Moreno <dmoreno@anaheim.net>, Elsie Yee <EYee@anaheim.net>, Gaylen Barnes <GBarnes@anaheim.net>, Jack Thomas <jthomas@cityoforange.org>, "Jean Ibalio " <JIbalio@anaheim.net>, Kris Beard <kbeard@garden-grove.org>, Kris Beard - Garden Grove <beard4gg@gmail.com>, Lucille Kring - Anaheim <lkring@anaheim.net>, Margaret Hoiem - Anaheim <mhoiem@anahiem.net>, "Mark A. Murphy" <mark.a.murphy@hp.com>, "Mark A. Murphy " <mark@markamurphy.com>, Michael Diersing <mdiersing@cityoforange.org>, Omar Sandoval - Garden Grove <OSandoval@wss-law.com>, Pam Haddad - Garden Grove <pamha@ci.garden-grove.ca.us>, "Randy Bruegman " <rbruegman@anaheim.net>, Sheryl Montgomery <ssmontgomery@anaheim.net>, "Svetlana Moure " <smoure@garden-grove.org>, Tom Schultz <toms@garden-grove.org>

CC: Svetlana Moure <smoure@ci.garden-grove.ca.us>

Yes I will be there. tita

Teresa "Tita" Smith, MSW, LCSW
Executive Director
Catholic Charities of Orange County
1820 East 16th Street
Santa Ana, CA 92701
714.347.9680
FAX: 714.427.4585
tsmith@ccoc.org

-----Original Appointment-----

From: Andrea Brooks [<mailto:abrooks@cityoforange.org>]

Sent: Tuesday, February 23, 2016 5:55 PM

To: Bao Nguyen - Garden Grove; Brenda Carrion - North Net; Bryn Morley - Anaheim; Chad Thompson - Anaheim; Connie Jo Smith - WSS - Law; David DeBerry; Debbie Gabler; Debbie Moreno; Elsie Yee; Gaylen Barnes; Jack Thomas; Jean Ibalio ; Kris Beard; Kris Beard - Garden Grove; Lucille Kring - Anaheim; Margaret Hoiem - Anaheim; Mark A. Murphy; Mark A. Murphy ; Teresa Smith; Michael Diersing; Omar Sandoval - Garden Grove; Pam Haddad - Garden Grove; Randy Bruegman ; Sheryl Montgomery; Svetlana Moure ; Tom Schultz

Cc: Svetlana Moure

Subject: North Net JPA Meeting

When: Occurs the third Monday of every 3 month(s) effective 5/16/2016 from 11:30 AM to 1:00 PM Pacific Standard Time.

Where: North Net Training Center

NEW North Net JPA meeting date -

Subject: Re: Median fence on Stanford Ave
From: Scott Stiles <sstiles@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 07:16:57 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>
CC: Kelly McAmis <kmcamis@ggusd.us>

Mayor: thank you for sharing this. I will ask staff to reach out to Kelly to start that discussion. Regards, Scott

Scott C. Stiles, ICMA-CM
City Manager / City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714-741-5100 (o) / 714-719-1810 (c)
www.ci.garden-grove.ca.us

Sent from my iPhone

On Feb 23, 2016, at 9:35 AM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:

Hi, Scott,

I'd like to connect you with Kelly McAmis, assistant superintendent of secondary education, GGUSD. Kelly is also a proud Garden Grove city resident in addition to being an education expert. I'd like us to work together to remove the chain link fence on the median on Stanford between Garden Grove High School and the CMC/Senior Center. Kelly is cc'd.

I hope the city and school district will collaborate to remove the fence and replace it with a more aesthetic fence, especially because it's our civic center and our city's namesake high school is very much a part of our civic center and community.

It is my understanding that the school district is willing to assist with building and installing a more aesthetic fence. I hope we can remove the fence as soon as possible. I want to have a beautiful civic center again, before welcoming dignitaries to our city for the dedication and renaming of Grove Grove High School stadium after Michael Monsoor, our local hero who was posthumously awarded the Medal of Honor. And having the chain link fence removed and replaced with a beautifully constructed fence before the reopening of our CMC and 60th year anniversary events would be the icing on the cake.

Kelly is a good neighbor and model city resident, so I know she is eager to work with us. Please connect and happy collaborating!

Thanks,
Bao

Subject: Re: Median fence on Stanford Ave
From: Bao Nguyen <baon@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 07:44:07 -0800 (PST)
To: Scott Stiles <sstiles@ci.garden-grove.ca.us>

Thank you.

On Feb 24, 2016, at 7:16 AM, Scott Stiles <sstiles@ci.garden-grove.ca.us> wrote:

Mayor: thank you for sharing this. I will ask staff to reach out to Kelly to start that discussion. Regards, Scott

Scott C. Stiles, ICMA-CM
City Manager / City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714-741-5100 (o) / 714-719-1810 (c)
www.ci.garden-grove.ca.us

Sent from my iPhone

On Feb 23, 2016, at 9:35 AM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:

Hi, Scott,

I'd like to connect you with Kelly McAmis, assistant superintendent of secondary education, GGUSD. Kelly is also a proud Garden Grove city resident in addition to being an education expert. I'd like us to work together to remove the chain link fence on the median on Stanford between Garden Grove High School and the CMC/Senior Center. Kelly is cc'd.

I hope the city and school district will collaborate to remove the fence and replace it with a more aesthetic fence, especially because it's our civic center and our city's namesake high school is very much a part of our civic center and community.

It is my understanding that the school district is willing to assist with building and installing a more aesthetic fence. I hope we can remove the fence as soon as possible. I want to have a beautiful civic center again, before welcoming dignitaries to our city for the dedication and renaming of Grove Grove High School stadium after Michael Monsoor, our local hero who was posthumously awarded the Medal of Honor. And having the chain link fence removed and replaced with a beautifully constructed fence before the reopening of our CMC and 60th year anniversary events would be the icing on the cake.

Kelly is a good neighbor and model city resident, so I know she is eager to work with us. Please connect and happy collaborating!

Thanks,
Bao

Subject: Re: March 11, 2016 GAC Meeting
From: Cindy Spindle - GG Chamber <ceo@gardengrovechamber.com>
Date: Wed, 24 Feb 2016 09:14:29 -0800
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

Sorry you can't make it. Thank you for letting me know.

Cindy

On Tue, Feb 23, 2016 at 5:57 PM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
Hi, Cindy,

Thanks for your kind invitation. I'd like to attend, however we have a council and executive management team retreat at 8am the same day. Please let me know if there is anything I can assist with. Thanks.

Yours truly,
Bao

> On Feb 23, 2016, at 5:00 PM, Cindy Spindle - GG Chamber <ceo@gardengrovechamber.com>
> wrote:

>

> Hello,

>

> I am reaching out to you to ask that you attend our upcoming GAC Meeting
> next month on Friday, March 11, 2016. We have Congressman Alan Lowenthal
> speaking and we would like to have our local representatives there too.

>

> Our meeting takes place at the Orange County Emergency Pet Clinic at 12750
> Garden Grove Blvd. at 7:30 am.

>

> Hope we see you there.

>

> --

> *Regards,*

>

> *Cindy Spindle, CEO/President*

> *Garden Grove Chamber of Commerce*

> *12866 Main Street, Suite 102*

> *Garden Grove, CA 92840*

> *714-638-7950*

> *ceo**@gardengrovechamber.com* <CEO@gardengrovechamber.com>

> <March_GAC_-_Alan_Lowenthal.jpg>

--

Regards,

Cindy Spindle, CEO/President
Garden Grove Chamber of Commerce
12866 Main Street, Suite 102
Garden Grove, CA 92840
714-638-7950
ceo@gardengrovechamber.com



Garden Grove
— Chamber of Commerce —
Founded 1907



Subject: Re: March 11, 2016 GAC Meeting
From: Cindy Spindle - GG Chamber <ceo@gardengrovechamber.com>
Date: Wed, 24 Feb 2016 09:14:29 -0800
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

Sorry you can't make it. Thank you for letting me know.

Cindy

On Tue, Feb 23, 2016 at 5:57 PM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
Hi, Cindy,

Thanks for your kind invitation. I'd like to attend, however we have a council and executive management team retreat at 8am the same day. Please let me know if there is anything I can assist with. Thanks.

Yours truly,
Bao

> On Feb 23, 2016, at 5:00 PM, Cindy Spindle - GG Chamber <ceo@gardengrovechamber.com>
> wrote:

>

> Hello,

>

> I am reaching out to you to ask that you attend our upcoming GAC Meeting
> next month on Friday, March 11, 2016. We have Congressman Alan Lowenthal
> speaking and we would like to have our local representatives there too.

>

> Our meeting takes place at the Orange County Emergency Pet Clinic at 12750
> Garden Grove Blvd. at 7:30 am.

>

> Hope we see you there.

>

> --

> *Regards,*

>

> *Cindy Spindle, CEO/President*

> *Garden Grove Chamber of Commerce*

> *12866 Main Street, Suite 102*

> *Garden Grove, CA 92840*

> *714-638-7950*

> *ceo**@gardengrovechamber.com* <CEO@gardengrovechamber.com>

> <March_GAC_-_Alan_Lowenthal.jpg>

--

Regards,

Cindy Spindle, CEO/President
Garden Grove Chamber of Commerce
12866 Main Street, Suite 102
Garden Grove, CA 92840
714-638-7950
ceo@gardengrovechamber.com



Garden Grove
— Chamber of Commerce —
FOUNDED 1907



Subject: Appointment - Community & Economic Development Director

From: Scott Stiles <sstiles@ci.garden-grove.ca.us>

Date: Wed, 24 Feb 2016 10:56:49 -0800 (PST)

To: Kingsley Okereke <kingsley@ci.garden-grove.ca.us>, Maria Stipe <marias@ci.garden-grove.ca.us>, Ana Pulido <anap@ci.garden-grove.ca.us>, Omar Sandoval <omars@ci.garden-grove.ca.us>

Members of City Council:

I am pleased to inform you that I will shortly be announcing the appointment of Lisa L. Kim as the City's new Community & Economic Development Director, effective April 4, 2016. This comes following a national search that included applicants from as far away as Florida and Texas. Some of you may know Lisa, as she currently serves as the Economic Development Manager for the City of Orange. She has more than 23 years of economic development experience. Lisa has a BS in Urban & Regional Planning, California State Polytechnic University, and an MPA from Brandman University. Please join me in welcoming her to our organization when she arrives, as I know she is excited to get started and to meet all of you. She will be reaching out to you immediately after her start date to meet and gain a strong understanding of the development priorities that are important to you.

On a related note, I want to publicly thank Karl Hill, Lee Marino, and Greg Blodgett for stepping up to fill organizational voids during this search process. As you know, they are all true professionals who are helping to carry-on the momentum of growth in our community. I am sincerely appreciative of their service and commitment to the City of Garden Grove, and I have privately communicated this to them as well.

The organizational and reporting structure that I have previously outlined for the new department, will go into effect on April 4, 2016. The press release will be forwarded to you shortly.

Councilmembers are being blind-copied on this memo to avoid Brown Act violations.

Regards,
Scott

Scott C. Stiles, ICMA-CM
City Manager / City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714-741-5100 (o) / 714-719-1810 (c)
www.ci.garden-grove.ca.us

Subject: Re: Appointment - Community & Economic Development Director
From: Bao Nguyen <baon@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 11:00:25 -0800 (PST)
To: Scott Stiles <sstiles@ci.garden-grove.ca.us>

Congratulations!

On Feb 24, 2016, at 10:56 AM, Scott Stiles <sstiles@ci.garden-grove.ca.us> wrote:

Members of City Council:

I am pleased to inform you that I will shortly be announcing the appointment of Lisa L. Kim as the City's new Community & Economic Development Director, effective April 4, 2016. This comes following a national search that included applicants from as far away as Florida and Texas. Some of you may know Lisa, as she currently serves as the Economic Development Manager for the City of Orange. She has more than 23 years of economic development experience. Lisa has a BS in Urban & Regional Planning, California State Polytechnic University, and an MPA from Brandman University. Please join me in welcoming her to our organization when she arrives, as I know she is excited to get started and to meet all of you. She will be reaching out to you immediately after her start date to meet and gain a strong understanding of the development priorities that are important to you.

On a related note, I want to publicly thank Karl Hill, Lee Marino, and Greg Blodgett for stepping up to fill organizational voids during this search process. As you know, they are all true professionals who are helping to carry-on the momentum of growth in our community. I am sincerely appreciative of their service and commitment to the City of Garden Grove, and I have privately communicated this to them as well.

The organizational and reporting structure that I have previously outlined for the new department, will go into effect on April 4, 2016. The press release will be forwarded to you shortly.

Councilmembers are being blind-copied on this memo to avoid Brown Act violations.

Regards,

Scott

Scott C. Stiles, ICMA-CM
City Manager / City of Garden Grove
11222 Acacia Parkway

Garden Grove, CA 92840
714-741-5100 (o) / 714-719-1810 (c)
www.ci.garden-grove.ca.us

Subject: Re: Appointment - Community & Economic Development Director
From: Scott Stiles <sstiles@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 11:01:51 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

Thank you. I am thrilled to have recruited her to this position.

Scott C. Stiles, ICMA-CM
City Manager / City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714-741-5100 (o) / 714-719-1810 (c)
www.ci.garden-grove.ca.us

From: "Bao Nguyen" <baon@ci.garden-grove.ca.us>
To: "Scott Stiles" <sstiles@ci.garden-grove.ca.us>
Sent: Wednesday, February 24, 2016 11:00:25 AM
Subject: Re: Appointment - Community & Economic Development Director

Congratulations!

On Feb 24, 2016, at 10:56 AM, Scott Stiles <sstiles@ci.garden-grove.ca.us> wrote:

Members of City Council:

I am pleased to inform you that I will shortly be announcing the appointment of Lisa L. Kim as the City's new Community & Economic Development Director, effective April 4, 2016. This comes following a national search that included applicants from as far away as Florida and Texas. Some of you may know Lisa, as she currently serves as the Economic Development Manager for the City of Orange. She has more than 23 years of economic development experience. Lisa has a BS in Urban & Regional Planning, California State Polytechnic University, and an MPA from Brandman University. Please join me in welcoming her to our organization when she arrives, as I know she is excited to get started and to meet all of you. She will be reaching out to you immediately after her start date to meet and gain a strong understanding of the development priorities that are important to you.

On a related note, I want to publicly thank Karl Hill, Lee Marino, and Greg Blodgett for stepping up to fill organizational voids during this search process. As you know, they are all true professionals who are helping to carry-on the momentum of growth in our community. I am sincerely appreciative of their service and commitment to the City of Garden Grove, and I have privately communicated this to them as well.

The organizational and reporting structure that I have previously outlined for the new department, will go into effect on April 4, 2016. The press release will be forwarded to you shortly.

Councilmembers are being blind-copied on this memo to avoid Brown Act violations.

Regards,
Scott

Scott C. Stiles, ICMA-CM
City Manager / City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714-741-5100 (o) / 714-719-1810 (c)
www.ci.garden-grove.ca.us

Subject: Bao Featured on Online Progressive Summit
From: Bao Nguyen for Congress <info@bao2016.com>
Date: Wed, 24 Feb 2016 20:13:11 +0000
To: <baon@ci.garden-grove.ca.us>

[View this email in your browser](#)



Dear Friends,

I will be featured on an online progressive summit along with other progressive leaders all across America, co-hosted by SISTER GIANT and BLUE AMERICA, beginning, **February 23 at 6pm PT | 9pm ET**. The summit will take place on Tuesday, Wednesday, and Thursday evenings for the next three weeks. Each evening viewers will be introduced to three progressive Congressional candidates from around the country. The interviews will be archived so you can begin watching at anytime.

Please go to SisterGiant.com to register for the Free Summit, and view a continuing list of candidates participating.

Sincerely,

Mayor Bao Nguyen



Bao needs your help. The primary election is fast approaching and we are working hard to win. Your contribution will make a big difference. Will you help make a \$10 or \$20 contribution now?

JOIN THE REVOLUTION



Copyright © 2016 Bao Nguyen for Congress, All rights reserved.

Bao2016.com

Our mailing address is:

Bao Nguyen for Congress

P.O. Box 5062

Anaheim, CA 92814

[Add us to your address book](#)

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#)

Thank you for your dialogue on integrity in bids.

Subject: Thank you for your dialogue on integrity in bids.

From: MorningGlory*PictureStory <jaide@sbcglobal.net>

Date: Wed, 24 Feb 2016 20:16:38 +0000 (UTC)

To: GG Bao Nguyen <baon@ci.garden-grove.ca.us>, GG Phat Bui <phatb@ci.garden-grove.ca.us>, GG Chris Phan <chrisp@garden-grove.org>, GG Steve Jones <stevej@garden-grove.org>, GG Kris Beard <kbeard@garden-grove.org>, Scott Stiles <sstiles@ci.garden-grove.ca.us>

Dear Mayor, City Council and City Manager:

Thank you for your discussion last night and for looking out for The People in regards to bids and non-profits, and their integrity.

So important to regain public trust in Garden Grove.

Years and years ago, someone in PW had a brother in law the had a PVC pipe company.

They sold us the goods alright, but bill us for expensive copper pipe.

Needless to say the savings was split between employee and brother in law.

The PVC was suppose to last "40-50 years". They started to pop all over our city about 10 years ago.

I think they lasted 10-15 years.

Council shut us up back then. So maybe they got a cut, also.

Sadly, the PVC pipe company owner and 18 of his employees all got esophagus cancer because there was materials used back then, that harmed.

Karma is funny that way. The fraudulent copper billing turned out to be very, very costly. Like death.

Just one example of why you see old timers such as myself, defensive and on the alert, and not trusting.

I would privatize services, but that is just me, since I believe contractors must be accountable or they are gone.

Not so much when you have employees that do wrong. Heck, we used to give them raises and promotions after they were caught doing wrong.

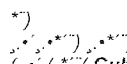
Those icky old days. So much good ole boy deals in the past that Councils would simply look the other way on.

A new day, I know. We are hopeful that it continues to be better.

But, you have to honor the past, good or bad, in order to imagine and create a better future.

Thank you for listening and serving the people of Garden Grove.

Bee well, BeeBee


(Cultivators of the earth are the most valuable citizens. They are the most vigorous, the most independent, the most virtuous, and they are tied to their country and wedded to its liberty and interests by most lasting bands. - Thomas Jefferson
Cowgirl wisdom: Speak your mind, but ride a fast horse!

Subject: RE: New Orange County Animal Shelter

From: "Rose Tingle" <roselite@comline.com>

Date: Wed, 24 Feb 2016 12:59:52 -0800

To: <adamnick1776@gmail.com>

CC: "Susan Ray" <SRay@anaheim.net>, <phatb@garden-grove.org>, <phuang@yorba-linda.org>, <rjohnson@ci.cypress.ca.us>, <tbeall@cityofrsm.org>, <stevENV@ci.brea.ca.us>, "Nick, Adam" <anick@lakeforestca.gov>, <jim.katapodis@surfcity-hb.org>, <pmorales@ci.cypress.ca.us>, <jill.hardy@surfcity-hb.org>, "Gardner, Jim" <jgardner@lakeforestca.gov>, <sberry@ci.cypress.ca.us>, <bwwhitaker@live.com>, <glennp@ci.brea.ca.us>, <jpeat@ci.cypress.ca.us>, <barbara.delgleize@surfcity-hb.org>, <baon@garden-grove.org>, <ppatterson@sanjuancapistrano.org>, <jperry@sanjuancapistrano.org>, <martys@ci.brea.ca.us>, <Dave.Sullivan@surfcity-hb.org>, <kbeard@garden-grove.org>, <mschwing@yorba-linda.org>, <jenniferf@cityoffullerton.com>, <gregs@cityoffullerton.com>, <kmurray@anaheim.net>, <myarc@ci.cypress.ca.us>, <mike.posey@surfcity-hb.org>, <council@cityoffullerton.com>, <chrisp@ci.garden-grove.ca.us>, <t lindsey@yorba-linda.org>, <stevej@garden-grove.org>, <jholloway@cityofrsm.org>, <cyoung@yorba-linda.org>, <lkring@anaheim.net>, <kferguson@sanjuancapistrano.org>, <dreeve@sanjuancapistrano.org>, <cgamble@cityofrsm.org>, <sallevalo@sanjuancapistrano.org>, <ttait@anaheim.net>, <ehernandez@yorba-linda.org>, "Cecilia" <CeciliaH@ci.brea.ca.us>, <christinem@ci.brea.ca.us>, <billy.oconnell@surfcity-hb.org>, <erik.peterson@surfcity-hb.org>, <bmcgirr@cityofrsm.org>

Thank you for your response and comments, Mr. Nick. What I have found is that there is one or two council members on several of the contract cities city councils who would like to with draw from contracting with the county for animal services.

What I find most telling is the statement from County Supervisor Shawn Nelson in the county press release, on the subject of a new shelter, in December 2015.

"We had a log jam through no one's fault....."

Apparently the Orange County Board of Supervisors do not want to take any responsibility for the decades of delays. What does this say about what the taxpayers of Orange County can expect in the future when and if a county new animal shelter is built?

Rose

From: Adam Nick [mailto:adamnick1776@gmail.com]

Sent: Wednesday, February 24, 2016 11:46 AM

To: Rose Tingle <roselite@comline.com>

Cc: Susan Ray <SRay@anaheim.net>; phatb@garden-grove.org; phuang@yorba-linda.org; rjohnson@ci.cypress.ca.us; tbeall@cityofrsm.org; stevenV@ci.brea.ca.us; Nick, Adam <anick@lakeforestca.gov>; jim.katapodis@surfcity-hb.org; pmorales@ci.cypress.ca.us; jill.hardy@surfcity-hb.org; Gardner, Jim <jgardner@lakeforestca.gov>; sberry@ci.cypress.ca.us; bwwhitaker@live.com; glennp@ci.brea.ca.us; jpeat@ci.cypress.ca.us; barbara.delgleize@surfcity-hb.org; baon@garden-grove.org; ppatterson@sanjuancapistrano.org; jperry@sanjuancapistrano.org; martys@ci.brea.ca.us; Dave.Sullivan@surfcity-hb.org; kbeard@garden-grove.org; mschwing@yorba-linda.org; jenniferf@cityoffullerton.com; gregs@cityoffullerton.com; kmurray@anaheim.net; myarc@ci.cypress.ca.us; mike.posey@surfcity-hb.org; council@cityoffullerton.com; chrisp@ci.garden-grove.ca.us; t lindsey@yorba-

linda.org; stevej@garden-grove.org; jholloway@cityofrsm.org; cyoung@yorba-linda.org; lkring@anaheim.net; kferguson@sanjuancapistrano.org; dreeve@sanjuancapistrano.org; cgamble@cityofrsm.org; sallevato@sanjuancapistrano.org; ttait@anaheim.net; ehernandez@yorba-linda.org; Cecilia' <CeciliaH@ci.brea.ca.us>; christinem@ci.brea.ca.us; billy.oconnell@surfcity-hb.org; erik.peterson@surfcity-hb.org; bmcgirr@cityofrsm.org

Subject: Re: New Orange County Animal Shelter

Ms. Tingle:

We suffer in Lake Forest from having a majority on the Council whose allegiance is to their big bosses at the County Board of Supervisors, OCSD, OCAC, and to those politicians in Sacramento, rather than to the average people.

To make matters worse, not only their allegiance is misplaced, they do not have any business sense.

The result is what you see.

Godspeed,

Adam Nick 949-812-0920

Please visit www.adamnack.org

Text in this email has been transcribed however not necessarily proofread.

On Feb 24, 2016 10:08 AM, "Rose Tingle" <roselite@comline.com> wrote:

Good Morning city council members,

Soon, by approximately April 1, 2016, you will be required to commit to contributing funds to the county to construct a new Orange County Animal Shelter.

It is puzzling to me why the contract cities, which currently contract with the county for animal services, have not to date objected to having to contribute towards the construction of a new county animal shelter miles away.

I know San Diego County and L.A. county do not require it. In fact, when L.A. county was ready to build a new county animal shelter in Palmdale, the county additionally purchased the land from the city of Palmdale on which to build a county animal shelter for that area.

1. This was confirmed to me by the consultant.

From: Jason Kim - Consultant

Sent: Wednesday, July 29, 2015 8:47 AM

To: Rose Tingle

Subject: RE: New Palmdale Animal Care Center

Dear Rose,

1. The programming for the new animal care facility was done.
2. The City of Palmdale is not required to contribute funds towards the construction of the facility.
3. The County of Los Angeles purchased approx. 5.94 acres of land from the City of Palmdale for the construction of the facility. The Land Acquisition is described in the Board Letter sent to you previously.

Regards,

Jason I. Kim, RA, DBIA, CCM

County of Los Angeles

Department of Public Works

Project Management Division I

O. (626) 300-2326

C. (626) 773-6063

jikim@dpw.lacounty.gov

2. Michael Antonovich is on the L.A. county Board of Supervisors.

<http://theavtimes.com/2014/12/08/groundbreaking-ceremony-held-for-palmdale-animal-care-center/>

Rose Tingle

Subject: Fwd: Read Across America Day, 3/2, 8:15-9am
From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 13:06:07 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

dsfRoom	Teacher	Reader 8:15-8:35	Reader 8:40-9:00
K1	Wu	Terri Rocco	Matt Franklin
K2	Ausburger	John DeLaHaye	Terri Rocco
11	Cabrera/Everett	Therese Terrill	Matt Reis
12	Guadarrama	Bao Nguyen	Therese Terrill
13	Held	Vickie Hanssen	Karina Martir
22	Wong	Matt Franklin	Bao Nguyen
32	Martin	Matt Reis	John DeLaHaye
42	Woodard	Karina Martir	Vickie Hanssen

Read Across America Day Schedule March 2, 2016

From: "Michelle Terrill" <mterrill@ggusd.us>
To: "Pam Haddad" <pamha@ci.garden-grove.ca.us>
Sent: Tuesday, February 23, 2016 11:51:27 AM
Subject: RE: Read Across America Day, 3/1, 8:15-9am

Dear Mr. Nguyen,

Thank you so much for coming to rad on Wednesday March 2nd! I have attached the tentative schedule. Please check in at the office by 8:15. Staff can help you find the assigned rooms. Please feel free to email with any questions.

Thank you!

Michelle Terrill-Guadarrama

Garden Park
6562 Stanford Ave
GG, CA 92845

From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Sent: Thursday, January 28, 2016 10:06 AM
To: Michelle Terrill
Subject: Re: Read Across America Day, 3/1, 8:15-9am

Thank you.

From: "Michelle Terrill" <mterrill@ggusd.us>
To: "Pam Haddad" <pamha@ci.garden-grove.ca.us>

Sent: Thursday, January 28, 2016 9:50:32 AM

Subject: Re: Read Across America Day, 3/1, 8:15-9am

Thank you so much! Yes he should check in at the office. Our school address is 6562 Stanford Avenue GG 92845.

Thanks,

Michelle

Sent from my iPhone

On Jan 28, 2016, at 9:42 AM, Pam Haddad <pamha@ci.garden-grove.ca.us> wrote:

Michelle,

Mayor Bao Nguyen is happy to participate. If you can pick out a few books for him, that would be appreciated. Also I will calendar it for him to remind him, but what is the address? And does he just check in at the office? Thank you.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

From: Michelle Terrill <mterrill@ggusd.us>
Date: January 16, 2016 at 11:31:39 AM PST
To: Michelle Terrill <mterrill@ggusd.us>
Subject: Read Across America Day

Good Morning,

Garden Park is planning to honor Dr. Suess' birthday by celebrating Read Across America Day on March 2nd. As part of our celebrations, we are inviting selected guests to choose a book that has had an impact on their lives and bring it in to share with a classroom from 8:15-9:00. We would love to have you come and be a reader! We would like to have readers select their own books and come in to read the book as well as share why it has a special place in their heart. For older grades, a longer book may be appropriate. In this case, please choose a chapter or selection from the book you would like to read aloud from. If you are able to come and share, please plan to share with 2 classrooms for about 20 minutes each. If you are only able to commit to a 20 minute time period, that is also greatly appreciated, just let me know. :)

Thank you so much for considering coming to spend a bit of time with us to share your love of reading!

Michelle Terrill-Guadarrama

Sent from my iPad

CONFIDENTIALITY NOTICE: This e-mail and any attachments may contain non-public, confidential or legally privileged information. If you are not the intended recipient, you are notified that any unlawful interception, disclosure, printing, copying, distribution or use of the contents is prohibited under the Electronic Communication Privacy Act, 18 USCA 2510, 18 USCA 2511 and any applicable laws. If you received this in error, please notify the sender by reply e-mail and delete this message.

CONFIDENTIALITY NOTICE: This e-mail and any attachments may contain non-public, confidential or legally privileged information. If you are not the intended recipient, you are notified that any unlawful interception, disclosure, printing, copying, distribution or use of the contents is prohibited under the Electronic Communication Privacy Act, 18 USCA 2510, 18 USCA 2511 and any applicable laws. If you received this in error, please notify the sender by reply e-mail and delete this message.

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

Spam

Not spam

Forget previous vote

CONFIDENTIALITY NOTICE: This e-mail and any attachments may contain non-public, confidential or legally privileged information. If you are not the intended recipient, you are notified that any unlawful interception, disclosure, printing, copying, distribution or use of the contents is prohibited under the Electronic Communication Privacy Act, 18 USCA 2510, 18 USCA 2511 and any applicable laws. If you received this in error, please notify the sender by reply e-mail and delete this message.

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

Spam

Not spam

Forget previous vote

Read Across America Day Schedule.docx	Content-Type: application/vnd.openxmlformats-officedocument.wordprocessingml.document
	Content-Encoding: base64

INVITE: Photo Exhibit, W 3/2, 6-7:30pm

Subject: INVITE: Photo Exhibit, W 3/2, 6-7:30pm

From: Pam Haddad <pamha@ci.garden-grove.ca.us>

Date: Wed, 24 Feb 2016 13:29:01 -0800 (PST)

To: Bao Nguyen <baon@ci.garden-grove.ca.us>, "Phan, Christopher" <chrisphan1@hotmail.com>, phat <phat@phatbui.com>, Beard Kris <beard4gg@gmail.com>, Steve Jones <jones4gg@gmail.com>

B & G Clubs of GG

2016 Image Makers Photography Exhibit

@CYC

interested?

Pamela Haddad

Council Liaison

City of Garden Grove

11222 Acacia Parkway

Garden Grove, CA 92840

714.741.5104 office

714.741.5044 fax

INVITE: Grand Jurors luncheon, Th 3/3 @11:45am

Subject: INVITE: Grand Jurors luncheon, Th 3/3 @11:45am

From: Pam Haddad <pamha@ci.garden-grove.ca.us>

Date: Wed, 24 Feb 2016 13:32:46 -0800 (PST)

To: Bao Nguyen <baon@ci.garden-grove.ca.us>, "Phan, Christopher" <chrisphan1@hotmail.com>, phat <phat@phatbui.com>, Beard Kris <beard4gg@gmail.com>, Steve Jones <jones4gg@gmail.com>

Topic: Fighting Sex Slavery in OC

@Phoenix Club

1340 S Sanderson Ave

Anaheim

\$20 now or \$25 at the door ~ interested?

Pamela Haddad

Council Liaison

City of Garden Grove

11222 Acacia Parkway

Garden Grove, CA 92840

714.741.5104 office

714.741.5044 fax

Subject: NEW COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR NAMED

From: Ana Pulido <anap@ci.garden-grove.ca.us>

Date: Wed, 24 Feb 2016 13:39:16 -0800 (PST)

To: Everyone <everyone@ci.garden-grove.ca.us>

City Manager Scott Stiles is pleased to announce the appointment of the City's new Community and Economic Development Director, Lisa Kim.

The newly-restructured Community and Economic Development Department will consist of Economic Development, Building Services, Planning Services, Neighborhood Improvement, and Code Enforcement. Housing will now report to the City Manager's Office.

A special thanks from Scott to Karl Hill, Lee Marino, and Greg Blodgett for their extra efforts during the interim.

Click here to view the City's official announcement:

<http://www.ci.garden-grove.ca.us/city-manager-names-new-director>

Subject: Fwd: NEW COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR NAMED
From: Scott Stiles <sstiles@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 14:06:17 -0800 (PST)
To: Omar Sandoval <omars@ci.garden-grove.ca.us>

Councilmembers: attached is the press release that just got sent out. Councilmembers are being blind-copied to avoid Brown Act violations. I am very excited to have Lisa joining our team. Scott

Scott C. Stiles, ICMA-CM
City Manager / City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714-741-5100 (o) / 714-719-1810 (c)
www.ci.garden-grove.ca.us

Click here to view the City's official announcement:

<http://www.ci.garden-grove.ca.us/city-manager-names-new-director>

Subject: Fwd: New Orange County Animal Shelter
From: Bao Nguyen <baon@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 14:37:31 -0800 (PST)
To: Maria Stipe <marias@ci.garden-grove.ca.us>

Hi Maria,
Not sure if you're on this email list. But I wanted to check on the animal shelter options for us.

Bao

Begin forwarded message:

From: "Rose Tingle" <roselite@comline.com>
Date: February 24, 2016 at 12:59:52 PM PST
To: <adamnick1776@gmail.com>
Cc: "Susan Ray" <SRay@anaheim.net>, <phatb@garden-grove.org>, <phuang@yorba-linda.org>, <rjohnson@ci.cypress.ca.us>, <tbeall@cityofrsm.org>, <stevENV@ci.brea.ca.us>, "Nick, Adam" <anick@lakeforestca.gov>, <jim.katapodis@surfcity-hb.org>, <pmorales@ci.cypress.ca.us>, <jill.hardy@surfcity-hb.org>, "Gardner, Jim" <jgardner@lakeforestca.gov>, <sberry@ci.cypress.ca.us>, <bwwhitaker@live.com>, <glennp@ci.brea.ca.us>, <jpeat@ci.cypress.ca.us>, <barbara.delgleize@surfcity-hb.org>, <baon@garden-grove.org>, <ppatterson@sanjuancapistrano.org>, <jperry@sanjuancapistrano.org>, <martys@ci.brea.ca.us>, <Dave.Sullivan@surfcity-hb.org>, <kbeard@garden-grove.org>, <mschwing@yorba-linda.org>, <jenniferf@cityoffullerton.com>, <gregs@cityoffullerton.com>, <kmurray@anaheim.net>, <myarc@ci.cypress.ca.us>, <mike.posey@surfcity-hb.org>, <council@cityoffullerton.com>, <chrisp@ci.garden-grove.ca.us>, <tlindey@yorba-linda.org>, <stevej@garden-grove.org>, <jholloway@cityofrsm.org>, <cyoung@yorba-linda.org>, <lkring@anaheim.net>, <kferguson@sanjuancapistrano.org>, <dreeve@sanjuancapistrano.org>, <cgamble@cityofrsm.org>, <sallevalo@sanjuancapistrano.org>, <ttait@anaheim.net>, <ehernandez@yorba-linda.org>, "Cecilia" <CeciliaH@ci.brea.ca.us>, <christinem@ci.brea.ca.us>, <billy.oconnell@surfcity-hb.org>, <erik.peterson@surfcity-hb.org>, <bmcgirr@cityofrsm.org>
Subject: RE: New Orange County Animal Shelter

Thank you for your response and comments, Mr. Nick. What I have found is that there is one or two council members on several of the contract cities city councils who would like to with draw from contracting with the county for animal services.

What I find most telling is the statement from County Supervisor Shawn Nelson in the county press release, on the subject of a new shelter, in December 2015.

"We had a log jam through no one's fault....."

Apparently the Orange County Board of Supervisors do not want to take any responsibility for the decades of delays. What does this say about what the taxpayers of Orange County can expect in the future when and if a county new animal shelter is built?

Rose

From: Adam Nick [<mailto:adamnick1776@gmail.com>]

Sent: Wednesday, February 24, 2016 11:46 AM

To: Rose Tingle <roselite@comline.com>

Cc: Susan Ray <SRay@anaheim.net>; phatb@garden-grove.org; phuang@yorba-linda.org; rjohnson@ci.cypress.ca.us; tbeall@cityofrsm.org; stevENV@ci.brea.ca.us; Nick, Adam <anick@lakeforestca.gov>; jim.katapodis@surfcity-hb.org; pmorales@ci.cypress.ca.us; jill.hardy@surfcity-hb.org; Gardner, Jim <jgardner@lakeforestca.gov>; sberry@ci.cypress.ca.us; bwwhitaker@live.com; glennp@ci.brea.ca.us; jpeat@ci.cypress.ca.us; barbara.delgleize@surfcity-hb.org; baon@garden-grove.org; ppatterson@sanjuancapistrano.org; jperry@sanjuancapistrano.org; martys@ci.brea.ca.us; Dave.Sullivan@surfcity-hb.org; kbeard@garden-grove.org; mschwing@yorba-linda.org; jenniferf@cityoffullerton.com; gregs@cityoffullerton.com; kmurray@anaheim.net; myarc@ci.cypress.ca.us; mike.posey@surfcity-hb.org; council@cityoffullerton.com; chrisp@ci.garden-grove.ca.us; tlindsey@yorba-linda.org; stevej@garden-grove.org; jholloway@cityofrsm.org; cyoung@yorba-linda.org; lkring@anaheim.net; kferguson@sanjuancapistrano.org; dreeve@sanjuancapistrano.org; cgamble@cityofrsm.org; sallevato@sanjuancapistrano.org; ttait@anaheim.net; ehernandez@yorba-linda.org; Cecilia' <CeciliaH@ci.brea.ca.us>; christinem@ci.brea.ca.us; billy.oconnell@surfcity-hb.org; erik.peterson@surfcity-hb.org; bmcgirr@cityofrsm.org

Subject: Re: New Orange County Animal Shelter

Ms. Tingle:

We suffer in Lake Forest from having a majority on the Council whose allegiance is to their big bosses at the County Board of Supervisors, OCSD, OCAC, and to those politicians in Sacramento, rather than to the average people.

To make matters worse, not only their allegiance is misplaced, they do not have any business sense.

The result is what you see.

Godspeed,

Adam Nick 949-812-0920

Please visit www.adamnicks.org

Text in this email has been transcribed however not necessarily proofread.

On Feb 24, 2016 10:08 AM, "Rose Tingle" <roselite@comline.com> wrote:

Good Morning city council members,

Soon, by approximately April 1, 2016, you will be required to commit to contributing funds to the county to construct a new Orange County Animal Shelter.

It is puzzling to me why the contract cities, which currently contract with the county for animal services, have not to date objected to having to contribute towards the construction of a new county animal shelter miles away.

I know San Diego County and L.A. county do not require it. In fact, when L.A. county was ready to build a new county animal shelter in Palmdale, the county additionally purchased the land from

the city of Palmdale on which to build a county animal shelter for that area.

1. This was confirmed to me by the consultant.

From: Jason Kim - Consultant

Sent: Wednesday, July 29, 2015 8:47 AM

To: Rose Tingle

Subject: RE: New Palmdale Animal Care Center

Dear Rose,

1. The programming for the new animal care facility was done.
2. The City of Palmdale is not required to contribute funds towards the construction of the facility.
3. The County of Los Angeles purchased approx. 5.94 acres of land from the City of Palmdale for the construction of the facility. The Land Acquisition is described in the Board Letter sent to you previously.

Regards,

Jason I. Kim, RA, DBIA, CCM

County of Los Angeles

Department of Public Works

Project Management Division I

O. (626) 300-2326

C. (626) 773-6063

jjkim@dpw.lacounty.gov

2. Michael Antonovich is on the L.A. county Board of Supervisors.

<http://theavtimes.com/2014/12/08/groundbreaking-ceremony-held-for-palmdale-animal-care-center/>

Rose Tingle

Subject: Re: Introduction to new Advancing Justice - OC Director
From: Sylvia Kim <skim@apalc.org>
Date: Wed, 24 Feb 2016 15:17:50 -0800
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

Hi Bao,

I don't have a business card yet but my cell phone # : please feel free to call or text if anything comes up! :)

On Tue, Feb 23, 2016 at 12:13 PM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
Confirmed. My mobile is please text me your contact card. Thanks.

On Feb 23, 2016, at 12:10 PM, Sylvia Kim <skim@apalc.org> wrote:

Great! See you there on 3/10 at 1:30pm.

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Orange County

On Feb 23, 2016 12:08 PM, "Bao Nguyen" <baon@ci.garden-grove.ca.us> wrote:
Starbucks 12711 Brookhurst St, Garden Grove, CA 92840, United States

On Feb 23, 2016, at 12:00 PM, Sylvia Kim <skim@apalc.org> wrote:

That works for me! :)

Did you have a place in mind? I am happy to come to wherever is most convenient for you!

On Tue, Feb 23, 2016 at 12:00 PM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
130pm 3/10?

On Feb 23, 2016, at 11:58 AM, Sylvia Kim <skim@apalc.org> wrote:

Hi Bao,

Thank you so much for your quick response! Unfortunately 3/9 is the one day I am completely booked up with meetings in LA. I'm so sorry but is there any other time you would have that week? I am available all day anytime on 3/10 and 3/11 and also available in the morning on 3/7.

Thanks again and I am very excited to meet you in person!
Sylvia

On Tue, Feb 23, 2016 at 11:13 AM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
Hi, Sylvia,

Welcome to Garden Grove! I'd love to connect in person. How about coffee on 3/9 at 9am?

Bao

On Feb 22, 2016, at 4:57 PM, Sylvia Kim <skim@apalc.org> wrote:

Thank you Jacqueline for the introduction!

I look forward to meeting with you Bao (& Hugh).

Sylvia

On Mon, Feb 22, 2016 at 3:10 PM, Jacqueline Dan <jd@advancingjustice-la.org> wrote:

Hi Bao,

I just wanted to introduce you to our new Orange County Regional Director, Sylvia Kim.

I know you're pretty busy right now, but I was wondering if you and Hugh had any time to meet with her in the next few weeks. She is doing a round of meet and greets to important people in the county.

Please let her know when you can and hope you are doing well.

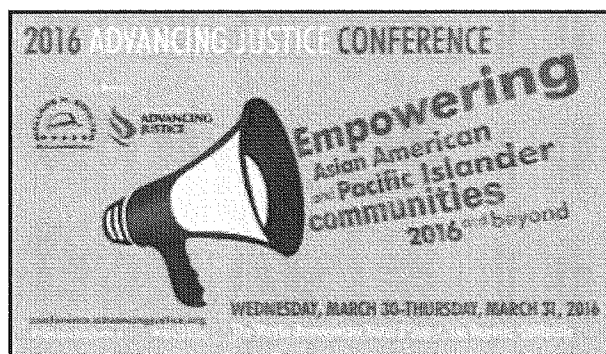
Jacqueline

--

Dan Thanh Giang
Jacqueline Dan
Staff Attorney II/VABANC Law Foundation Fellow
Asian Americans Advancing Justice | Orange County
12900 Garden Grove Blvd., Suite 210
Garden Grove, CA 92843
T: (213) 977-7500 ext. 821
F: (714) 636-8828
advancingjustice-la.org

AAAJ-LA Logo

*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*



--

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Los Angeles
1145 Wilshire Blvd., 2nd Floor; Los Angeles, CA 90017
T: (213) 977-7500 (213)977-8823
F: (213) 977-7595
advancingjustice-la.org

AAAJ-LA Logo

*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*

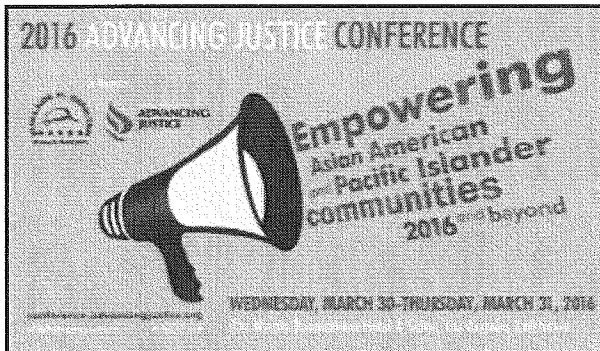


--

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Los Angeles
1145 Wilshire Blvd., 2nd Floor; Los Angeles, CA 90017
T: (213) 977-7500 (213)977-8823
F: (213) 977-7595
advancingjustice-la.org

AAAJ-LA Logo

*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*

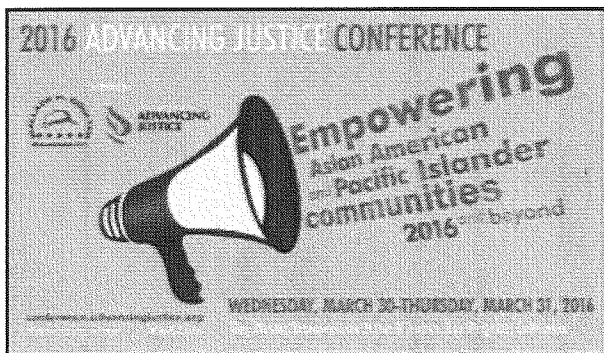


--

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Los Angeles
1145 Wilshire Blvd., 2nd Floor, Los Angeles, CA 90017
T: (213) 977-7500 (213)977-8823
F: (213) 977-7595
advancingjustice-la.org

AAAJ-LA Logo

*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*



--

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Orange County
12900 Garden Grove Blvd., Suite 210
Garden Grove, CA 92843
T: (213) 977-7500 (213)977-8823
F: (714) 636-8828
advancingjustice-la.org

*Building upon the legacy of the
Asian Pacific American Legal Center*

AAAJ-OC Logo

Subject: Re: New Orange County Animal Shelter
From: Maria Stipe <marias@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 15:22:03 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>
CC: Scott Stiles <sstiles@ci.garden-grove.ca.us>

Bao,

Thank you for sending this email, which I had not received. We are continuing to explore our animal care service and shelter options. Presently, we have had discussions with and received written statements of interest from two alternate animal shelter service providers. We are continuing to explore these and other potential options, along with continuing discussions with the County. We are planning to report back to the Council at the March 22 meeting. Please feel free to call me or Scott, if you would like any additional information.

Maria

From: "Bao Nguyen" <baon@ci.garden-grove.ca.us>
To: "Maria Stipe" <marias@ci.garden-grove.ca.us>
Sent: Wednesday, February 24, 2016 2:37:31 PM
Subject: Fwd: New Orange County Animal Shelter

Hi Maria,

Not sure if you're on this email list. But I wanted to check on the animal shelter options for us.

Bao

Begin forwarded message:

From: "Rose Tingle" <roselite@comline.com>
Date: February 24, 2016 at 12:59:52 PM PST
To: <adamnick1776@gmail.com>
Cc: "'Susan Ray'" <SRay@anaheim.net>, <phatb@garden-grove.org>, <phuang@yorba-linda.org>, <rjohnson@ci.cypress.ca.us>, <tbeall@cityofrsm.org>, <stevENV@ci.brea.ca.us>, "'Nick, Adam'" <anick@lakeforestca.gov>, <jim.katapodis@surfcity-hb.org>, <pmorales@ci.cypress.ca.us>, <jill.hardy@surfcity-hb.org>, "'Gardner, Jim'" <jgardner@lakeforestca.gov>, <sberry@ci.cypress.ca.us>, <bwwhitaker@live.com>, <glennp@ci.brea.ca.us>, <jpeat@ci.cypress.ca.us>, <barbara.delgleize@surfcity-hb.org>, <baon@garden-grove.org>, <ppatterson@sanjuancapistrano.org>, <jperry@sanjuancapistrano.org>, <martys@ci.brea.ca.us>, <Dave.Sullivan@surfcity-hb.org>, <kbeard@garden-grove.org>, <mschwing@yorba-linda.org>, <jenniferf@cityoffullerton.com>, <gregs@cityoffullerton.com>, <kmurray@anaheim.net>, <myarc@ci.cypress.ca.us>, <mike.posey@surfcity-hb.org>, <council@cityoffullerton.com>, <chrisp@ci.garden-grove.ca.us>, <tlindey@yorba-linda.org>, <stevej@garden-grove.org>,

<jholloway@cityofrsm.org>, <cyoung@yorba-linda.org>, <lkring@anaheim.net>, <kferguson@sanjuancapistrano.org>, <dreeve@sanjuancapistrano.org>, <cgamble@cityofrsm.org>, <sallevalo@sanjuancapistrano.org>, <ttait@anaheim.net>, <ehernandez@yorba-linda.org>, ""Cecilia"" <CeciliaH@ci.brea.ca.us>, <christinem@ci.brea.ca.us>, <billy.oconnell@surfcity-hb.org>, <erik.peterson@surfcity-hb.org>, <bmcgirr@cityofrsm.org>

Subject: RE: New Orange County Animal Shelter

Thank you for your response and comments, Mr. Nick. What I have found is that there is one or two council members on several of the contract cities city councils who would like to with draw from contracting with the county for animal services.

What I find most telling is the statement from County Supervisor Shawn Nelson in the county press release, on the subject of a new shelter, in December 2015.

"We had a log jam through no one's fault....."

Apparently the Orange County Board of Supervisors do not want to take any responsibility for the decades of delays. What does this say about what the taxpayers of Orange County can expect in the future when and if a county new animal shelter is built?

Rose

From: Adam Nick [mailto:adamnick1776@gmail.com]

Sent: Wednesday, February 24, 2016 11:46 AM

To: Rose Tingle <roselite@comline.com>

Cc: Susan Ray <SRay@anaheim.net>; phatb@garden-grove.org; phuang@yorba-linda.org; rjohnson@ci.cypress.ca.us; tbeall@cityofrsm.org; stevenv@ci.brea.ca.us; Nick, Adam <anick@lakeforestca.gov>; jim.katapodis@surfcity-hb.org; pmorales@ci.cypress.ca.us; jill.hardy@surfcity-hb.org; Gardner, Jim <jgardner@lakeforestca.gov>; sberry@ci.cypress.ca.us; bwwhitaker@live.com; glennp@ci.brea.ca.us; jpeat@ci.cypress.ca.us; barbara.delgleize@surfcity-hb.org; baon@garden-grove.org; ppatterson@sanjuancapistrano.org; jperry@sanjuancapistrano.org; martys@ci.brea.ca.us; Dave.Sullivan@surfcity-hb.org; kbeard@garden-grove.org; mschwing@yorba-linda.org; jenniferf@cityoffullerton.com; gregs@cityoffullerton.com; kmurray@anaheim.net; myarc@ci.cypress.ca.us; mike.posey@surfcity-hb.org; council@cityoffullerton.com; chrisp@ci.garden-grove.ca.us; tlindey@yorba-linda.org; stevej@garden-grove.org; jholloway@cityofrsm.org; cyoung@yorba-linda.org; lkring@anaheim.net; kferguson@sanjuancapistrano.org; dreeve@sanjuancapistrano.org; cgamble@cityofrsm.org; sallevato@sanjuancapistrano.org; ttait@anaheim.net; ehernandez@yorba-linda.org; Cecilia' <CeciliaH@ci.brea.ca.us>; christinem@ci.brea.ca.us; billy.oconnell@surfcity-hb.org; erik.peterson@surfcity-hb.org; bmcgirr@cityofrsm.org

Subject: Re: New Orange County Animal Shelter

Ms. Tingle:

We suffer in Lake Forest from having a majority on the Council whose allegiance is to their big bosses at the County Board of Supervisors, OCSD, OCAC, and to those politicians in

Sacramento, rather than to the average people.

To make matters worse, not only their allegiance is misplaced, they do not have any business sense.

The result is what you see.

Godspeed,

Adam Nick 949-812-0920

Please visit www.adamnicks.org

Text in this email has been transcribed however not necessarily proofread.

On Feb 24, 2016 10:08 AM, "Rose Tingle" <roselite@comline.com> wrote:

Good Morning city council members,

Soon, by approximately April 1, 2016, you will be required to commit to contributing funds to the county to construct a new Orange County Animal Shelter.

It is puzzling to me why the contract cities, which currently contract with the county for animal services, have not to date objected to having to contribute towards the construction of a new county animal shelter miles away.

I know San Diego County and L.A. county do not require it. In fact, when L.A. county was ready to build a new county animal shelter in Palmdale, the county additionally purchased the land from the city of Palmdale on which to build a county animal shelter for that area.

1. This was confirmed to me by the consultant.

From: Jason Kim - Consultant

Sent: Wednesday, July 29, 2015 8:47 AM

To: Rose Tingle

Subject: RE: New Palmdale Animal Care Center

Dear Rose,

1. The programming for the new animal care facility was done.
2. The City of Palmdale is not required to contribute funds towards the construction of the facility.
3. The County of Los Angeles purchased approx. 5.94 acres of land from the City of Palmdale for the construction of the facility. The Land Acquisition is described in the Board Letter sent to you previously.

Regards,

Jason I. Kim, RA, DBIA, CCM

County of Los Angeles

Department of Public Works

Project Management Division I

O. (626) 300-2326

C. (626) 773-6063

jjkim@dpw.lacounty.gov

2. Michael Antonovich is on the L.A. county Board of Supervisors.

<http://theavtimes.com/2014/12/08/groundbreaking-ceremony-held-for-palmdale->

animal-care-center/

Rose Tingle

Subject: Re: Introduction to new Advancing Justice - OC Director
From: Bao Nguyen <baon@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 15:26:33 -0800 (PST)
To: Sylvia Kim <skim@apalc.org>

Thanks.

On Feb 24, 2016, at 3:18 PM, Sylvia Kim <skim@apalc.org> wrote:

Hi Bao,

I don't have a business card yet but my cell phone # is [REDACTED]. Please feel free to call or text if anything comes up! :)

On Tue, Feb 23, 2016 at 12:13 PM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
Confirmed. My mobile is [REDACTED]. Please text me your contact card. Thanks.

On Feb 23, 2016, at 12:10 PM, Sylvia Kim <skim@apalc.org> wrote:

Great! See you there on 3/10 at 1:30pm.

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Orange County

On Feb 23, 2016 12:08 PM, "Bao Nguyen" <baon@ci.garden-grove.ca.us> wrote:
Starbucks 12711 Brookhurst St, Garden Grove, CA 92840, United States

On Feb 23, 2016, at 12:00 PM, Sylvia Kim <skim@apalc.org> wrote:

That works for me! :)

Did you have a place in mind? I am happy to come to wherever is most convenient for you!

On Tue, Feb 23, 2016 at 12:00 PM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
130pm 3/10?

On Feb 23, 2016, at 11:58 AM, Sylvia Kim <skim@apalc.org> wrote:

Hi Bao,

Thank you so much for your quick response! Unfortunately 3/9 is the one day I am completely booked up with meetings in LA. I'm so sorry but is there any other time you would have that week? I am available all day anytime on 3/10 and 3/11 and also available in the morning on 3/7.

Thanks again and I am very excited to meet you in person!
Sylvia

On Tue, Feb 23, 2016 at 11:13 AM, Bao Nguyen <baon@ci.garden-grove.ca.us> wrote:
Hi, Sylvia,

Welcome to Garden Grove! I'd love to connect in person. How about coffee on 3/9 at 9am?

Bao

On Feb 22, 2016, at 4:57 PM, Sylvia Kim <skim@apalc.org> wrote:

Thank you Jacqueline for the introduction!

I look forward to meeting with you Bao (& Hugh).

Sylvia

On Mon, Feb 22, 2016 at 3:10 PM, Jacqueline Dan <jd@advancingjustice-la.org> wrote:

Hi Bao,

I just wanted to introduce you to our new Orange County Regional Director, Sylvia Kim.

I know you're pretty busy right now, but I was wondering if you and Hugh had any time to meet with her in the next few weeks. She is doing a round of meet and greets to important people in the county.

Please let her know when you can and hope you are doing well.

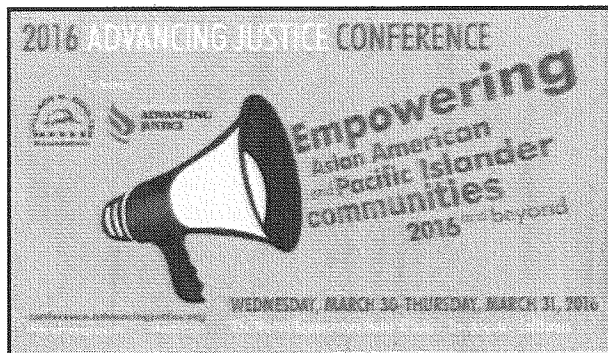
Jacqueline

--

Dan Thanh Giang
Jacqueline Dan
Staff Attorney II/VABANC Law Foundation Fellow
Asian Americans Advancing Justice | Orange County
12900 Garden Grove Blvd., Suite 210
Garden Grove, CA 92843
T: (213) 977-7500 ext. 821
F: (714) 636-8828
advancingjustice-la.org

AAAJ-LA Logo

*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*



--

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Los Angeles
1145 Wilshire Blvd., 2nd Floor; Los Angeles, CA 90017
T: (213) 977-7500 (213)977-8823
F: (213) 977-7595
advancingjustice-la.org

AAAJ-LA Logo

*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*



--

Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Los Angeles
1145 Wilshire Blvd., 2nd Floor; Los Angeles, CA 90017
T: (213) 977-7500 (213)977-8823
F: (213) 977-7595
advancingjustice-la.org

AAAJ-LA Logo

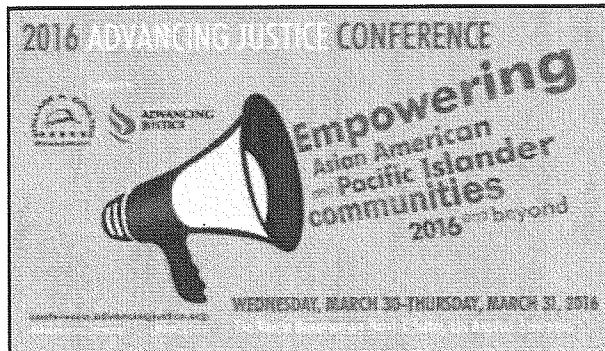
*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*



--
Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Los Angeles
1145 Wilshire Blvd., 2nd Floor; Los Angeles, CA 90017
T: (213) 977-7500 (213)977-8823
F: (213) 977-7595
advancingjustice-la.org

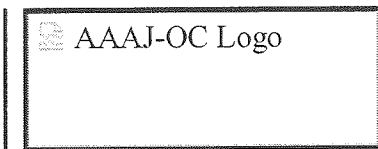
AAAJ-LA Logo

*Join us at the 2016 Advancing Justice Conference
March 30-31, 2016 in Los Angeles, CA*



--
Sylvia Kim
Orange County Regional Director
Asian Americans Advancing Justice | Orange County
12900 Garden Grove Blvd., Suite 210
Garden Grove, CA 92843
T: (213) 977-7500 (213)977-8823
F: (714) 636-8828
advancingjustice-la.org

*Building upon the legacy of the
Asian Pacific American Legal Center*



Subject: Fw: OCDA Press Release New - Media Advisory - Allegations of Brown Act Violations
From: city news <cnsoc@sbcglobal.net>
Date: Wed, 24 Feb 2016 23:38:15 +0000 (UTC)
To: "baon@ci.garden-grove.ca.us" <baon@ci.garden-grove.ca.us>

Hello Mayor,
Will you or someone else from the city want to comment on this letter from the DA's office?

Thank you,

Paul Anderson
City News Service
(714) 834-5794

On Wednesday, February 24, 2016 3:15 PM, "TonyRackauckas@orangecountyda.org" <TonyRackauckas@orangecountyda.org> wrote:

To ensure the delivery of **Orange County District Attorney's Office Newsletter e-mails** to your inbox, please take a moment to add **TonyRackauckas@orangecountyda.org** to your e-mail Address Book or Safe List.

<http://orangecountyda.org/civica/press/display.asp?layout=1&Entry=4696>

ORANGE COUNTY DISTRICT ATTORNEY

PRESS RELEASE

TONY RACKAUCKAS, District Attorney



Susan Kang Schroeder,
Chief of Staff
Office: 714-347-8408
Cell: 714-292-2718

Roxi Fyad,
Spokesperson
Office: 714-347-8405
Cell: 714-323-4486

FOR IMMEDIATE RELEASE

Subject : Media Advisory - Allegations of Brown Act Violations

Date: February 24, 2016

MEDIA ADVISORY

WHO: Orange County District Attorney (OCDA) Tony Rackauckas

WHAT: Published a letter containing the investigation findings and legal conclusions regarding! Ralph M. Brown Act violations by the City Council for the City of Garden Grove. The full letter, "OCDA Report - Allegations of Brown Act Violations," is available at www.orangecountyda.org by selecting Reports under the Reports pull-down menu.

WHEN: Today, Feb. 24, 2016

###

[Subscribe/Unsubscribe](#) - [Forward To A Friend](#)

Subject: Letter from the DA

From: Pam Haddad <pamha@ci.garden-grove.ca.us>

Date: Wed, 24 Feb 2016 15:50:22 -0800 (PST)

To: Bao Nguyen <baon@ci.garden-grove.ca.us>, "Phan, Christopher" <chrisphan1@hotmail.com>, phat <phat@phatbui.com>, Beard Kris <beard4gg@gmail.com>, Steve Jones <jones4gg@gmail.com>

per Scott,

I am forwarding the letter from the DA to you. Thank you.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

201602241548.pdf	Content-Type: application/pdf
	Content-Encoding: base64



OFFICE OF THE

DISTRICT ATTORNEY

ORANGE COUNTY, CALIFORNIA

TONY RACKAUCKAS, DISTRICT ATTORNEY

JIM TANIZAKI
SENIOR ASSISTANT D.A.
VERTICAL PROSECUTIONS/
VIOLENT CRIMES

JOSEPH D'AGOSTINO
SENIOR ASSISTANT D.A.
GENERAL FELONIES/
ECONOMIC CRIMES

MICHAEL LUBINSKI
SENIOR ASSISTANT D.A.
SPECIAL PROJECTS

JAIME COULTER
SENIOR ASSISTANT D.A.
BRANCH COURT OPERATIONS

CRAIG HUNTER
CHIEF
BUREAU OF INVESTIGATION

ROBERT WILSON
INTERIM DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

February 24, 2016

City of Garden Grove
Scott Stiles, City Manager

Re: Allegations of Brown Act Violations
District Attorney Investigations Case # S.A. 14 -130

The Office of the Orange County District Attorney (OCDA) has completed an investigation regarding Ralph M. Brown Act violations by the City Council for the City of Garden Grove.

The district attorney is authorized not only to prosecute violations of the Brown Act, but short of litigation, the district attorney's office may issue public findings concerning, and/or admonitions, to offending local agencies.

The Brown Act [codified in Government Code §54950 *et seq*] is intended to ensure the public's right to attend the meetings of public agencies.... The Act thus serves to facilitate public participation in all phases of local government decision making and to curb misuse of the democratic process by secret legislation of public bodies. *Mckee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App. 4th 354, 358.

OVERVIEW

This letter contains a description of the scope and legal conclusions resulting from the OCDA investigation into the allegations that the Garden Grove City Council violated the Brown Act in August and September of 2014. This letter includes an overview of the OCDA's investigative methodology and procedures employed, as well as a description of the relevant evidence examined, witnesses interviewed, factual findings, and legal principles applied in analyzing the allegations and determining whether there is sufficient evidence to prove beyond a reasonable doubt that a crime was committed.

In early December 2014, the OCDA received information from law enforcement regarding possible violations of the Brown Act by the Garden Grove City Council in connection with creating the new position of Public Safety Administrative Officer and appointing David Barlag to this newly created position. Subsequently, OCDA also received a complaint from a resident of Garden Grove regarding similar allegations.

The OCDA conducted an independent and thorough investigation of the facts and circumstances surrounding these allegations and impartially reviewed all available evidence and legal standards. The scope and findings of this investigation and legal review are expressly limited to determining whether the Brown Act was violated during the process of creating the position of Public Safety Administrative Officer.

PROCEDURAL BACKGROUND

The initial information OCDA received alleged that the City of Garden Grove violated the Brown Act by creating the position of Public Safety Administrative Officer in a closed session meeting of the City Council. It was further alleged that the Garden Grove City Council appointed Garden Grove Fire Department (GGFD) Chief Barlag to this newly created position as part of an agreement between the City and Barlag after Barlag resigned his position as the Fire Chief of GGFD, and that this agreement was entered into in order to compensate Barlag for his resignation as Fire Chief of GGFD after a vote of no-confidence by the Firefighters' Union (Union). Any reference in this letter to "City Council" is intended to mean the Garden Grove City Council members and the mayor. The following is a list of individuals referenced in this letter:

- Bruce Broadwater: Then-Mayor of Garden Grove. He was voted out of office in November 2014 with his term ending in December 2014.
- Matthew Fertal: Then-City Manager of Garden Grove. Fertal was appointed the City Manager in February 2004, and he retired in December 2014.
- David Barlag: Public Safety Administrative Officer of Garden Grove. Prior Fire Chief of GGFD.
- Jeremy Broadwater: GGFD firefighter. Prior Garden Grove Park Ranger for approximately seven years. Son of former Mayor Bruce Broadwater.
- Steve Jones: Councilmember, City of Garden Grove.
- Kris Jones: Councilmember, City of Garden Grove.
- Dina Nguyen: Then-Councilmember, City of Garden Grove.
- Chris Phan: Councilmember, City of Garden Grove. Chris Phan is currently an Orange County deputy district attorney. The OCDA consulted with the California Attorney General's Office (CAG) prior to the commencement of this investigation, and the CAG concluded that it was appropriate for OCDA to investigate this matter notwithstanding the fact that Chris Phan is also employed as an Orange County deputy district attorney.
- Thomas Nixon: Then-Garden Grove City Attorney.

During this investigation and legal review, the OCDA obtained and considered a wide range of documents, including but not limited to the following documents:

- Agreement and release between the City of Garden Grove and Barlag;
- Garden Grove Resolution – salary plan for the position of Public Safety Administrative Officer;
- Emails and City documents belonging to Fertal;
- 35 emails and attachments from Barlag;
- Copies of all California Public Record Act requests filed with the City of Garden Grove from June 1, 2014, to March 9, 2015, relating to Barlag, and any responsive documents or letters submitted by the City of Garden Grove in response to such Public Record Act requests;
- Expense reports for Barlag;
- Statements of earnings for Barlag;
- Personnel records relating to Jeremy Broadwater's application to become a GGFD firefighter as well as records relating to his interviewing process;
- The letter communicating the Union's Vote of No Confidence in Barlag;
- All written correspondence between the City of Garden Grove and Barlag;
- Work product generated by Barlag from Sept. 30, 2014, to March 20, 2015; and
- City of Garden Grove records relating to City Council meetings and agendas.

In addition to reviewing records and documents, OCDA interviewed in excess of 20 individuals connected to the subject matter of the investigation.

On Feb. 6, 2015, prior to attempting to interview any official from the City of Garden Grove, OCDA requested that the Garden Grove City Council waive any potential attorney-client privilege relating to the subject matter of this investigation. This waiver was requested so that OCDA could interview all involved officials without having any such official refuse to answer questions on the grounds that the answers would violate the attorney-client privilege. Six days later, on Feb. 12, 2015, then-interim City Manager Allan Roeder confirmed to our office that the Garden Grove City Council agreed to the OCDA's request and waived the attorney-client privilege as it relates to the subject matter of this investigation. We thank them for their cooperation.

FACTUAL BACKGROUND

In November 2012, Barlag was appointed the Fire Chief of GGFD. The position of Fire Chief was an "at-will" position within the City of Garden Grove as detailed in a resolution approved by the City Council. An "at-will" appointment can be terminated by the City without cause. Barlag did not have a contract with the City guaranteeing him the position of Fire Chief for any specified period of time. As the Fire Chief of the GGFD, Barlag earned an annual salary of \$226,599.96. Prior to his appointment as Fire Chief, Barlag had worked for GGFD for about 30 years and rose through the ranks of the department after starting as a firefighter. Barlag was appointed Fire Chief by Garden Grove City Manager Fertal, who had the authority to make the appointment.

In October 2013, Jeremy Broadwater, who had previously worked for about seven years as a Garden Grove park ranger, was hired, at Barlag's direction, as a Garden Grove firefighter.

In June 2014, the Garden Grove Firefighters' Union held a "Vote of No Confidence" in Barlag as their Fire Chief. The Union notified the City Manager and the City Council of their vote of no confidence in Barlag, and also cited internal issues over the hiring of Jeremy Broadwater by Barlag as one of the reasons for their lack of confidence in Barlag's leadership. As a result of the management related issues at GGFD and the vote of no confidence as reported by the Union, the City Manager with the approval of the City Council retained the services of Management Partners, an independent management consulting firm, to conduct an audit of GGFD and identify problems within the department.

Between August 2014 and October 2014, a verbal report compiled by Management Partners was given to the City Manager. The City Manager subsequently verbally relayed the conclusions of the report to the members of the City Council. The report compiled by Management Partners identified the following issues at GGFD:

- Barlag not exercising appropriate managerial control;
- Lack of appropriate discipline within GGFD; and
- An appearance of favoritism by Barlag in hiring Jeremy Broadwater as a firefighter.

In early August 2014, Barlag contacted the Garden Grove City Attorney and notified him that he (Barlag) had spoken to a lawyer. In his conversation with the City Attorney, Barlag threatened litigation against the City of Garden Grove if he were removed as Fire Chief of the GGFD. Barlag also notified the City Manager of his intent to sue the City of Garden Grove if removed as Fire Chief. On Aug. 12, 2014, after speaking to Barlag earlier in the month, the City Attorney and the City Manager briefed the City Council in a closed session meeting about Barlag's threat of litigation. After they briefed the City Council on what they

described as a credible threat of litigation by Barlag, and without any meaningful discussion about the fact that Barlag was an "at-will" employee or the fact that the City could terminate Barlag's appointment without cause, the City Council directed the City Manager to find a resolution to Barlag's threat of litigation. It also became apparent that some members of the City Council concluded that Barlag should no longer remain the Fire Chief of GGFD because they lost confidence in his ability as well as his effectiveness in leading the department.

Thereafter, the City Manager proposed a solution to the City Council to the situation they were confronting in a closed session meeting. The City Manager proposed creating a new position for Barlag with the City of Garden Grove in exchange for removing him as the Fire Chief of the GGFD. Acting on Fertal's recommendation, the City Council directed the City Manager, in a closed session meeting, to move forward with his proposal and negotiate a resolution with Barlag. The City Manager and the City Attorney drafted a settlement agreement between Barlag and the City of Garden Grove. The agreement included the following terms:

- Barlag's resignation as Fire Chief of GGFD;
- The creation of the position of Public Safety Administrative Officer in the City of Garden Grove;
- Upon Barlag's resignation as the Fire Chief of GGFD, Barlag would be appointed as the City's first Public Safety Administrative Officer;
- Barlag's new salary as the City's Public Safety Administrative Officer would be the salary he was earning as the Chief of GGFD (\$226,599.96) plus a training premium of five percent;
- Barlag would no longer receive a vehicle allowance, which he was receiving as the Fire Chief of GGFD;
- Barlag would be able to hold the position of Public Safety Administrative Officer for over two years and will retire from the City on Dec. 31, 2016;
- Barlag's enhanced salary as the City's Public Safety Administrative Officer would continue to count toward the calculation of his pension from the City upon his retirement in December 2016;
- The City would pay Barlag's attorney's fees in the amount of \$3,750; and
- A confidentiality non-disclosure clause will be included as part of the agreement.

The Public Safety Administrative Officer position was a new position in the City of Garden Grove. This position did not previously exist, and there was never a discussion about any need for such a position prior to the settlement agreement between the City and Barlag. This new position was created without a resolution of the City Council prior to the settlement agreement with Barlag. In total, the City Council held three closed session meetings in connection with this matter. The three closed session meetings were held on Aug. 12, 2014; Aug. 26, 2014; and Sept. 23, 2014. On Sept. 29, 2014, Barlag notified the City Manager in an email of his intent to resign as Fire Chief of GGFD after 32 years of service with the City.

On Sept. 30, 2014, the settlement agreement reached between the City of Garden Grove and Barlag was signed by both parties and it became effective immediately; Barlag was appointed as the City's Public Safety Administrative Officer and he was also referred to as the City's Public Safety Director. Barlag immediately started drawing an increased salary. None of these actions were properly created or approved on that date. Not until there was public inquiry was the position of Garden Grove Public Safety Administrative Officer, along with increased salary and benefits, properly created or authorized through open deliberations.

On or about Oct. 14, 2014, Management Partners completed and submitted their final written report regarding the management of GGFD. The written report included the above listed points from the verbal review previously provided to the City Council by the City Manager.

Acting under the pressure of multiple Public Records Act requests by members of the media, on Nov. 25, 2014, the City Council, in an open public session, adopted and ratified an amendment to Resolution Number 9251-14, publicly creating the new position of Public Safety Administrative Officer. This was the first public act by the City Council regarding the secret creation of a new position that paid over a quarter million dollars annually in public money.

On Dec. 8, 2014, the above detailed allegations relating to possible Brown Act violations were reported to OCDA by the Garden Grove Police Department. Shortly thereafter, in a conversation covertly taped by OCDA, Barlag stated that he (Barlag) and the City Manager had an understanding about Barlag's new position as Public Safety Administrative Officer. Barlag stated that his understanding with the City Manager was that Barlag will not be required to report to the City for work and it was based on this specific understanding that Barlag was no longer collecting a car allowance as part of the agreement signed on Sept. 30, 2014.

After his interview with OCDA on Feb. 19, 2015, and at the request of OCDA, the City Attorney provided OCDA with a legal memorandum detailing his legal position for why he felt it was legally appropriate for the City Council to hold closed session meetings in connection with the creation of the new position of Public Safety Administrative Officer, and why he felt it appropriate to keep such action secret until the City was forced to reveal it under the pressure of multiple Public Records Act Requests. We do not agree with that analysis with respect to the creation of a new job.

LEGAL ANALYSIS

1. Open Meetings

The Brown Act is codified in Government Code section 54950 *et seq.* Broadly, the Brown Act requires legislative bodies, including City Councils, to conduct the public's business in public. (Preamble, Government Code section 54950.) With certain limited exceptions, all meetings of the legislative body must be open to any member of the public to attend. (Government Code section 54953.) Before any decisions are made, members of the public must be given notice, by putting the item on the agenda, that the topic will be discussed at a particular meeting. (Government Code section 54954.2.) If an item is not on the agenda, it may not be discussed or voted on in the public meeting. (Government Code section 54954.2.) Furthermore, members of the public must be given the opportunity to comment on the matter before a vote is taken or a decision is made. (Government Code section 54954.3.) Under the Brown Act, private or secret meetings between a majority of the members of the legislative body are prohibited. (Government Code section 54952.2.) However, under certain limited circumstances, a legislative body may meet in "closed session" to discuss certain matters, such as labor or real property negotiations (Government Code sections 54957.6 & 54956.8), certain personnel matters (Government Code section 54957,) and to confer with legal counsel regarding "pending litigation," (Government Code section 54956.9.)

2. Anticipated/Pending Litigation Exception

In order for OCDA to file criminal charges for a violation of the Brown Act, the OCDA must be able to prove beyond a reasonable doubt a specific intent and mental state on the part of the accused. Government Code section 54959 requires that each "member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor."

Based on the position taken by the City Attorney, it appears that the Garden Grove City Council, on the advice of the City Attorney, relied on the "pending litigation" exception by holding multiple closed session

meetings to discuss Barlag and the creation of the new position of Public Safety Administrative Officer. Regarding the "pending litigation" exception to the Brown Act requirements, Government Code section 54956.9 (d) provides the following:

"Litigation shall be considered *pending* when any of the following circumstances exist:

- (1) Litigation, to which the local agency is a party, has been initiated formally.
- (2) A point has been reached where, *in the opinion of the legislative body of the local agency on the advice of its legal counsel*, based on existing facts and circumstances, *there is a significant exposure to litigation against the local agency*.
- (3) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (2).
- (4) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation."

The courts have also recognized the need for a legislative body to confer in closed session with legal counsel when contemplating taking action which will likely result in litigation. In *County of Los Angeles v. Superior Court* (2005) 130 Cal.App.4th 1099, the Court of Appeal agreed with the County Board of Supervisors' conclusion that the "pending litigation" exception applied to a closed session discussion of the County's decision to cut Medicare funding to the King/Drew Medical Center, even though no lawsuit had yet been filed as a result of the decision.

3. Civil/Criminal Enforcement

a. Civil Litigation

As to civil enforcement, the allegation of Brown Act violations were submitted to the OCDA on Dec. 8, 2014, more than 90 days after the first closed session meeting on Aug. 12, 2014. In addition, by the time the allegations were submitted to the OCDA, the City Council had already cured the alleged violation by holding a public meeting and taking a public vote on the matter. Therefore, seeking a civil remedy is not an option since the City of Garden Grove had already taken corrective action on Nov. 25, 2014, by voting publicly on the creation of the position of Public Safety Administrative Officer.

b. Criminal Prosecution

In order to prove a Brown Act violation beyond a reasonable doubt, we must fairly consider the arguments and information provided to OCDA at our request by the Garden Grove City Attorney. The City Attorney's legal position is essentially that the City Council was allowed to discuss Barlag's situation in closed session, without reporting their actions, because Barlag had threatened to sue the City. The City Attorney argues that these closed session discussions pertaining to a pending litigation are authorized by Government Code section 54957.1(a)(3). The claimed legal reason for the City Attorney's assertion that the action taken in the closed session meetings did not need to be reported out is because the action was, ostensibly, to authorize the City Manager to offer employment to Barlag in exchange for Barlag waiving any legal claims he may have against the City. Therefore, the City Attorney took the position that the City Council's action did not settle the lawsuit *per se*, and therefore it was not required to be reported out in a public session because the offer to settle still had to be accepted by Barlag before it went into effect. This position was asserted by the City Attorney because if the City Council approved a settlement already agreed to by Barlag in a closed session, the Brown Act would have required this action to be disclosed to the public in open session, at the conclusion of the closed session.

In deciding if OCDA can prove beyond a reasonable doubt that this reliance on the "pending litigation" exception was a ruse or a pretext, we have to fairly and reasonably consider the following two legal points.

First, the open session requirements of Government Code section 54957.1(a)(5) apply only to actions taken as a result of a complaint or charges made against the affected City employee in accordance with Government Code section 54957, and only when an open session is requested by the affected employee. In this case, the affected employee is Barlag and he never made such a request. In *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876, a former employee of the community college challenged the decision of the college's board of trustees to not renew her contract. The superior court ruled against her and she appealed, arguing that the board's decision violated the Brown Act. The court of appeal rejected her argument and held that the open session requirement applies only to the portion of the meeting pertaining to specific complaints or charges brought against the employee. (*Furtado, supra*, at pp. 880-882.) And even then, the Brown Act only requires that the discussions take place in open session when requested by the affected employee. (*Ibid.*) The court went on to note that in drafting the Brown Act, "the Legislature has drawn a reasonable compromise, leaving most personnel matters to be discussed freely and candidly in closed session" (*Id.* at p. 882.)

In the present case, even if the City Council's reliance on the pending litigation exception was a ruse, and its primary objective was to discuss Barlag's employment, the discussion would only need to be held in an open session if it were a result of a complaint or charge brought against Barlag. Even then, the discussion would only need to be held in an open session if Barlag specifically requested that the complaint or charges be discussed in open session. While it could easily be argued that the City Council's discussion came about as a result of a complaint or charge pertaining to Barlag's recent personnel related decisions while at the helm of the GGFD, there is no indication whatsoever that Barlag requested a public airing of the grievance in an open session. Quite the contrary, there is every indication that Barlag wanted this matter resolved quietly and privately.

Accordingly, because there was no request by Barlag to discuss the complaints or charges in an open session, the requirements of Government Code section 54957.1(a)(5) do not apply, and OCDA cannot rely on this section to prove, beyond a reasonable doubt, that the City Council's actions violated the Brown Act.

Secondly, we have to take into account the fact that the action taken by the City Council did **not immediately affect** Barlag's employment status. The Brown Act only requires immediate reporting of a closed session action when the action immediately affects the employment status of the employee. In *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165, the plaintiff sued to block the Library Commission's nomination of candidates for City Librarian. The plaintiff argued that the Brown Act (as well as the City of San Francisco's *Sunshine Ordinance*) required that the Commission's discussion be held in open session. In the alternative, the plaintiff argued that the Commission's decision, made in closed session, should have immediately been reported out. In rejecting the plaintiff's arguments, the court of appeal reasoned that because the Commission's decision was to *nominate* candidates for City Librarian, only one of which was to be *appointed* at a later date by the mayor, the closed session discussion was proper and the action taken need not be reported out. The court of appeal noted that the "plain reading of these statutes compels the conclusion that only actions taken in closed session which *immediately* affect the employment status of a public official are to be reported the same day." (*Gillespie, supra*, at p. 1175; *emphasis in original.*) The court of appeal relied heavily on an Attorney General's Opinion (*Compensation of Hospital Administrator*, Attorney General's Opinion No. 79-1110, 63 Ops.Cal.Atty.Gen. 215 (1980)) which concluded that "to require a public report on all 'action taken' in executive [closed] session on 'personnel matters' could effectively destroy the 'personnel exception.'" (*Id.*, at p. 1176, quoting from page 220 of the Attorney General's Opinion.)

In the present case, the action taken by the Garden Grove City Council was to authorize the City Manager to offer a new position with the City to Barlag, and this new position was to take effect at a future date after the closed session meeting. In addition, the offer of new employment to Barlag was conditional upon Barlag resigning as Fire Chief of GGFD and waiving any legal claims he may have against the City of Garden Grove. Like the decision made by the library commission in *Gillespie*, there is an argument to be made that the action taken by the Garden Grove City Council did not *immediately* affect the employment status of Barlag. The new employment of Barlag did not take effect immediately on any of the days of the closed session meetings, and the terms and conditions still needed to be agreed to by Barlag. As a result, even if the City's pending litigation argument was simply a ruse to take action on Barlag's employment status, the way in which the City Council went about it, whether intentional or not, appears to give the City Council a defense against the applicability of the reporting requirements of the Brown Act. Consequently, because the courts have been inclined to show a deference to a City Council handling employment matters in closed sessions, the conclusion that the Garden Grove City Council's action was primarily an employment decision, and only tangentially related to a pending litigation, and the OCDA would likely come up short of being able to prove a violation of the Brown Act beyond a reasonable doubt.

Accordingly, it is our opinion that there is a lack of sufficient evidence to prove a violation of the Brown Act beyond a reasonable doubt, and therefore, it will not be appropriate for the OCDA to file criminal charges alleging a violation of the Brown Act under the anticipated/pending litigation exception.

OCDA'S FINDINGS AND CONCERNS

OCDA believes it is necessary to make findings and recommendations. It is the position of OCDA that the actions taken by the City of Garden Grove in this instance violated the spirit and intent of the Brown Act. Even though there are no litigation remedies available to us, it is important that the OCDA makes public findings.

We do not believe the City Attorney's legal analysis on this topic to be convincing. It is our opinion that there is a reasonable inference that the City Council simply used the pending litigation exception as a ruse or a pretext to get around the disclosure requirements of the Brown Act with respect to actions taken in closed session which affect employment status in accordance with Government Code section 54957.1(a)(5).

Our investigation concluded, and the City of Garden Grove has acknowledged, that it is the City Manager who makes employee decisions as to hiring, evaluation and termination, not council members. Garden Grove's City Council only governs the appointment of the City Manager. All other employee decisions are made by the City Manager. In that the City Manager makes employee decisions, previous California Attorney General Opinions have held that in those situations, the governing body (city council) has no authority to meet in closed session concerning the staff. (Attorney General's Opinion, 85 Ops.Cal.Atty.Gen. 77 (2002).)

What we have learned in our investigation is as follows:

- Closed session held Aug. 12, 2014, under the "Anticipated Litigation" exception, discussed employment status of Barlag.
- Closed session held Aug. 26, 2014, under the "Anticipated Litigation" exception, discussed employment status of Barlag.
- Closed session held Sept. 23, 2014, under the "Anticipated Litigation" exception, discussed employment status of Barlag.

- Councilmembers in closed session discussed the creation of a job that previously did not exist, Public Safety Administrative Director.
- Councilmembers in closed session discussed Barlag being made the Public Safety Administrative Director effective immediately upon signing the agreement.
- Councilmembers, along with the City Manager and City Attorney, in closed session did not discuss nor remember discussing the fact that Barlag was an “at-will” employee.
- Councilmembers, along with the City Manager and City Attorney, in closed session did not discuss nor remember discussing if there were any merits to Barlag’s threat of litigation.
- No councilmember in closed session, along with the City Manager and City Attorney, objected to any of the above-described actions.
- On Sept. 30, 2014, Barlag signed “CITY OF GARDEN GROVE SETTLEMENT AGREEMENT AND GENERAL RELEASE”.
- On Sept. 30, 2014, Barlag started receiving salary and benefits in the position of Public Safety Administration Officer.
- Until public and press inquiries, there was no requirement that Barlag report to work in the City of Garden Grove.
- The position of Public Safety Administration Officer was not officially created until the city council meeting on Nov. 25, 2014, in open session, on a vote of four votes for and one against.

It is our perception that the “Anticipated Litigation” exception to the Brown Act was manipulated in such a way to allow the Garden Grove City Council to go into closed session to allow the City Council to delay the public from finding out what their elected officials were doing with respect to the resignation of Barlag as Fire Chief, the creation of a highly paid new position, and the selection of Barlag to that position.

Based on the entirety of all the available evidence in this case, there appears to be reasonable cause to believe that the reliance by the former City Attorney and the former City Manager on this exception to the Brown Act requirement of Open Public Meetings is merely a pretext to keep this situation a secret for reasons not allowed under the Brown Act. Barlag was an “at-will” employee who could be terminated without cause. It is true that Barlag, just like any other “at-will” employee, could not be terminated for an “illegal cause.” An employee’s national origin, ethnic background, or sexual orientation are some of the examples of “illegal causes.” However, in Barlag’s situation, the need for terminating his employment had nothing to do with any illegal cause. In addition, the City Council was also aware of an independent audit prepared by an outside consulting firm showing ample cause to doubt the effectiveness of Barlag as the Fire Chief of GGFD.

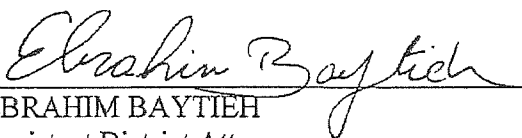
RECOMMENDATIONS


In light of the above detailed facts and circumstances, OCDA is recommending that the Garden Grove City Council consider adopting the following steps in the interest of promoting public transparency:

1. To record any and all future closed session meetings for a period of at least two years, effective immediately, in accordance with the provisions of Government Code section 54690;
2. If a new employment position is created in the future by the Garden Grove City Council, the City Council commits to disclose the creation of the new position in public before filling the position;
3. The Garden Grove City Council commits to refrain from relying on the ‘pending litigation’ exception, provided for in Government Code Section 54956.9, to create a new City position in closed session, without reporting this action immediately at the conclusion of the closed session meeting; and

4. The City audits the work and performance of the newly created "Public Safety Administrative Officer" to assure the public that the position is not a "no show" job.

Accordingly, the OCDA is closing its inquiry into this matter.


EBRAHIM BAYTIEH
Assistant District Attorney


MICHAEL LUBINSKI
Senior Assistant District Attorney

FYI: Re-Dedication Ceremony, T 3/22, 5-6pm (before the CC mtg)

Subject: FYI: Re-Dedication Ceremony, T 3/22, 5-6pm (before the CC mtg)

From: Pam Haddad <pamha@ci.garden-grove.ca.us>

Date: Wed, 24 Feb 2016 16:28:40 -0800 (PST)

To: Bao Nguyen <baon@ci.garden-grove.ca.us>, "Phan, Christopher" <chrisphan1@hotmail.com>, phat <phat@phatbui.com>, Beard Kris <beard4gg@gmail.com>, Steve Jones <jones4gg@gmail.com>

Re-Dedication Ceremony for 40th Anniv of CMC & Senior Center
@CMC (YAY!!!)

I will calendar it.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

INVITE: Orange State of the City, Th 3/24 @11:30

Subject: INVITE: Orange State of the City, Th 3/24 @11:30
From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 16:33:34 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

State of the City luncheon
@Sandhu Conf Center
571 N Grand
Orange

\$65 each ~ Interested?

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

Subject: re: Auction Gala 3/19
From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 17:12:51 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

They want to know if you're interested: Would you please check if Mayor Nguyen is willing to host a dinner for 2 to 4 this time? I would dare to rank that at the top demand as Dinner with the Bishop if he would go for it. Thanks.

~ Pam

From: "Eric Nguyen" <eric_bao_nguyen@hotmail.com>
To: "Pam Haddad" <pamha@ci.garden-grove.ca.us>, "CCA GALA" <ccaannualgala@ccaorange.com>
Sent: Wednesday, February 24, 2016 4:49:21 PM
Subject: Re: Auction Gala Invitation 3/19

Hello Pam,

The charge is for other guests who want to attend our event. The Mayor and his lady are our guests of honor. There are no charge for guests of honor.

Last year, Councilman Phan was so gracious in hosting a lunch for two as his donation to the Gala. There was a bidding war for that! Would you please check if Mayor Nguyen is willing to host a dinner for 2 to 4 this time? I would dare to rank that at the top demand as Dinner with the Bishop if he would go for it.

As a matter of fact, if you have no plan that night, we would love to have you and a guest too, Pam. Last year was a blast!

Eric

From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Sent: Thursday, February 25, 2016 12:18 AM
To: CCA GALA
Cc: Eric Nguyen
Subject: Re: Auction Gala Invitation 3/19

Eric,
I just opened the website to the Gala and noticed there's a charge of \$75. Was I supposed to pay for the Mayor to attend? Thanks.
~ Pam

From: "CCA GALA" <ccaannualgala@ccaorange.com>
To: pamha@ci.garden-grove.ca.us
Cc: "Eric Nguyen" <eric_bao_nguyen@hotmail.com>

Sent: Monday, January 18, 2016 9:50:54 AM
Subject: Fwd: Auction Gala Invitation 2016!

Hi Pam,

We would love to have the Garden Grove City Council members at our event on March 19, 2016.

Below is the link to the Christ Cathedral Academy Casino Royale Night and Auction website with information regarding our big event. Please let me know if you have any questions.

<http://christcathedral.academy/2016-annual-gala/>

We look forward to seeing you all at the event.

Respectfully yours,
Marie Lao-Galindo
CCA 2016 Annual Gala Chairperson

From: Eric Nguyen [mailto:eric_bao_nguyen@hotmail.com]
Sent: Tuesday, January 12, 2016 2:11 PM
To: Pam Haddad; vote4chrisphan; Lao-Galindo, Marie
Subject: Re: Auction Gala Invitation 2016!

Hello Marie,

Would you please send Pam the details of the Gala? We will send the individual official invitations once Pam provides us with names.

Chris,

I'm so sorry that you won't be able to make it this time. We definitely miss you and once again, thank you both for being the connection between Christ Cathedra Academy and the City Officials.

Sincerely,
Eric Nguyen

From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Sent: Monday, January 11, 2016 7:16 PM
To: vote4chrisphan

Cc: eric bao nguyen

Subject: Re: Auction Gala Invitation 2016!

Chris, of course, I will invite the other Council Members.
Eric, please just email me all the details. Thanks.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

From: "vote4chrisphan" <vote4chrisphan@gmail.com>
To: "eric bao nguyen" <eric_bao_nguyen@hotmail.com>, pamha@ci.garden-grove.ca.us
Sent: Thursday, January 7, 2016 7:01:46 PM
Subject: Re: Auction Gala Invitation 2016!
Pam,

Can you please help Eric to invite the other council members? Thanks.

Eric,

I will save the date.

Chris

Chris

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Eric Nguyen <eric_bao_nguyen@hotmail.com>
Date: 01/07/2016 3:40 PM (GMT-06:00)
To: vote4chrisphan <vote4chrisphan@gmail.com>
Subject: Re: Auction Gala Invitation 2016!

Hello Chris,

I hope 2016 starts out well with you and your family. How is your baby

daughter (please excuse me if I am mistaken)? Please tell me about your experience as the new father.

Well, last year Auction Gala was so successful and you were such a hit that Christ Cathedral is begging to have you back again for this year. Not only we would like to have the privilege to invite you, but also we would like to invite other City Officials whom you would refer us to. T

This year Gala will be held on Saturday, March 19th, 2016 at 7:00 PM. Would you please let me know if you and Mrs. Phan will be able to attend? We will send the official invitation to you and anyone recommended by you, Chris.

Sincerely,

Eric Nguyen

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam](#)

[Not spam](#)

[Forget previous vote](#)

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam](#)

[Not spam](#)

[Forget previous vote](#)

Subject: re: Auction Gala 3/19
From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 17:12:51 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

They want to know if you're interested: Would you please check if Mayor Nguyen is willing to host a dinner for 2 to 4 this time? I would dare to rank that at the top demand as Dinner with the Bishop if he would go for it. Thanks.

~ Pam

From: "Eric Nguyen" <eric_bao_nguyen@hotmail.com>
To: "Pam Haddad" <pamha@ci.garden-grove.ca.us>, "CCA GALA" <ccaannualgala@ccaorange.com>
Sent: Wednesday, February 24, 2016 4:49:21 PM
Subject: Re: Auction Gala Invitation 3/19

Hello Pam,

The charge is for other guests who want to attend our event. The Mayor and his lady are our guests of honor. There are no charge for guests of honor.

Last year, Councilman Phan was so gracious in hosting a lunch for two as his donation to the Gala. There was a bidding war for that! Would you please check if Mayor Nguyen is willing to host a dinner for 2 to 4 this time? I would dare to rank that at the top demand as Dinner with the Bishop if he would go for it.

As a matter of fact, if you have no plan that night, we would love to have you and a guest too, Pam. Last year was a blast!

Eric

From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Sent: Thursday, February 25, 2016 12:18 AM
To: CCA GALA
Cc: Eric Nguyen
Subject: Re: Auction Gala Invitation 3/19

Eric,
I just opened the website to the Gala and noticed there's a charge of \$75. Was I supposed to pay for the Mayor to attend? Thanks.

~ Pam

From: "CCA GALA" <ccaannualgala@ccaorange.com>
To: pamha@ci.garden-grove.ca.us
Cc: "Eric Nguyen" <eric_bao_nguyen@hotmail.com>

Sent: Monday, January 18, 2016 9:50:54 AM
Subject: Fwd: Auction Gala Invitation 2016!

Hi Pam,

We would love to have the Garden Grove City Council members at our event on March 19, 2016.

Below is the link to the Christ Cathedral Academy Casino Royale Night and Auction website with information regarding our big event. Please let me know if you have any questions.

<http://christcathedral.academy/2016-annual-gala/>

We look forward to seeing you all at the event.

Respectfully yours,
Marie Lao-Galindo
CCA 2016 Annual Gala Chairperson

From: Eric Nguyen [mailto:eric_bao_nguyen@hotmail.com]
Sent: Tuesday, January 12, 2016 2:11 PM
To: Pam Haddad; vote4chrisphan; Lao-Galindo, Marie
Subject: Re: Auction Gala Invitation 2016!

Hello Marie,

Would you please send Pam the details of the Gala? We will send the individual official invitations once Pam provides us with names.

Chris,

I'm so sorry that you won't be able to make it this time. We definitely miss you and once again, thank you both for being the connection between Christ Cathedra Academy and the City Officials.

Sincerely,
Eric Nguyen

From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Sent: Monday, January 11, 2016 7:16 PM
To: vote4chrisphan

Cc: eric bao nguyen

Subject: Re: Auction Gala Invitation 2016!

Chris, of course, I will invite the other Council Members.
Eric, please just email me all the details. Thanks.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

From: "vote4chrisphan" <vote4chrisphan@gmail.com>
To: "eric bao nguyen" <eric_bao_nguyen@hotmail.com>, pamha@ci.garden-grove.ca.us
Sent: Thursday, January 7, 2016 7:01:46 PM
Subject: Re: Auction Gala Invitation 2016!
Pam,

Can you please help Eric to invite the other council members? Thanks.

Eric,

I will save the date.

Chris

Chris

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Eric Nguyen <eric_bao_nguyen@hotmail.com>
Date: 01/07/2016 3:40 PM (GMT-06:00)
To: vote4chrisphan <vote4chrisphan@gmail.com>
Subject: Re: Auction Gala Invitation 2016!

Hello Chris,

I hope 2016 starts out well with you and your family. How is your baby

daughter (please excuse me if I am mistaken)? Please tell me about your experience as the new father.

Well, last year Auction Gala was so successful and you were such a hit that Christ Cathedral is begging to have you back again for this year. Not only we would like to have the privilege to invite you, but also we would like to invite other City Officials whom you would refer us to. T

This year Gala will be held on Saturday, March 19th, 2016 at 7:00 PM. Would you please let me know if you and Mrs. Phan will be able to attend? We will send the official invitation to you and anyone recommended by you, Chris.

Sincerely,

Eric Nguyen

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam](#)

[Not spam](#)

[Forget previous vote](#)

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam](#)

[Not spam](#)

[Forget previous vote](#)

Re: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

Subject: Re: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?
From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 18:04:50 -0800 (PST)
To: Bao Nguyen <baon@ci.garden-grove.ca.us>

Joshua,
after speaking with our City Attorney, can we just list his participation as "Mayor Bao Nguyen, City of Garden Grove"? Please let me know. Thanks.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

From: "Pam Haddad" <pamha@ci.garden-grove.ca.us>
To: "Bao Nguyen" <baon@ci.garden-grove.ca.us>
Sent: Tuesday, February 16, 2016 8:01:53 AM
Subject: Fwd: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

From: "Joshua Rodriguez" <joshua@fwd.us>
To: mayor@garden-grove.org
Sent: Friday, February 12, 2016 3:12:07 PM
Subject: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

Good afternoon Mayor Bao Nguyen,

I'm reaching out to see if the City of Garden Grove will support immigrant families and local economies by joining a national coalition of municipalities in an amicus brief to the Supreme Court in the case of Texas V. United States.

As you may already know, the Supreme Court recently announced it will hear a case against the President's executive actions on immigration -- actions that would provide nearly 5 million hardworking immigrants with temporary relief from deportation and work authorization.

The cities of New York, Los Angeles, Atlanta and Birmingham are excited to highlight the local perspective in the form of an amicus brief for the Supreme Court at this critical stage in the case (**details in the attached PDF**). In this, your support is crucial and illuminating. In December, over 80 cities and counties signed onto the amicus brief filed with the Supreme Court, urging the Justices to take the case. We look to broaden this coalition even further for our next submission to the Supreme Court during the "merit" stage.

Re: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

A briefing schedule has not been issued in this case yet, but we expect the filing deadline for amicus briefs to be in late February/early March. **To meet this timeframe, we are asking cities and counties to sign on to the amicus brief on behalf of cities and counties by February 22nd (there will likely be some wiggle room with that date).**

FWD.us strongly encourages **you and the City of Garden Grove** to join forces with other cities across the nation in supporting families and defending these important immigration programs.

Thank you for your support. I look forward to hearing from you.

--

Joshua Rodriguez
Southern California Chapter Manager
FWD.us | @jjrodriguez1991 | 323-889-9742

United States v Texas - Merits Stage Memo (1).pdf	Content-Type: application/pdf Content-Encoding: base64
--	---

Re: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

Subject: Re: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

From: Bao Nguyen <baon@ci.garden-grove.ca.us>

Date: Wed, 24 Feb 2016 21:05:32 -0800 (PST)

To: Pam Haddad <pamha@ci.garden-grove.ca.us>

Hi Pam,

I'm not sure if that email was sent only to me or also to the appropriate person, since I didn't see his email, just mine. Please check and let me know. Thanks.

Bao

On Feb 24, 2016, at 6:04 PM, Pam Haddad <pamha@ci.garden-grove.ca.us> wrote:

Joshua,
after speaking with our City Attorney, can we just list his participation as "Mayor Bao Nguyen, City of Garden Grove"? Please let me know. Thanks.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

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

From: "Pam Haddad" <pamha@ci.garden-grove.ca.us>
To: "Bao Nguyen" <baon@ci.garden-grove.ca.us>
Sent: Tuesday, February 16, 2016 8:01:53 AM
Subject: Fwd: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

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

From: "Joshua Rodriguez" <joshua@fwd.us>
To: mayor@garden-grove.org
Sent: Friday, February 12, 2016 3:12:07 PM
Subject: Can you sign onto the DAPA/DACA+ Supreme Court Amicus Brief?

Good afternoon Mayor Bao Nguyen ,

I'm reaching out to see if the City of Garden Grove will support immigrant families and local economies by joining a national coalition of municipalities in an amicus brief to the Supreme Court in the case of Texas V. United States.

As you may already know, the Supreme Court recently announced it will hear a case against the President's executive actions on immigration -- actions that would provide nearly 5 million hardworking immigrants with temporary relief from deportation and work authorization.

The cities of New York, Los Angeles, Atlanta and Birmingham are excited to highlight the local perspective in the form of an amicus brief for the Supreme Court at this critical stage in the case (details in the attached PDF). In this, your support is crucial and illuminating. In December, over 80 cities and counties signed onto the amicus brief filed with the Supreme Court, urging the Justices to take the case. We look to broaden this coalition even further for our next submission to the Supreme Court during the "merit" stage.

A briefing schedule has not been issued in this case yet, but we expect the filing deadline for amicus briefs to be in late February/early March. To meet this timeframe, we are asking cities and counties to sign on to the amicus brief on behalf of cities and counties by February 22nd (there will likely be some wiggle room with that date).

FWD.us strongly encourages you and the City of Garden Grove to join forces with other cities across the nation in supporting families and defending these important immigration programs.

Thank you for your support. I look forward to hearing from you.

--

Joshua Rodriguez
Southern California Chapter Manager
FWD.us | @jjrodriguez1991 | 323-889-9742

<United States v Texas - Merits Stage Memo (1).pdf>

Subject: Re: Auction Gala 3/19
From: Bao Nguyen <baon@ci.garden-grove.ca.us>
Date: Wed, 24 Feb 2016 22:49:03 -0800 (PST)
To: Pam Haddad <pamha@ci.garden-grove.ca.us>

Sure. Dinner for 2 with mayor and his lady! Or maybe his man! Haha!

On Feb 24, 2016, at 5:12 PM, Pam Haddad <pamha@ci.garden-grove.ca.us> wrote:

They want to know if you're interested: Would you please check if Mayor Nguyen is willing to host a dinner for 2 to 4 this time? I would dare to rank that at the top demand as Dinner with the Bishop if he would go for it. Thanks.

~ Pam

From: "Eric Nguyen" <eric_bao_nguyen@hotmail.com>
To: "Pam Haddad" <pamha@ci.garden-grove.ca.us>, "CCA GALA" <ccaannualgala@ccaorange.com>
Sent: Wednesday, February 24, 2016 4:49:21 PM
Subject: Re: Auction Gala Invitation 3/19

Hello Pam,

The charge is for other guests who want to attend our event. The Mayor and his lady are our guests of honor. There are no charge for guests of honor.

Last year, Councilman Phan was so gracious in hosting a lunch for two as his donation to the Gala. There was a bidding war for that! Would you please check if Mayor Nguyen is willing to host a dinner for 2 to 4 this time? I would dare to rank that at the top demand as Dinner with the Bishop if he would go for it.

As a matter of fact, if you have no plan that night, we would love to have you and a guest too, Pam. Last year was a blast!

Eric

From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Sent: Thursday, February 25, 2016 12:18 AM
To: CCA GALA
Cc: Eric Nguyen
Subject: Re: Auction Gala Invitation 3/19

Eric,
I just opened the website to the Gala and noticed there's a charge of \$75. Was I supposed to pay for the Mayor to attend? Thanks.
~ Pam

From: "CCA GALA" <ccaannualgala@ccaorange.com>
To: pamha@ci.garden-grove.ca.us
Cc: "Eric Nguyen" <eric_bao_nguyen@hotmail.com>
Sent: Monday, January 18, 2016 9:50:54 AM
Subject: Fwd: Auction Gala Invitation 2016!

Hi Pam,

We would love to have the Garden Grove City Council members at our event on March 19, 2016.

Below is the link to the Christ Cathedral Academy Casino Royale Night and Auction website with information regarding our big event. Please let me know if you have any questions.

<http://christcathedral.academy/2016-annual-gala/>

We look forward to seeing you all at the event.

Respectfully yours,
Marie Lao-Galindo
CCA 2016 Annual Gala Chairperson

From: Eric Nguyen [mailto:eric_bao_nguyen@hotmail.com]
Sent: Tuesday, January 12, 2016 2:11 PM
To: Pam Haddad; vote4chrisphan; Lao-Galindo, Marie
Subject: Re: Auction Gala Invitation 2016!

Hello Marie,

Would you please send Pam the details of the Gala? We will send the individual official invitations once Pam provides us with names.

Chris,

I'm so sorry that you won't be able to make it this time. We definitely miss you and once again, thank you both for being the connection between Christ Cathedra Academy and the City Officials.

Sincerely,
Eric Nguyen

From: Pam Haddad <pamha@ci.garden-grove.ca.us>
Sent: Monday, January 11, 2016 7:16 PM
To: vote4chrisphan
Cc: eric bao nguyen
Subject: Re: Auction Gala Invitation 2016!

Chris, of course, I will invite the other Council Members.
Eric, please just email me all the details. Thanks.

Pamela Haddad
Council Liaison
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
714.741.5104 office
714.741.5044 fax

From: "vote4chrisphan" <vote4chrisphan@gmail.com>
To: "eric bao nguyen" <eric_bao_nguyen@hotmail.com>, pamha@ci.garden-grove.ca.us
Sent: Thursday, January 7, 2016 7:01:46 PM
Subject: Re: Auction Gala Invitation 2016!
Pam,

Can you please help Eric to invite the other council members? Thanks.

Eric,

I will save the date.

Chris

Chris

Sent from my T-Mobile 4G LTE Device

----- Original message -----
From: Eric Nguyen <eric_bao_nguyen@hotmail.com>
Date: 01/07/2016 3:40 PM (GMT-06:00)
To: vote4chrisphan <vote4chrisphan@gmail.com>
Subject: Re: Auction Gala Invitation 2016!

Hello Chris,

I hope 2016 starts out well with you and your family. How is your baby daughter (please excuse me if I am mistaken)? Please tell me about your experience as the new father.

Well, last year Auction Gala was so successful and you were such a hit that Christ Cathedral is begging to have you back again for this year. Not only we would like to have the privilege to invite you, but also we would like to invite other City Officials whom you would refer us to. T

This year Gala will be held on Saturday, March 19th, 2016 at 7:00 PM. Would you please let me know if you and Mrs. Phan will be able to attend? We will send the official invitation to you and anyone recommended by you, Chris.

Sincerely,

Eric Nguyen

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam](#)

[Not spam](#)

[Forget previous vote](#)

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

[Spam](#)

[Not spam](#)

[Forget previous vote](#)

Subject: City of Garden Grove Planning Commission Meeting Cancellation Notice for 3/3/16

From: Judy Moore <judym@ci.garden-grove.ca.us>

Date: Thu, 25 Feb 2016 08:10:41 -0800 (PST)

To: "Barker, Michael" <mcbarker@pacbell.net>, Omar Sandoval <omars@ci.garden-grove.ca.us>, Scott Stiles <sstiles@ci.garden-grove.ca.us>, Lim <limsh@koreadaily.com>, "Kanzler, Andrew" <andrewkanzler@outlook.com>, "O'Neill, John" <oneill5@sbcglobal.net>, "Paredes, Mark Anthony" <marparedes@gmail.com>, Phat Bui <phatb@ci.garden-grove.ca.us>, Bao Nguyen <baon@ci.garden-grove.ca.us>, Korea Times <webmaster@koreatimes.co.kr>, Nguoi Viet <news@nguoi-viet.com>, "ward, david" <dward@ocregister.com>, OCNews <oclegals@localnewspapers.org>, Kamyar Dibaj <kdibaj@ci.garden-grove.ca.us>, "Zamora, Linda" <lindazamora132@yahoo.com>, Rosemarie Jacot <rjacot@ci.garden-grove.ca.us>, Jeff Spargur <jspargur@ci.garden-grove.ca.us>, "Margolin, Connie" <bcoc90@aol.com>, Kris Beard <kbeard@ci.garden-grove.ca.us>, Chris Phan <chrisp@ci.garden-grove.ca.us>, Maritza Pizarro <maritzap@ci.garden-grove.ca.us>, Korea Daily <matthew.cho@koreadaily.com>, Viet Bao <Phantanhai@vietbao.com>, Viet Bao <quyentran@vietbao.com>, Nguoi Viet <nv2@nguoi-viet.com>, Steve Jones <stevej@ci.garden-grove.ca.us>, Steve Jones <stevej@olympiacorp.com>, Lisa <lisa.bosalet@navy.mil>, LA Times <metrodesk@latimes.com>, GG Journal <ggjournal@mac.com>, Gail Desby <gdesby@primehealthcare.com>, Anaheim Bulletin <tcisneros@ocregister.com>, Teresa Pomeroy <teresap@ci.garden-grove.ca.us>, Svetlana Moure <smoure@ci.garden-grove.ca.us>, Pam Haddad <pamha@ci.garden-grove.ca.us>, Melanie Valdes <melaniev@ci.garden-grove.ca.us>, Marina Romero <marinar@ci.garden-grove.ca.us>, Kathy Bailor <kathyb@ci.garden-grove.ca.us>, Karl Hill <karlh@ci.garden-grove.ca.us>, Judy Moore <judym@ci.garden-grove.ca.us>, "Eggart, James" <jeggart@wss-law.com>, Greg Blodgett <greg1@ci.garden-grove.ca.us>, Denise Kehn <denisek@ci.garden-grove.ca.us>, Bill Murray <wem@ci.garden-grove.ca.us>, Ana Pulido <anap@ci.garden-grove.ca.us>

The City of Garden Grove Planning Commission Meeting Cancellation Notice for 3/3/16 is here:

<http://www.ci.garden-grove.ca.us/pdf/afm/plancom/a03032016.pdf>

Judy Moore

Department Secretary

Administration

Phone: 714-741-5121

Fax: 714-741-5136

judym@ci.garden-grove.ca.us

Community Development Department of the City of Garden Grove

PROVIDING QUALITY SERVICES THROUGH CREATIVITY & COLLABORATION.

www.ci.garden-grove.ca.us

Subject: OC DA Broadwater/Barlag 2.24.2016

From: Tony Flores <tony.flores@lbct.com>

Date: Thu, 25 Feb 2016 17:20:14 +0000

To: "advice@fppc.ca.gov" <advice@fppc.ca.gov>, "mwisckol@ocregister.com" (mwisckol@ocregister.com) <mwisckol@ocregister.com>, "letters@ocregister.com" (letters@ocregister.com) <letters@ocregister.com>, "thyanhvo@gmail.com" <thyanhvo@gmail.com>, "ngerda@gmail.com" <ngerda@gmail.com>, "Brhoades@localnewspapers.org" (Brhoades@localnewspapers.org) <Brhoades@localnewspapers.org>, "tonyontown@yahoo.com" <tonyontown@yahoo.com>, "johnandkenKFI@kfiam640.com" <johnandkenkfi@kfiam640.com>, "brianholt@iheartmedia.com" <brianholt@iheartmedia.com>, "raylopez@iheartmedia.com" <raylopez@iheartmedia.com>, "sstiles@ci.garden-grove.ca.us" <sstiles@ci.garden-grove.ca.us>, "sstiles@garden-grove.org" <sstiles@garden-grove.org>, "baon@ci.garden-grove.ca.us" <baon@ci.garden-grove.ca.us>, "bao@baonguyen.us" <bao@baonguyen.us>, "christopher.goffard@latimes.com" <christopher.goffard@latimes.com>

CC: "Ebrahim.Baytieh@da.ocgov.com" <Ebrahim.Baytieh@da.ocgov.com>, "Tony Flores (tony.flores08@hotmail.com)" <tony.flores08@hotmail.com>

You may already know about the DA's findings contained in the first attachment above, but I'm wondering why criminal charges were not filed with such a lengthy and detailed investigation.

Thank you.

Tony Flores
WGG, CA 92845
714-222-7421

IMPORTANT NOTICE: The substance of this message, including any attachments, is for the use of the intended recipient and may contain privileged and confidential information of LBCT LLC or its affiliates. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are strictly prohibited from reviewing, forwarding, printing, copying, distributing or using this information in any way, and are hereby requested to contact the sender by reply email and destroy all copies of the original message.

OCDA.Feb.2416.Broadwater.Barlag.pdf	Content-Description: OCDA.Feb.2416.Broadwater.Barlag.pdf Content-Type: application/pdf Content-Encoding: base64
--	--

— Att 0A GG Formal Allegations 12 07 2014.2.pdf —

Att 0A GG Formal Allegations 12 07 2014.2.pdf	Content-Description: Att 0A GG Formal Allegations 12 07 2014.2.pdf Content-Type: application/pdf Content-Encoding: base64
--	--

— Attachments 12 07 14.1.pdf —

Attachments 12 07 14.1.pdf	Content-Description: Attachments 12 07 14.1.pdf Content-Type: application/pdf Content-Encoding: base64
-----------------------------------	---

— GG.Allegations.12.07.14.Attachments.zip —

GG.Allegations.12.07.14.Attachments.zip	Content-Description: GG.Allegations.12.07.14.Attachments.zip Content-Type: application/x-zip-compressed Content-Encoding: base64
--	---

— Att 0B GG ListOfAlleged Crimes 12 07 2014..pdf —

Att 0B GG ListOfAlleged Crimes 12 07 2014..pdf	Content-Description: Att 0B GG ListOfAlleged Crimes 12 07 2014..pdf Content-Type: application/pdf Content-Encoding: base64
---	---



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TONY RACKAUCKAS, DISTRICT ATTORNEY

JIM TANIZAKI
SENIOR ASSISTANT D.A.
VERTICAL PROSECUTIONS/
VIOLENT CRIMES

JOSEPH D'AGOSTINO
SENIOR ASSISTANT D.A.
GENERAL FELONIES/
ECONOMIC CRIMES

MICHAEL LUBINSKI
SENIOR ASSISTANT D.A.
SPECIAL PROJECTS

JAIME COULTER
SENIOR ASSISTANT D.A.
BRANCH COURT OPERATIONS

CRAIG HUNTER
CHIEF
BUREAU OF INVESTIGATION

ROBERT WILSON
INTERIM DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

February 24, 2016

City of Garden Grove
Scott Stiles, City Manager

Re: Allegations of Brown Act Violations
District Attorney Investigations Case # S.A. 14 -130

The Office of the Orange County District Attorney (OCDA) has completed an investigation regarding Ralph M. Brown Act violations by the City Council for the City of Garden Grove.

The district attorney is authorized not only to prosecute violations of the Brown Act, but short of litigation, the district attorney's office may issue public findings concerning, and/or admonitions, to offending local agencies.

The Brown Act [codified in Government Code §54950 *et seq*] is intended to ensure the public's right to attend the meetings of public agencies.... The Act thus serves to facilitate public participation in all phases of local government decision making and to curb misuse of the democratic process by secret legislation of public bodies. *Mckee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App. 4th 354, 358.

OVERVIEW

This letter contains a description of the scope and legal conclusions resulting from the OCDA investigation into the allegations that the Garden Grove City Council violated the Brown Act in August and September of 2014. This letter includes an overview of the OCDA's investigative methodology and procedures employed, as well as a description of the relevant evidence examined, witnesses interviewed, factual findings, and legal principles applied in analyzing the allegations and determining whether there is sufficient evidence to prove beyond a reasonable doubt that a crime was committed.

In early December 2014, the OCDA received information from law enforcement regarding possible violations of the Brown Act by the Garden Grove City Council in connection with creating the new position of Public Safety Administrative Officer and appointing David Barlag to this newly created position. Subsequently, OCDA also received a complaint from a resident of Garden Grove regarding similar allegations.

The OCDA conducted an independent and thorough investigation of the facts and circumstances surrounding these allegations and impartially reviewed all available evidence and legal standards. The scope and findings of this investigation and legal review are expressly limited to determining whether the Brown Act was violated during the process of creating the position of Public Safety Administrative Officer.

PROCEDURAL BACKGROUND

The initial information OCDA received alleged that the City of Garden Grove violated the Brown Act by creating the position of Public Safety Administrative Officer in a closed session meeting of the City Council. It was further alleged that the Garden Grove City Council appointed Garden Grove Fire Department (GGFD) Chief Barlag to this newly created position as part of an agreement between the City and Barlag after Barlag resigned his position as the Fire Chief of GGFD, and that this agreement was entered into in order to compensate Barlag for his resignation as Fire Chief of GGFD after a vote of no-confidence by the Firefighters' Union (Union). Any reference in this letter to "City Council" is intended to mean the Garden Grove City Council members and the mayor. The following is a list of individuals referenced in this letter:

- Bruce Broadwater: Then-Mayor of Garden Grove. He was voted out of office in November 2014 with his term ending in December 2014.
- Matthew Fertal: Then-City Manager of Garden Grove. Fertal was appointed the City Manager in February 2004, and he retired in December 2014.
- David Barlag: Public Safety Administrative Officer of Garden Grove. Prior Fire Chief of GGFD.
- Jeremy Broadwater: GGFD firefighter. Prior Garden Grove Park Ranger for approximately seven years. Son of former Mayor Bruce Broadwater.
- Steve Jones: Councilmember, City of Garden Grove.
- Kris Jones: Councilmember, City of Garden Grove.
- Dina Nguyen: Then-Councilmember, City of Garden Grove.
- Chris Phan: Councilmember, City of Garden Grove. Chris Phan is currently an Orange County deputy district attorney. The OCDA consulted with the California Attorney General's Office (CAG) prior to the commencement of this investigation, and the CAG concluded that it was appropriate for OCDA to investigate this matter notwithstanding the fact that Chris Phan is also employed as an Orange County deputy district attorney.
- Thomas Nixon: Then-Garden Grove City Attorney.

During this investigation and legal review, the OCDA obtained and considered a wide range of documents, including but not limited to the following documents:

- Agreement and release between the City of Garden Grove and Barlag;
- Garden Grove Resolution – salary plan for the position of Public Safety Administrative Officer;
- Emails and City documents belonging to Fertal;
- 35 emails and attachments from Barlag;
- Copies of all California Public Record Act requests filed with the City of Garden Grove from June 1, 2014, to March 9, 2015, relating to Barlag, and any responsive documents or letters submitted by the City of Garden Grove in response to such Public Record Act requests;
- Expense reports for Barlag;
- Statements of earnings for Barlag;
- Personnel records relating to Jeremy Broadwater's application to become a GGFD firefighter as well as records relating to his interviewing process;
- The letter communicating the Union's Vote of No Confidence in Barlag;
- All written correspondence between the City of Garden Grove and Barlag;
- Work product generated by Barlag from Sept. 30, 2014, to March 20, 2015; and
- City of Garden Grove records relating to City Council meetings and agendas.

In addition to reviewing records and documents, OCDA interviewed in excess of 20 individuals connected to the subject matter of the investigation.

On Feb. 6, 2015, prior to attempting to interview any official from the City of Garden Grove, OCDA requested that the Garden Grove City Council waive any potential attorney-client privilege relating to the subject matter of this investigation. This waiver was requested so that OCDA could interview all involved officials without having any such official refuse to answer questions on the grounds that the answers would violate the attorney-client privilege. Six days later, on Feb. 12, 2015, then-interim City Manager Allan Roeder confirmed to our office that the Garden Grove City Council agreed to the OCDA's request and waived the attorney-client privilege as it relates to the subject matter of this investigation. We thank them for their cooperation.

FACTUAL BACKGROUND

In November 2012, Barlag was appointed the Fire Chief of GGFD. The position of Fire Chief was an "at-will" position within the City of Garden Grove as detailed in a resolution approved by the City Council. An "at-will" appointment can be terminated by the City without cause. Barlag did not have a contract with the City guaranteeing him the position of Fire Chief for any specified period of time. As the Fire Chief of the GGFD, Barlag earned an annual salary of \$226,599.96. Prior to his appointment as Fire Chief, Barlag had worked for GGFD for about 30 years and rose through the ranks of the department after starting as a firefighter. Barlag was appointed Fire Chief by Garden Grove City Manager Fertal, who had the authority to make the appointment.

In October 2013, Jeremy Broadwater, who had previously worked for about seven years as a Garden Grove park ranger, was hired, at Barlag's direction, as a Garden Grove firefighter.

In June 2014, the Garden Grove Firefighters' Union held a "Vote of No Confidence" in Barlag as their Fire Chief. The Union notified the City Manager and the City Council of their vote of no confidence in Barlag, and also cited internal issues over the hiring of Jeremy Broadwater by Barlag as one of the reasons for their lack of confidence in Barlag's leadership. As a result of the management related issues at GGFD and the vote of no confidence as reported by the Union, the City Manager with the approval of the City Council retained the services of Management Partners, an independent management consulting firm, to conduct an audit of GGFD and identify problems within the department.

Between August 2014 and October 2014, a verbal report compiled by Management Partners was given to the City Manager. The City Manager subsequently verbally relayed the conclusions of the report to the members of the City Council. The report compiled by Management Partners identified the following issues at GGFD:

- Barlag not exercising appropriate managerial control;
- Lack of appropriate discipline within GGFD; and
- An appearance of favoritism by Barlag in hiring Jeremy Broadwater as a firefighter.

In early August 2014, Barlag contacted the Garden Grove City Attorney and notified him that he (Barlag) had spoken to a lawyer. In his conversation with the City Attorney, Barlag threatened litigation against the City of Garden Grove if he were removed as Fire Chief of the GGFD. Barlag also notified the City Manager of his intent to sue the City of Garden Grove if removed as Fire Chief. On Aug. 12, 2014, after speaking to Barlag earlier in the month, the City Attorney and the City Manager briefed the City Council in a closed session meeting about Barlag's threat of litigation. After they briefed the City Council on what they

described as a credible threat of litigation by Barlag, and without any meaningful discussion about the fact that Barlag was an "at-will" employee or the fact that the City could terminate Barlag's appointment without cause, the City Council directed the City Manager to find a resolution to Barlag's threat of litigation. It also became apparent that some members of the City Council concluded that Barlag should no longer remain the Fire Chief of GGFD because they lost confidence in his ability as well as his effectiveness in leading the department.

Thereafter, the City Manager proposed a solution to the City Council to the situation they were confronting in a closed session meeting. The City Manager proposed creating a new position for Barlag with the City of Garden Grove in exchange for removing him as the Fire Chief of the GGFD. Acting on Fertal's recommendation, the City Council directed the City Manager, in a closed session meeting, to move forward with his proposal and negotiate a resolution with Barlag. The City Manager and the City Attorney drafted a settlement agreement between Barlag and the City of Garden Grove. The agreement included the following terms:

- Barlag's resignation as Fire Chief of GGFD;
- The creation of the position of Public Safety Administrative Officer in the City of Garden Grove;
- Upon Barlag's resignation as the Fire Chief of GGFD, Barlag would be appointed as the City's first Public Safety Administrative Officer;
- Barlag's new salary as the City's Public Safety Administrative Officer would be the salary he was earning as the Chief of GGFD (\$226,599.96) plus a training premium of five percent;
- Barlag would no longer receive a vehicle allowance, which he was receiving as the Fire Chief of GGFD;
- Barlag would be able to hold the position of Public Safety Administrative Officer for over two years and will retire from the City on Dec. 31, 2016;
- Barlag's enhanced salary as the City's Public Safety Administrative Officer would continue to count toward the calculation of his pension from the City upon his retirement in December 2016;
- The City would pay Barlag's attorney's fees in the amount of \$3,750; and
- A confidentiality non-disclosure clause will be included as part of the agreement.

The Public Safety Administrative Officer position was a new position in the City of Garden Grove. This position did not previously exist, and there was never a discussion about any need for such a position prior to the settlement agreement between the City and Barlag. This new position was created without a resolution of the City Council prior to the settlement agreement with Barlag. In total, the City Council held three closed session meetings in connection with this matter. The three closed session meetings were held on Aug. 12, 2014; Aug. 26, 2014; and Sept. 23, 2014. On Sept. 29, 2014, Barlag notified the City Manager in an email of his intent to resign as Fire Chief of GGFD after 32 years of service with the City.

On Sept. 30, 2014, the settlement agreement reached between the City of Garden Grove and Barlag was signed by both parties and it became effective immediately; Barlag was appointed as the City's Public Safety Administrative Officer and he was also referred to as the City's Public Safety Director. Barlag immediately started drawing an increased salary. None of these actions were properly created or approved on that date. Not until there was public inquiry was the position of Garden Grove Public Safety Administrative Officer, along with increased salary and benefits, properly created or authorized through open deliberations.

On or about Oct. 14, 2014, Management Partners completed and submitted their final written report regarding the management of GGFD. The written report included the above listed points from the verbal review previously provided to the City Council by the City Manager.

Acting under the pressure of multiple Public Records Act requests by members of the media, on Nov. 25, 2014, the City Council, in an open public session, adopted and ratified an amendment to Resolution Number 9251-14, publicly creating the new position of Public Safety Administrative Officer. This was the first public act by the City Council regarding the secret creation of a new position that paid over a quarter million dollars annually in public money.

On Dec. 8, 2014, the above detailed allegations relating to possible Brown Act violations were reported to OCDA by the Garden Grove Police Department. Shortly thereafter, in a conversation covertly taped by OCDA, Barlag stated that he (Barlag) and the City Manager had an understanding about Barlag's new position as Public Safety Administrative Officer. Barlag stated that his understanding with the City Manager was that Barlag will not be required to report to the City for work and it was based on this specific understanding that Barlag was no longer collecting a car allowance as part of the agreement signed on Sept. 30, 2014.

After his interview with OCDA on Feb. 19, 2015, and at the request of OCDA, the City Attorney provided OCDA with a legal memorandum detailing his legal position for why he felt it was legally appropriate for the City Council to hold closed session meetings in connection with the creation of the new position of Public Safety Administrative Officer, and why he felt it appropriate to keep such action secret until the City was forced to reveal it under the pressure of multiple Public Records Act Requests. We do not agree with that analysis with respect to the creation of a new job.

LEGAL ANALYSIS

1. Open Meetings

The Brown Act is codified in Government Code section 54950 *et seq.* Broadly, the Brown Act requires legislative bodies, including City Councils, to conduct the public's business in public. (Preamble, Government Code section 54950.) With certain limited exceptions, all meetings of the legislative body must be open to any member of the public to attend. (Government Code section 54953.) Before any decisions are made, members of the public must be given notice, by putting the item on the agenda, that the topic will be discussed at a particular meeting. (Government Code section 54954.2.) If an item is not on the agenda, it may not be discussed or voted on in the public meeting. (Government Code section 54954.2.) Furthermore, members of the public must be given the opportunity to comment on the matter before a vote is taken or a decision is made. (Government Code section 54954.3.) Under the Brown Act, private or secret meetings between a majority of the members of the legislative body are prohibited. (Government Code section 54952.2.) However, under certain limited circumstances, a legislative body may meet in "closed session" to discuss certain matters, such as labor or real property negotiations (Government Code sections 54957.6 & 54956.8), certain personnel matters (Government Code section 54957,) and to confer with legal counsel regarding "pending litigation," (Government Code section 54956.9.)

2. Anticipated/Pending Litigation Exception

In order for OCDA to file criminal charges for a violation of the Brown Act, the OCDA must be able to prove beyond a reasonable doubt a specific intent and mental state on the part of the accused. Government Code section 54959 requires that each "member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to **deprive the public** of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor."

Based on the position taken by the City Attorney, it appears that the Garden Grove City Council, on the advice of the City Attorney, relied on the "pending litigation" exception by holding multiple closed session

meetings to discuss Barlag and the creation of the new position of Public Safety Administrative Officer. Regarding the “pending litigation” exception to the Brown Act requirements, Government Code section 54956.9 (d) provides the following:

“Litigation shall be considered *pending* when any of the following circumstances exist:

- (1) Litigation, to which the local agency is a party, has been initiated formally.
- (2) A point has been reached where, *in the opinion of the legislative body of the local agency on the advice of its legal counsel*, based on existing facts and circumstances, *there is a significant exposure to litigation against the local agency*.
- (3) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (2).
- (4) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.”

The courts have also recognized the need for a legislative body to confer in closed session with legal counsel when contemplating taking action which will likely result in litigation. In *County of Los Angeles v. Superior Court* (2005) 130 Cal.App.4th 1099, the Court of Appeal agreed with the County Board of Supervisors’ conclusion that the “pending litigation” exception applied to a closed session discussion of the County’s decision to cut Medicare funding to the King/Drew Medical Center, even though no lawsuit had yet been filed as a result of the decision.

3. Civil/Criminal Enforcement

a. Civil Litigation

As to civil enforcement, the allegation of Brown Act violations were submitted to the OCDA on Dec. 8, 2014, more than 90 days after the first closed session meeting on Aug. 12, 2014. In addition, by the time the allegations were submitted to the OCDA, the City Council had already cured the alleged violation by holding a public meeting and taking a public vote on the matter. Therefore, seeking a civil remedy is not an option since the City of Garden Grove had already taken corrective action on Nov. 25, 2014, by voting publicly on the creation of the position of Public Safety Administrative Officer.

b. Criminal Prosecution

In order to prove a Brown Act violation beyond a reasonable doubt, we must fairly consider the arguments and information provided to OCDA at our request by the Garden Grove City Attorney. The City Attorney’s legal position is essentially that the City Council was allowed to discuss Barlag’s situation in closed session, without reporting their actions, because Barlag had threatened to sue the City. The City Attorney argues that these closed session discussions pertaining to a pending litigation are authorized by Government Code section 54957.1(a)(3). The claimed legal reason for the City Attorney’s assertion that the action taken in the closed session meetings did not need to be reported out is because the action was, ostensibly, to authorize the City Manager to offer employment to Barlag in exchange for Barlag waiving any legal claims he may have against the City. Therefore, the City Attorney took the position that the City Council’s action did not settle the lawsuit *per se*, and therefore it was not required to be reported out in a public session because the offer to settle still had to be accepted by Barlag before it went into effect. This position was asserted by the City Attorney because if the City Council approved a settlement already agreed to by Barlag in a closed session, the Brown Act would have required this action to be disclosed to the public in open session, at the conclusion of the closed session.

In deciding if OCDA can prove beyond a reasonable doubt that this reliance on the “pending litigation” exception was a ruse or a pretext, we have to fairly and reasonably consider the following two legal points.

First, the open session requirements of Government Code section 54957.1(a)(5) apply only to actions taken as a result of a complaint or charges made against the affected City employee in accordance with Government Code section 54957, and only when an open session is requested by the affected employee. In this case, the affected employee is Barlag and he never made such a request. In *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876, a former employee of the community college challenged the decision of the college’s board of trustees to not renew her contract. The superior court ruled against her and she appealed, arguing that the board’s decision violated the Brown Act. The court of appeal rejected her argument and held that the open session requirement applies only to the portion of the meeting pertaining to specific complaints or charges brought against the employee. (*Furtado, supra*, at pp. 880-882.) And even then, the Brown Act only requires that the discussions take place in open session when requested by the affected employee. (*Ibid.*) The court went on to note that in drafting the Brown Act, “the Legislature has drawn a reasonable compromise, leaving most personnel matters to be discussed freely and candidly in closed session” (*Id.* at p. 882.)

In the present case, even if the City Council’s reliance on the pending litigation exception was a ruse, and its primary objective was to discuss Barlag’s employment, the discussion would only need to be held in an open session if it were a result of a complaint or charge brought against Barlag. Even then, the discussion would only need to be held in an open session if Barlag specifically requested that the complaint or charges be discussed in open session. While it could easily be argued that the City Council’s discussion came about as a result of a complaint or charge pertaining to Barlag’s recent personnel related decisions while at the helm of the GGFD, there is no indication whatsoever that Barlag requested a public airing of the grievance in an open session. Quite the contrary, there is every indication that Barlag wanted this matter resolved quietly and privately.

Accordingly, because there was no request by Barlag to discuss the complaints or charges in an open session, the requirements of Government Code section 54957.1(a)(5) do not apply, and OCDA cannot rely on this section to prove, beyond a reasonable doubt, that the City Council’s actions violated the Brown Act.

Secondly, we have to take into account the fact that the action taken by the City Council did **not immediately affect** Barlag’s employment status. The Brown Act only requires immediate reporting of a closed session action when the action immediately affects the employment status of the employee. In *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165, the plaintiff sued to block the Library Commission’s nomination of candidates for City Librarian. The plaintiff argued that the Brown Act (as well as the City of San Francisco’s *Sunshine Ordinance*) required that the Commission’s discussion be held in open session. In the alternative, the plaintiff argued that the Commission’s decision, made in closed session, should have immediately been reported out. In rejecting the plaintiff’s arguments, the court of appeal reasoned that because the Commission’s decision was to *nominate* candidates for City Librarian, only one of which was to be *appointed* at a later date by the mayor, the closed session discussion was proper and the action taken need not be reported out. The court of appeal noted that the “plain reading of these statutes compels the conclusion that only actions taken in closed session which *immediately* affect the employment status of a public official are to be reported the same day.” (*Gillespie, supra*, at p. 1175; *emphasis in original.*) The court of appeal relied heavily on an Attorney General’s Opinion (*Compensation of Hospital Administrator*, Attorney General’s Opinion No. 79-1110, 63 Ops.Cal.Atty.Gen. 215 (1980)) which concluded that “to require a public report on all ‘action taken’ in executive [closed] session on ‘personnel matters’ could effectively destroy the ‘personnel exception.’” (*Id.*, at p. 1176, quoting from page 220 of the Attorney General’s Opinion.)

In the present case, the action taken by the Garden Grove City Council was to authorize the City Manager to offer a new position with the City to Barlag, and this new position was to take effect at a future date after the closed session meeting. In addition, the offer of new employment to Barlag was conditional upon Barlag resigning as Fire Chief of GGFD and waiving any legal claims he may have against the City of Garden Grove. Like the decision made by the library commission in *Gillespie*, there is an argument to be made that the action taken by the Garden Grove City Council did not *immediately* affect the employment status of Barlag. The new employment of Barlag did not take effect immediately on any of the days of the closed session meetings, and the terms and conditions still needed to be agreed to by Barlag. As a result, even if the City's pending litigation argument was simply a ruse to take action on Barlag's employment status, the way in which the City Council went about it, whether intentional or not, appears to give the City Council a defense against the applicability of the reporting requirements of the Brown Act. Consequently, because the courts have been inclined to show a deference to a City Council handling employment matters in closed sessions, the conclusion that the Garden Grove City Council's action was primarily an employment decision, and only tangentially related to a pending litigation, and the OCDA would likely come up short of being able to prove a violation of the Brown Act beyond a reasonable doubt.

Accordingly, it is our opinion that there is a lack of sufficient evidence to prove a violation of the Brown Act beyond a reasonable doubt, and therefore, it will not be appropriate for the OCDA to file criminal charges alleging a violation of the Brown Act under the anticipated/pending litigation exception.

OCDA'S FINDINGS AND CONCERNS

OCDA believes it is necessary to make findings and recommendations. It is the position of OCDA that the actions taken by the City of Garden Grove in this instance violated the spirit and intent of the Brown Act. Even though there are no litigation remedies available to us, it is important that the OCDA makes public findings.

We do not believe the City Attorney's legal analysis on this topic to be convincing. It is our opinion that there is a reasonable inference that the City Council simply used the pending litigation exception as a ruse or a pretext to get around the disclosure requirements of the Brown Act with respect to actions taken in closed session which affect employment status in accordance with Government Code section 54957.1(a)(5).

Our investigation concluded, and the City of Garden Grove has acknowledged, that it is the City Manager who makes employee decisions as to hiring, evaluation and termination, not council members. Garden Grove's City Council only governs the appointment of the City Manager. All other employee decisions are made by the City Manager. In that the City Manager makes employee decisions, previous California Attorney General Opinions have held that in those situations, the governing body (city council) has no authority to meet in closed session concerning the staff. (Attorney General's Opinion, 85 Ops.Cal.Atty.Gen. 77 (2002).)

What we have learned in our investigation is as follows:

- Closed session held Aug. 12, 2014, under the "Anticipated Litigation" exception, discussed employment status of Barlag.
- Closed session held Aug. 26, 2014, under the "Anticipated Litigation" exception, discussed employment status of Barlag.
- Closed session held Sept. 23, 2014, under the "Anticipated Litigation" exception, discussed employment status of Barlag.

- Councilmembers in closed session discussed the creation of a job that previously did not exist, Public Safety Administrative Director.
- Councilmembers in closed session discussed Barlag being made the Public Safety Administrative Director effective immediately upon signing the agreement.
- Councilmembers, along with the City Manager and City Attorney, in closed session did not discuss nor remember discussing the fact that Barlag was an “at-will” employee.
- Councilmembers, along with the City Manager and City Attorney, in closed session did not discuss nor remember discussing if there were any merits to Barlag’s threat of litigation.
- No councilmember in closed session, along with the City Manager and City Attorney, objected to any of the above-described actions.
- On Sept. 30, 2014, Barlag signed “CITY OF GARDEN GROVE SETTLEMENT AGREEMENT AND GENERAL RELEASE”.
- On Sept. 30, 2014, Barlag started receiving salary and benefits in the position of Public Safety Administration Officer.
- Until public and press inquiries, there was no requirement that Barlag report to work in the City of Garden Grove.
- The position of Public Safety Administration Officer was not officially created until the city council meeting on Nov. 25, 2014, in open session, on a vote of four votes for and one against.

It is our perception that the “Anticipated Litigation” exception to the Brown Act was manipulated in such a way to allow the Garden Grove City Council to go into closed session to allow the City Council to delay the public from finding out what their elected officials were doing with respect to the resignation of Barlag as Fire Chief, the creation of a highly paid new position, and the selection of Barlag to that position.

Based on the entirety of all the available evidence in this case, there appears to be reasonable cause to believe that the reliance by the former City Attorney and the former City Manager on this exception to the Brown Act requirement of Open Public Meetings is merely a pretext to keep this situation a secret for reasons not allowed under the Brown Act. Barlag was an “at-will” employee who could be terminated without cause. It is true that Barlag, just like any other “at-will” employee, could not be terminated for an “illegal cause.” An employee’s national origin, ethnic background, or sexual orientation are some of the examples of “illegal causes.” However, in Barlag’s situation, the need for terminating his employment had nothing to do with any illegal cause. In addition, the City Council was also aware of an independent audit prepared by an outside consulting firm showing ample cause to doubt the effectiveness of Barlag as the Fire Chief of GGFD.

RECOMMENDATIONS


In light of the above detailed facts and circumstances, OCDA is recommending that the Garden Grove City Council consider adopting the following steps in the interest of promoting public transparency:

1. To record any and all future closed session meetings for a period of at least two years, effective immediately, in accordance with the provisions of Government Code section 54690;
2. If a new employment position is created in the future by the Garden Grove City Council, the City Council commits to disclose the creation of the new position in public before filling the position;
3. The Garden Grove City Council commits to refrain from relying on the ‘pending litigation’ exception, provided for in Government Code Section 54956.9, to create a new City position in closed session, without reporting this action immediately at the conclusion of the closed session meeting; and

4. The City audits the work and performance of the newly created "Public Safety Administrative Officer" to assure the public that the position is not a "no show" job.

Accordingly, the OCDA is closing its inquiry into this matter.


EBRAHIM BAYTIEH
Assistant District Attorney


MICHAEL LUBINSKI
Senior Assistant District Attorney

12/07/2014

To: Whatever Law Enforcement Agency or Agencies this may concern

RE: Allegations of Criminal Activity involving the Garden Grove City Council, The Garden Grove City Manager and the former Fire Chief of the Garden Grove Fire Department

Gentleperson(s):

Please find the attached information and document(s) that contains what we citizens believe are the violations of various municipal, penal and government codes as allegedly committed by our current city council, city manager & the former GGFD Fire Chief.

The following allegations were raised at the Garden Grove City Council Meeting on 11/25/2014, as they stand to date regarding the above captioned matter. This appears to be an orchestrated conspiracy of an abuse of power, a misuse of public monies and a violation of the public trust, as a direct and/or indirect result attributed to the hiring of the mayor's son.

1. The mayor and city manager coerced/extorted/bribed the former GGFD fire chief into processing and hiring the mayor's son. It is our understanding that the mayor and our city manager allegedly interviewed Dave Barlag and another candidate for the position of Fire Chief. It is also our understanding that the mayor and the city manager allegedly told both candidates that the mayor's son would go through the hiring process and even if he failed one, some or all of the tests, the mayor's son would be hired, period. It has also been alleged that one of the candidates said absolutely not and when Mr. Barlag agreed to go along with the mayor and the city manager's scheme, our fire department had a new chief in Mr. Barlag. (Attachment 1 and Attachment 2, page 5) Cal. Civil Code 52.1, PC 67, PC 67.5, PC 68, PC 518 and PC 182.

2. The mayor's son received special advantages beyond that which are/were available to any other citizen and the entire city council remained silent and took no action against it. (Attachment 2, pages 2 & 3, Attachment 3) GGMC 2.02.040, 2.02.110 and PC 182.

3. An obvious conflict of interest developed wherein the mayor continued to participate, make decisions, insert opinions, give direction(s) and vote on issues that directly and/or indirectly involved his son while the entire city council remained silent and took no action against it. (Attachment(s) 3, 4, 5 & 6) GGMC 2.02.020, 2.02.040, 2.02.060.A, D.2, 3 & 4, 2.02.070.A, 2.02.080, 2.02.110 and PC 182.

Page 2

4. The city council, city manager and the former GGFD fire chief knew or should have known that it was and remains negligent in the hiring and retention of the mayor's son. (Attachment(s) 3, 7 & 14) GGMC 2.02.020, 2.02.040, 2.02.060.A.D.3, 2.02.070.A, 2.02.080, 2.02.090.C, 2.02.110, Gov. Code 835(a) and PC 182.

5. The entire city council and city manager intentionally violated the Brown Act when they failed to report to the public their closed session activities/actions on 8/12/14, 9/23/14 and 10/14/14. (Attachment(s) 4, 5, 8 and 9) GGMC 2.02.020, 2.02.060.A.D.3, 2.02.080, 2.02.090.C, 2.02.110, Gov. Codes 54950, 54950.5, 54952.6, 54956.9, 54957.1, 54959 and PC 182.

6. The entire city council and city manager conspired to violate the Brown Act, commit fraud, embezzlement and theft when authorizing and entering into the agreement with the former GGFD fire chief under the guise of a pending lawsuit. (Attachment(s) 8, 10, 11, 12 and 13) GGMC 2.02.020, 2.02.060.A.D.3, 2.02.080, 2.02.090.C, 2.02.110, Gov. Codes 54950, 54950.5, 54952.6, 54956.9, 54957.1, 54959, PC 424, PC 425, PC 426, PC 484, PC 503, PC 504 and PC 182. Mr. Barlag may have also committed extortion by taking advantage of his position with the mayor and city manager when negotiating his agreement with the city under the guise of a pending lawsuit. (Attachment 10) PC 484 and PC 518.

7. The current city council, city manager and former GGFD fire chief appear to be in violation of the Federal and State RICO statutes in that the above allegations seem to be an ongoing, willful and continuing pattern. PC 186, Title 18 U.S.C. § 1961 and PC 182.

There may be other municipal codes, penal codes, government codes, state and/or federal laws that have been violated or may be more on point reference the above allegations. Additional evidence may have to be collected but I believe that we have enough to submit to the appropriate State or Federal law enforcement agency or agencies to initiate an investigation.

Respectfully submitted,

Tony Flores
Garden Grove, CA 92845
714-222-7421

- Attachment 1: E-mail to Garden Grove Council Members, 7/07/2014
- Attachment 2: Management Partners Summary, 10/14/2014
- Attachment 3: O.C. Register Article, 8/22/2014
- Attachment 4: E-mail exchange with Maria Stipe, 8/19/2014 - 9/10/2014
- Attachment 5: E-mail exchange with City Council, 8/19/2014 – 9/19/2014, City Council Agenda 8/12/2014
- Attachment 6: City of Garden Grove Nepotism Policy Memo, 9/09/2014
- Attachment 7: Government Code 835
- Attachment 8: Ethics Training certificates signed by the Garden Grove City Council
- Attachment 9: E-mail exchange with Chris Phan, 11/12/2014
- Attachment 10: Barlag/City of Garden Grove Agreement, 9/30/2014
- Attachment 11: Voice of O.C. Article, 11/17/2014
- Attachment 12: Garden Grove City Council Agenda, 11/25/2014
- Attachment 13: City of Garden Grove Adoption of Resolution of Barlag Agreement Memo, 11/25/2014
- Attachment 14: Voice of O.C. Article, 8/08/2013

From: Flores, Tony (ITS)
Sent: Monday, July 07, 2014 9:13 AM
To: 'Chris Phan (vote4chrisphan@gmail.com)'; 'chrisp@garden-grove.org'; 'Kris Beard (kbeard@ci.garden-grove.ca.us)'; 'dinan@garden-grove.org'; 'Kathy Bailor (kathyb@ci.garden-grove.ca.us)'
Cc: 'nbrennan@ocregister.com'; 'chaire@ocregister.com'; 'bradyrhoades@yahoo.com'; 'Brhoades@localnewspapers.org'; 'thyanhvo@gmail.com'; 'letters@ocregister.com'; 'Artpedroza@gmail.com'; 'oped@latimes.com'; 'mwisckol@ocregister.com'; 'shernandez@ocregister.com'; 'tony.flores08@hotmail.com'
Subject: Lapse in Garden Grove fire inspections raises questions July 6, 2014

Mr. Beard, Mr. Phan & Ms. Nguyen,

I'm thinking that if the 'leadership' in Garden Grove were less concerned about trade and economic sanctions and/or a weapons embargo in Vietnam and paid more attention to what is going on in your own city, one or more of you councilmembers may have been aware of this particular issue.

In the past we as concerned citizens of Garden Grove have brought to the council's attention budget, infrastructure, redevelopment, harassment of women, discrimination of minorities and public safety issues (to name a few) and the answer to me and other citizens has been "we weren't aware of that".

As of today not one of you can say that you are "not aware" of the hiring of the mayor's son as a fireman and under what alleged circumstances he became employed. It is my understanding that the mayor and our city manager allegedly interviewed Dave Barlag and another candidate for the position of Fire Chief. It is also my understanding that the mayor and the city manager allegedly told both candidates that the mayor's son would go through the hiring process and even if he failed one, some or all of the tests, the mayor's son would be hired, period. It has also been alleged that one of the candidates said absolutely not and when Mr. Barlag agreed to go along with the mayor and the city manager's scheme, our fire department had a new chief in Mr. Barlag.

Since you are currently on the Garden Grove City Council it is my belief that it is your responsibility and your duty to find out if the above accusations and allegations are true or not true. It is also my belief that the public should have access to any and all records, recordings and documents of whatever investigation may or might take place regarding the entire hiring process of the mayor's son onto the Garden Grove Fire Department. I'm certain that my fellow citizens would also like to know the outcome of your investigation regarding the mandated hazmat inspections of 2012.

Respectfully submitted for your review, file and/or action,

Tony Flores

714-222-7421

Lapse in Garden Grove fire inspections raises questions

BY MARTIN WISCKOL and SALVADOR HERNANDEZ / STAFF WRITERS

Published: July 6, 2014 Updated: 8:34 p.m.

The Garden Grove Fire Department failed to conduct mandatory hazardous materials inspections in 2012, despite filling out records that made it appear the work had been done.

Three City Council members, who had not been informed of the lapse before being contacted by the Register, said they will consider refunding fees that businesses paid to cover the cost of inspections that were never done.

State law requires that businesses with toxic or flammable materials submit detailed annual reports of the types, quantities and locations of chemicals. A fire department or other oversight agency is then required to verify that information with inspections every three years.

“There is no on-site verification of chemical inventories,” reads a scathing audit of the city’s 2012 program by the county Health Care Agency, which enforces compliance by seven city fire departments that administer hazmat inspections.

Garden Grove has since brought its inspection program into compliance, said Denise Fennessy, director of the Health Care Agency’s environmental health program. However, she said her agency recently received additional documents raising questions about the city’s 2012 hazmat program and is considering whether further evaluation is needed.

The inspections affect how certain fires are fought and help minimize the danger to firefighters and surrounding communities.

David Barlag, who was named acting fire chief in February 2012 and made permanent chief that November, said 2012 was a transitional period for the department, with budgetary pressures forcing a large reduction of administrative staff and a change of who was running his department's hazmat program.

"If we're guilty of anything, we're guilty of doing a bad job," Barlag said. "We were down a lot of people. We had a lot of balls in the air."

Misrepresentation?

Nearly 100 Garden Grove businesses were scheduled for mandated hazmat inspections in 2012. A copy of the fire department's inspection database obtained by the Register indicates that those inspections were done.

All of the 2012 inspection data were entered over a five-day period in January 2013, the database shows. That was just weeks before the Health Care Agency was to conduct its periodic audit of the city's inspections.

The database says the inspections were performed by interns, inspectors and firefighters. But nine firefighters listed as having done some of those inspections told the Register they never performed complete hazmat inspections in 2012, and most said they'd never been trained to do that work.

"If there was a misunderstanding or misinterpretation, that's human," Councilman Chris Phan said. "But if there was intentional misrepresentation, I would be very concerned."

Some firefighters said they believe there was deliberate misrepresentation of the inspection data by fire department brass. The issue comes as firefighters have grown critical of the chief and cast a vote of no-confidence in him late last month.

Former department Capt. Dennis Standrod said firefighters were never told to conduct hazmat inspections in 2012, even though the database attributes some of the inspections to firefighters.

"I've been there for 32 years and never seen a hazmat inspection done by (firefighters)," said Standrod, who retired from the department in 2013.

But Barlag said he thought the department had done adequate hazmat inspections in 2012 and blamed any problems with the inspection reports on a misunderstanding.

The fire department, he explained, conducts two kinds of business inspections. The first is a general fire safety inspection, done for all city businesses, that checks for adequate and unobstructed exits, on-site fire extinguishers, sprinkler systems and other basic fire safety provisions.

Businesses that keep large amounts of toxic or flammable substances must also have on-site hazmat inspections to ensure the accuracy of their lengthy disclosure reports that detail the types, quantities and locations of chemicals.

All Garden Grove firefighters are trained to do the general fire safety inspections. Until 2012, hazmat inspections were done separately by a handful of specially trained personnel.

But that year, Garden Grove included abbreviated hazmat inspections as part of the general fire safety inspections. Those cursory inspections checked only that the businesses had filed their hazmat disclosures and had adequate storage and containers, records show. They did not verify what kind of chemicals were on site, how much or where – all of which had been key safety components of inspections before and after 2012.

Inspection results are typically entered into the department's database within a day or two. But in 2012, database information was transferred from the general fire-safety inspections into vacant fields for hazardous-material disclosures and inspections over a five-day period in advance of the county's scheduled audit.

"In the process of preparing for the county audit, the person discovered the (hazmat) disclosure information was not entered into the disclosure areas," Barlag said.

Standrod, however, took issue with that explanation, saying that everyone above the rank of captain knew in 2012 that hazmat inspections were not done during the fire safety inspections. The hazmat section of those forms was to prompt a second, more thorough, inspection focused on the hazardous materials, he said.

“Everyone would know that,” Standrod said. “If anyone said they mistook that, that would be a blatant lie.”

Barlag defended the decision at the time to simply transfer the data from the general fire-safety inspections, saying he thought the information provided was adequate. But he acknowledged the shortcomings detailed by the county audit and said he has expanded the inspection criteria and has specially trained inspectors doing the hazmat work.

Possible refunds

Last year, after the Register reported that the Orange County Fire Authority failed to conduct hazmat inspections for hundreds of businesses between 2005 and 2012, the authority board voted to refund more than \$1.7 million in fees businesses paid to cover the cost of the work.

Garden Grove City Council members Phan, Kris Beard and Dina Nguyen said the council was never informed of the lack of hazmat inspections or the critical county audit.

All said they would look into whether refunds would be appropriate for the 92 businesses in the city that did not receive their scheduled 2012 inspections.

Businesses with hazardous materials pay fees of between \$200 and \$1,000 a year. That covers ongoing administration of the program as well as the inspections, which had been done every three years and are now done biannually.

Barlag said refunds would be inappropriate.

“We still administered the program,” he said. “The businesses were in our system. We didn’t charge for inspections – we charge for the program.”

That explanation didn't satisfy Nguyen.

"If you pay for the program and they don't do the inspections – which is part of the program – then why should you be paying?" she said.

City Manager Matthew Fertal did not return calls for comment.

PROTECTING LIVES

Hazmat inspections and disclosures are meant to keep the community informed about chemicals in the area, but the information is also vital for firefighters who may be called to extinguish fires in these businesses.

In August 2013, for example, firefighters with the Orange County Fire Authority had to adjust their strategy in fighting a Santa Ana warehouse fire because they had inadequate information about the chemicals inside.

The nail polish supply company that was burning contained drums of acetone, alcohol and nail polish remover, but the business had a history of not disclosing its storage of chemicals.

As a result, officials had to tackle the fire from the outside of the building because it would be too risky to send firefighters inside without knowing what was there. OCFA used both foam and water to extinguish flames that burned for more than six hours.

"If they know there are certain chemicals, they'll attack it differently," Standrod said. "For instance, spraying water on some things can make it worse."

Hennessy, the county director of environmental health, said the inspections are far from a bureaucratic exercise.

"It's for the safety of the firefighters, so they can fight the fire effectively and how it needs to be dealt with to protect the surrounding community," she said.

Standrod agreed.

“You’re talking about people’s lives,” Standrod said. “There’s always a calculated risk – the inspections add to the calculation.”

From: Flores, Tony (ITS)

Sent: Thursday, July 03, 2014 8:32 AM

To: 'Chris Phan (vote4chrisphan@gmail.com)'; 'chrisp@garden-grove.org'; 'Kathy Bailor (kathyb@ci.garden-grove.ca.us)'; 'Kris Beard (kbeard@ci.garden-grove.ca.us)'

Cc: 'nbrennan@ocregister.com'; 'chaire@ocregister.com'; 'bradyrhoades@yahoo.com'; 'Brrhoades@localnewspapers.org'; 'thyanhvo@gmail.com'; 'letters@ocregister.com'; 'Artpedroza@gmail.com'; 'oped@latimes.com'; 'mwiskol@ocregister.com'; 'tony.flores08@hotmail.com'

Subject: Firefighters submit vote of no confidence to Garden Grove chief July 2, 2014

Mr. Beard & Mr. Phan,

I wonder if one or both of you can break this pattern that our city’s public safety department(s) appears to keep experiencing under a certain mayor.

Firefighters submit vote of no confidence to Garden Grove chief

Union head cites “low morale and an erosion of trust.”

BY MARTIN WISCKOL / STAFF WRITER

Published: July 2, 2014 Updated: 4:58 p.m.

Garden Grove firefighters have cast a vote of no confidence in Fire Chief David Barlag, a move they hope will draw scrutiny to the department veteran’s performance.

“The vote of no confidence was based on lack of leadership, low morale and an erosion of trust between the firefighters and the chief,” said Scott Kuhlman, president of the Garden Grove firefighters union. “We hope they’ll consider removing the fire chief.”

Kuhlman declined to discuss specifics, but firefighters have complained about the promotion and hiring processes as well as past handling of the department’s hazardous-materials inspection program.

Barlag, who declined to comment, worked his way up the ranks since joining the department in 1986. He was named acting fire chief in February 2012 and

received the permanent appointment by City Manager Matthew Fertal in November 2012. Fertal could not be reached for comment.

Because of the firefighters' vote, Councilman Chris Phan said he would look into the department's conflicts.

"It gives me cause for concern when the rank and file doesn't respect its leadership," he said. "I'm not going to brush this under the rug."

Kuhlman said 51 of the 76 union members cast ballots and the vote was unanimous among those participating.

Earlier this year, firefighters at the Orange County Fire Authority also cast a vote of no confidence in their chief, Keith Richter. Then came a performance review by the authority, followed by Richter's announcement that he would step down.

However, that announcement followed a series of problems that received more public and media attention than anything yet to emerge from the Garden Grove Fire Department.

A rare instance of public controversy emerged last year over the Garden Grove Fire Department's hiring of Jeremy Broadwater, son of Mayor Bruce Broadwater. He was one of 10 firefighters hired out of 500 applicants, but city officials said he was treated the same as others seeking the job.

Respectfully submitted for your review, file and/or action,

Tony Flores

714-222-7421



October 14, 2014

**Summary of Interviews and Observations
Regarding the
City of Garden Grove Fire Department**

Background

Management Partners was engaged to assist the City Manager in identifying the issues that led to the vote of no-confidence in the Fire Chief by the Garden Grove Firefighters' IAFF Local 2005 (union). This report summarizes the interviews conducted by Management Partners' and our observations.

Management Partners did not conduct an investigation or audit of the Fire Department. The engagement was limited to identifying the issues leading to a vote of no-confidence. In a document authored by the union and submitted to the City Manager, the terms "investigation" and "audit" were used in reference to the interviews to be conducted by Management Partners. Additionally, in the Voice of OC articles about the hiring of Jeremy Broadwater, the statement is made that Management Partners is investigating his hiring and performance. This was not part of Management Partners' assignment.

Management Partners conducted a series of 21 confidential interviews (see Attachment A) and reviewed a number of documents (see Attachment B). Each interview included a set of open-ended questions and lasted approximately one hour. Chief officers (Fire Chief, Division Chiefs and Battalion Chiefs) were asked an additional set of questions aimed at delving into more detail about the working relationships between line officers and command staff. Fire personnel who were interviewed were told their comments would be confidential and aggregated with all interviews, and the interviews were not being conducted for the purpose of any disciplinary action. The questions asked in the interviews are listed in Attachment C.

Executive Summary

The Garden Grove Fire Department has a long history in California. The department was first established as a single-station volunteer fire department in 1926. Its first roster of full-time firefighters was established in 1955, allowing the department to operate on a 24-hour/7-day per week basis.

The Fiscal Year 2013-14 Adopted Budget shows the Garden Grove Fire Department as having a \$20,014,300 annual operating budget with 95 full-time sworn personnel, 4 full-time non-sworn

personnel, and 10 part-time personnel. The department is organized into six divisions: Fire Administration, Fire Suppression, Paramedics, Fire Prevention, Emergency Services, and Hazardous Materials. The department serves approximately 174,000 residents in Garden Grove, as estimated by the California Department of Finance.

The Fire Chief is a 28-year veteran of the City of Garden Grove Fire Department. Most interviewees were in agreement that he had a reasonable working relationship with the members of the department prior to being promoted to the position of Fire Chief. Following his appointment in November 2012, the Chief was reportedly unable to create an effective management team and the working relationship with employees began to quickly erode. The command staff as a whole has not operated in a cohesive manner and is not an effective management team. This situation has ultimately undermined the Chief's effectiveness.

This lack of a strong management team has been further exacerbated by a long-standing department culture that rarely disciplines its employees. In the words of several interviewees, "we have generally had weak fire chiefs and strong union leadership." The Fire Department's management environment was eroded significantly mid-year in 2013 when the Fire Chief altered a longstanding informal set of hiring practices and made a job offer to a candidate who had not been approved following an interview by an internal battalion chief interview panel. The candidate was Jeremy Broadwater, who is the son of the current Mayor. That job offer appears to have set into motion a host of actions by line personnel that range from claims of safety concerns about Firefighter Broadwater to accusing management staff of employing complex staffing schemes aimed at protecting him from non-compatible coworkers and ensuring that he passes probation. Interviewees stated that union leaders have been meeting with City Council members and Council candidates to share their view that the current Fire Chief should be replaced.

Key Issues from Interviews

1. The Fire Chief is perceived by most interviewees from the Fire Department as neither demonstrating a strong command presence nor developing strategies to improve the professional performance and accountability of the organization. Many Fire Department interviewees stated the Fire Chief and his command staff have failed to provide a vision for the organization and do not effectively advocate for the department.
2. Most Fire Department interviewees stated that the department rarely exercises discipline.
3. Nearly all Fire Department interviewees said they did not believe the Chief could repair the relationship with employees within the department. The theme of "poor morale" was consistently cited, with poor morale perceived as emanating from the Chief's actions, statements, and lack of leadership.
4. The union representatives and firefighters who were interviewed stated they view the Fire Chief's actions with regards to hiring Firefighter Broadwater as unethical and in



violation of the Fire Department's longstanding informal hiring practices. They said changes were made by the Chief in pre-hire screening practices regarding skills assessment scoring and the Battalion Chiefs' oral interview process. After making these changes they said Broadwater was then deemed qualified to be hired as a new recruit. Many cited the hiring of Jeremy Broadwater by the Fire Chief as the "final straw" that pushed the union to issue a vote of no-confidence, but it was not the only source of the employees' concerns about the Chief.

5. Several Fire Department interviewees stated they thought Firefighter Broadwater was being subjected to hazing and more detailed performance reviews than other probationary firefighters.
6. Several interviewees cited the lengths to which the Chief is going to make sure Firefighter Broadwater passes probation as special treatment.

Management Partners' Observations

1. **The Chief is not exercising appropriate managerial control.** Some chief officers cited the refusal of captains to teach at the fire academy that involved firefighter Broadwater. If they were given a direct order to train and refused, they should be subject to discipline. Another example reported to Management Partners was a firefighter who on more than one occasion failed to come to work, saying he forgot his work schedule, but he received no discipline. Later, that particular firefighter was given the opportunity to take the test for an engineer's exam (which in his absence he had missed) and was then promoted.
2. **The lack of disciplinary action suggests an internal culture problem.** A city department of any size will have individuals who are not performing as they should or are behaving in inappropriate ways. When that occurs, discipline is essential. Without discipline, teamwork is damaged, morale is affected, time is wasted by individuals who talk about the problems, a poor example is set for the remaining employees, and the city can incur liability. Allowing poor performance or bad behavior to continue sets a low standard for the organization.
3. **Changing the pre-hire screening practices when the Mayor's son was the person being evaluated, gives the appearance of favoritism.** If the hiring process was in need of modification, a better approach would have been for there to be a formal process of making the change, clarity about why the change was needed, and then a decision about what group of candidates would be subject to the changed process. None of that occurred in this case. Management Partners was told that the Fire Chief consulted with the Human Resources Department in advance of making these process changes and was advised the pre-hire screening practices were not required as they were then constituted and therefore could be changed by the Chief.



4. **The allegations that Firefighter Broadwater is being subjected to greater scrutiny than other probationary firefighters should be investigated separately.** Some individuals told Management Partners that Jeremy Broadwater was subjected to hazing and more detailed written performance evaluations than other probationary firefighters. He should be expected to meet the same high standards of the department and City of Garden Grove as other probationary firefighters.
5. **Unusual measures have been instituted by the Fire Chief to ensure that Firefighter Broadwater gets a fair performance evaluation while on probation and these measures have created problems.** As reported by several of the interviewees and verified by Management Partners, the measures involve the Chief bumping a Division Chief down to Battalion Chief, delaying the effective date of a promotion of a Captain to Battalion Chief, and moving a Captain in the Fire Prevention Bureau out to a fire station, all in the interest of providing an impartial environment in which Firefighter Broadwater could be evaluated. These changes promoted an assumption among Fire Department interviewees that the promotion of a Captain to Battalion Chief was based on his willingness to ensure Firefighter Broadwater passes his probationary period. By making changes to key staff positions to focus on one employee's success, the Chief's credibility is impaired with regard to treating all probationary employees equally.
6. **There appears to be a widely held impression that the union has a role in managing the department.** While this impression is not particularly unusual in a fire department, it shows a lack of strong leadership, lack of a cohesive command team at the top, and lack of the type of communications that would engage the union when appropriate. This perception of the union having such a strong role most likely did not originate with the current Chief. It is likely a result of past management approaches evolving in the department for many years.

Interview Comments by Topic

The following sections contain summaries of the key comments made by interviewees. The statements provided are not verbatim but are summaries of what was stated in interviews conducted by Management Partners. Union members who were interviewed reiterated what was stated in a memorandum submitted to the City Manager on July 1, 2014. It is reported that these issues have persisted for over two years (since the current Fire Chief was promoted into the position).

The Hiring of Probationary Firefighter Broadwater

1. The Fire Chief reportedly intervened with the hiring process and overturned the Battalion Chief interview panel's recommendation to not hire the Mayor's son Jeremy Broadwater.



2. Many cited this action by the Fire Chief as the "final straw" that pushed the union to issue a vote of no-confidence, but it was not the only source of the employees' concerns about the Chief.
3. The union leadership and many firefighters viewed the Fire Chief's actions with regard to hiring Firefighter Broadwater as unethical and inconsistent with longstanding departmental practices. Many interviewees cited this action as an indication of the Chief's willingness to consider only his own personal interests rather than the overall needs of the Fire Department.
4. It was reported by union members that when asked why he hired Broadwater, the Chief replied, "Everyone has a boss." These types of statements have further upset union membership and contributed to the overall sense of disillusionment with the Chief's performance.
5. To demonstrate their lack of support for the decision to hire Broadwater, fire captains in the Fire Suppression Division refused to teach at the fire academy that Broadwater attended. This action subsequently required a Chief Officer to conduct the academy instead.
6. Some interviewees stated that Broadwater has faced harassment and hazing during his probationary period as well as a higher level of scrutiny in the evaluation process than other probationary firefighters. Some interviewees stated that Broadwater has performed poorly during training, has a criminal record, and is unfit overall as a firefighter.

The Chief's Leadership

1. Union members believe the Fire Chief and his command staff have failed to provide a vision for the organization and do not effectively advocate for the department. The Chief is reported to have told the department that the future held the status quo.
2. Most Fire personnel who were interviewed said they view the Fire Chief as overly passive and primarily concerned about his personal gains, not the needs of the department.
3. One interviewee reported that the Chief has been slow to respond to employee grievances, while others reported the Chief complains the department is too weak on discipline yet does not hold employees accountable.
4. Firefighters who were interviewed expressed concerns that when first promoted the Chief inappropriately used meeting time to discuss his personal finances and divorce, rather than the direction the Fire Department is heading in the future.



5. Interviewees who are not in favor of the Fire Chief's dismissal stated he could be a better communicator and that his lack of communication skills could be a cause of his current problems within the Fire Department.
6. Some interviewees said the Fire Department has a history of "weak fire chiefs and strong union leadership."
7. One interviewee remarked that the current Fire Chief is the first Fire Chief to regularly put in a full work week over the past decade.

Department Culture

1. Interviewees commented that the Fire Department rarely imposes disciplinary procedures on its members. Instead of taking disciplinary action to address inappropriate behavior, firefighters are moved from one station to another.
2. Union members cited mistrust and low staff morale, and attributed most of that to the Fire Chief's actions in changing the testing process to hire Jeremy Broadwater and to a lack of leadership for the department.
3. Chief officers and line staff who were interviewed said that mistrust is pervasive among the command staff, that they do not show effective managerial leadership, and that some chief officers continue to undermine the Chief's efforts to be successful in his position.



Attachment A – List of Individuals Interviewed

1. City Manager Matt Fertal
2. Deputy City Manager Maria Stipe
3. Human Resources Director Laura Stover
4. Fire Chief Dave Barlag
5. Division Chief Jeff Spargur
6. Division Chief Nate Brady
7. Battalion Chief Chuck Green
8. Battalion Chief T.J. McGovern
9. Senior Fire Protection Specialist Sabrina Soltis
10. Senior Fire Protection Specialist Don Nguyen
11. Fire Department Secretary Svetlana Moure
12. Fire Captain Jeff Hanna
13. Fire Captain Bill Strohm
14. Fire Captain Jeff Wilkins
15. Fire Captain Keith Velotta
16. Fire Captain Paul Whittaker
17. Firefighter's Union President, Captain Scott Kuhlman
18. Fire Engineer Tim Crawford
19. Fire Engineer Scott Scherer
20. Firefighter Mark Mickelson
21. Firefighter Eric Norrdin



Attachment B – List of Documents Reviewed

- Garden Grove Fire Department Organization Chart
- Authorized Position List – 07/18/14
- Memorandum to Scott Kuhlman, President of Garden Grove Fire Fighters Local 2005 from Matthew Fertal, Garden Grove City Manager (*dated July 7, 2014*)
- Memorandum to Chief Barlag from Garden Grove Fire Fighters Local 2005 regarding the Chief no longer being considered a member (associate) in good standing(*no date provided*)
- Memorandum to Council Members from Garden Grove Fire Fighters Local 2005 announcing the vote of no-confidence in the Fire Chief (*no date provided*)
- Memorandum to Council Members from Garden Grove Fire Fighters Local 2005 regarding the study to be performed by Management Partners (*dated August 4, 2014*)
- Memorandum to Council Members from Garden Grove Fire Fighters Local 2005 regarding the Fire Chief's performance (*no date provided*)



Attachment C – List of Interview Questions

1. Please state your name, current position, number of years in that rank and number of years in the GGFD.
2. Describe the issues that led up to the vote of no confidence.
3. Is there a reason that the vote happened at this time, versus a few months ago or deciding to have the vote occur at some point in the future?
4. What obstacles exist that are preventing the development of a positive relationship between the Fire Chief and Company Officers (and other line staff)?
5. What activities or changes do you believe could be implemented to improve the relationship?
6. What resources or measures will be needed to make these improvements happen?
7. What could get in the way of improving the relationship?
8. Is there anything else you'd like to add in order to increase our understanding of the issues surrounding the vote of no confidence?

Supplemental Interview Questions for Chief Officers

1. Of the concerns and issues cited by the union membership (in the letter to the City Manager), which appear to have the most validity? Please give detailed specifics:
2. Which of these concerns and issues are not invalid? How so? (please be specific)
3. What methods do you currently utilize to communicate to employees directly? What indirect means do you employ?
4. What role do the Shift Battalion Chiefs fill regarding dissemination of information to their staff? (Do they hold regularly scheduled Officer's Meetings?)
5. Describe the relationships between the BCs and the Captains, compared to their relationships with the Fire Chief and Division Chiefs.
6. Are the administrative assignments (in Training and Fire Prevention) currently held by Captains, being managed effectively? Provide specifics.
7. Are there any other underlying issues that I should be aware of, that will aid in our understanding of the issues that led to the vote of no confidence?



Son of mayor called 'unsafe' as firefighter

Rookie Jeremy Broadwater has a criminal record and supervisors cite problems on the job.

BY MARTIN WISCKOL and SALVADOR HERNANDEZ / STAFF WRITERS

Published: Aug. 22, 2014 Updated: Aug. 23, 2014 12:21 p.m.

The son of Garden Grove Mayor Bruce Broadwater was hired as a city firefighter despite a criminal record, and his work there subsequent to his October hiring has drawn severe reprimands from his superiors, documents show.

Rookie firefighter Jeremy Broadwater's job performance has included potentially life-threatening mistakes on medical calls, according to internal department records obtained by the Register. Doubts about his abilities have resulted in him being removed from at least one fire call and have led a captain to call him "unsafe" and recommend his termination.

The department's handling of Broadwater was part of the reason the union firefighters cast a 51-0 vote of no confidence in Fire Chief David Barlag in June, and is one of the issues being examined in an ongoing independent audit of the department.

Fire Chief David Barlag did not return repeated calls from the Register. Jeremy and Bruce Broadwater also did not respond to requests for comment.

Multiple calls to City Manager Matthew Fertal resulted in two email responses that did not address the Broadwater hiring. He questioned whether Broadwater's colleagues are prejudiced against Broadwater, but did not elaborate.

Jeremy Broadwater, 37, was one of 10 new hires in October, from a field of 500 applicants.

Fellow firefighters and a citizen watchdog have complained about what they perceive as preferential treatment in hiring the mayor's son.

Between 1996 and 2000, Jeremy Broadwater was arrested by Garden Grove police on 10 occasions and was convicted of misdemeanor assault, resisting arrest, public drunkenness and shoplifting, court and police record show. While misdemeanors don't automatically disqualify a candidate for firefighter, some familiar with typical fire department hiring practices say the highly competitive firefighter job field makes it unlikely an applicant with such a record would be hired.

"There are a lot of qualified candidates for every job who probably don't have that kind of background," said Carroll Wills, spokesman for the California Professional Firefighters, a statewide organization that represents rank and file firefighters.

The firefighter application form asks about the job seeker's criminal history. Retired fire Capt. Dennis Standrod said he's never seen anyone convicted of a misdemeanor make it to the interview portion of the process.

"They screen them out before they even get to that part," said Standrod, who spent 32 years with the Garden Grove Fire Department and said he's served on at least 10 firefighter interview panels in three cities, including Garden Grove. "It's pretty well-known if you have anything on your record, you're not going to be hired."

In the wake of the no-confidence vote – in which the union cited low morale and lack of leadership – Fertil contracted with Management Partners for an investigation into firefighters complaints. City Councilman Chris Phan said the audit will include scrutiny of Broadwater's hiring and job performance.

"I would certainly be upset if somebody had a smoother road to a job because of who they knew or because of their connections," Phan said.

'Unsafe' in the field

On a June 13 call to attend to a 90-year-old man's complaints of chest pains, Broadwater reported the man's blood pressure and pulse were normal and stable, according to a captain's internal department report detailing the incident.

That would have resulted in a routine trip to the hospital. A second firefighter double-checked the vital signs, however, found the blood pressure high and the pulse irregular, and the man was rushed to the hospital.

The captain wrote that protocol had been changed for Broadwater because of his frequent errors, so that a second firefighter would routinely double-check his readings.

“He has a documented history of giving incorrect vitals and making numbers up,” the captain wrote.

Two captains and a battalion chief detailed eight incidents in reports obtained by the Register. In one incident, Broadwater began to move a fall victim without first checking for spinal damage, according to a supervisor. Other reports sent to department brass say he failed to wear gloves while testing blood and plugged the wrong attachments into a heart defibrillator.

“If FF (firefighter) Broadwater was placed in a situation where he would have to act independently, the patients would gravely suffer,” a second captain wrote.

A third captain, Jeff Wilkins, Broadwater’s direct supervisor for three months, recommended termination in the rookie’s six-month evaluation.

Wilkins, a 29-year department veteran, had earlier replaced Broadwater on a strike team assisting in an out-of-county fire because of safety concerns.

“He was doing things that were unsafe, things that would cause injury to himself, other firefighters and the public,” Wilkins said in an interview with the Register. “One of the things I’ve told (new firefighters) is, ‘I expect you to make mistakes, but I don’t expect you to make the same mistakes.’ And that seems to be an issue with this individual. In my opinion, no, it did not seem he was progressing.”

All four reports mention attitude issues. One captain describes “Broadwater staring me down in an aggressive manner. I truly felt uncomfortable with his demeanor and attitude.”

City Manager Fertal questioned the validity of the complaints, saying Broadwater's critics were predisposed to say bad things about him.

"It is my belief that certain evaluations were prepared with prejudice against Jeremy Broadwater," Fertal wrote in an email. In a follow-up email, Fertal declined to discuss Broadwater, citing the confidentiality of personnel issues.

Councilman Phan acknowledged that possibility and said he hopes the independent audit will get to the bottom of the conflict.

"I'm not there, so I don't know if it's a coordinated attack to smear Jeremy or if there's incompetence," Phan said.

'An excellent record'

Nepotism complaints arose shortly before the department hired Broadwater on Oct. 14.

He had worked as an unpaid intern in the fire department for two years; it's not uncommon for applicants to bolster their resume with internships, stints as volunteer firefighters or work with private ambulance companies. He'd been previously employed by the city in other jobs, most recently as a park ranger.

City code states that an applicant's efforts to be hired cannot be helped by being related to another city employee or council member.

John Clark, then-director of human resources for the city, said after the fire department hiring that Broadwater did not receive any advantage because of his family connections.

"Jeremy has been a full-time employee for six years and has an excellent record," Clark told the Register in November. "We knew him and knew what he could do."

Clark has since left the city and has been replaced by his second-in-command, Laura Stover. Stover did not return calls for comment.

Ellen Medalle of the Orange County Fire Authority's Human Resource Division attested to the high level of competition for firefighter jobs, noting that 1,353 people applied for 30 jobs in her agency in 2013. She said that a criminal history isn't an immediate disqualification, but that the department typically vets out those who have had disciplinary action.

"We're very particular and screen individuals that have behavioral problems or criminal histories," she said.

Garden Grove City Councilwoman Dina Nguyen, an attorney and former Superior Court clerk, said she didn't think applicants should be rejected simply because of convictions years before – and she spoke well of Broadwater.

"In my experience, the court provides people the opportunity to rehabilitate and become productive citizens," Nguyen said. "Half of the people who come out of the court system don't end up as successful as Jeremy. I think he's done well and become a productive citizen."

And reports of Broadwater's unreliable job performance?

"It's a departmental issue, and if he has performance issues, that should be addressed by his immediate superiors," she said.

Broadwater remains on the job, assigned to a Garden Grove station. His first-year probation period ends Oct. 14. Standrod said that roughly 30 percent of new firefighters are let go by the time they finish their probation.

City watchdog Tony Flores, who has been critical of the Broadwater hiring, is among those who want him given a close look before then.

"What happens if he hurts somebody?" Flores said. "He injures a citizen and it's not just the citizen, but the lawsuit that then gets filed against the city."

Contact the writer: mwisckol@ocregister.com



AGENDA

Garden Grove City Council
Regular Meeting

August 12, 2014

5:30 p.m.

Community Meeting Center

11300 Stanford Avenue, Garden Grove, CA 92840

Bruce A. Broadwater
Mayor
Dina Nguyen
Mayor Pro Tem
Steven R. Jones
Council Member
Christopher V. Phan
Council Member
Chris Beard
Council Member

GARDEN GROVE

AGENDA

Regular Meeting

GARDEN GROVE CITY COUNCIL

Community Meeting Center
11300 Stanford Avenue, Garden Grove, CA 92840

August 12, 2014

Closed Session

5:30 p.m.

ROLL CALL: COUNCIL MEMBER BEARD, COUNCIL MEMBER JONES,
COUNCIL MEMBER PHAN, MAYOR PRO TEM NGUYEN,
MAYOR BROADWATER

1. ORAL COMMUNICATIONS CLOSED SESSION MATTERS:

ADJOURN TO FOUNDERS ROOM

2. CLOSED SESSION:

2.a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation Pursuant to Government Code Section 54956.9(d)(2) (Two potential cases)

2.b. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8

Properties: 12361 Chapman Avenue, Garden Grove

City Negotiator: Matthew Fertal, City Manager

Negotiating Party: Ric Holderbaum

Under Negotiation: To obtain direction regarding the price and terms of payment for the disposition of the property.

ADJOURN TO COUNCIL CHAMBER

State of California)
County of Orange) SS:
City of Garden Grove)

-1-

8/12/14

I declare under penalty of perjury that I posted this Agenda at City Hall

on 8.7.14

Date Signature and Title

Meeting Assistance: Any person requiring auxiliary aids and services, due to a disability, to address the City Council, should contact the City Clerk's Office 72 hours prior to the meeting to arrange for accommodations. Phone: 714-741-5040.

Agenda Item Descriptions: Are intended to give a brief, general description of the item. The City Council may take legislative action deemed appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda.

Documents/Writings: Any revised or additional documents/writings related to an item on the agenda distributed to all or a majority of the Council Members within 72 hours of a meeting, are made available for public inspection at the same time (1) in the City Clerk's Office at 11222 Acacia Parkway, Garden Grove, CA 92840, during normal business hours; (2) on the City's website as an attachment to the City Council meeting agenda; and (3) at the Council Chamber at the time of the meeting.

Public Comments: Members of the public desiring to address the City Council are requested to complete a pink speaker card indicating their name and address, and identifying the subject matter they wish to address. This card should be given to the City Clerk prior to the start of the meeting. General comments are made during "Oral Communications," and should be limited to matters under consideration and/or what the City Council has jurisdiction over. Persons wishing to address the City Council regarding a Public Hearing matter will be called to the podium at the time the matter is being considered.

Manner of Addressing the City Council: After being called by the Mayor, you may approach the podium, it is requested that you state your name for the record, and proceed to address the City Council. All remarks and questions should be addressed to the City Council as a whole and not to individual Council Members or staff members. Any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the City Council shall be called to order by the Mayor. If such conduct continues, the Mayor may order the person barred from addressing the City Council any further during that meeting.

Time Limitation: Speakers must limit remarks for a total of (5) five minutes. When any group of persons wishes to address the City Council on the same subject matter, the Mayor may request a spokesperson be chosen to represent the group, so as to avoid unnecessary repetition. At the City Council's discretion, a limit on the total amount of time for public comments during Oral Communications and/or a further limit on the time allotted to each speaker during Oral Communications may be set.

PLEASE SILENCE YOUR CELL PHONES DURING THE MEETING.

COUNCIL MEMBERS: COUNCIL MEMBER BEARD, COUNCIL MEMBER JONES,
COUNCIL MEMBER PHAN, MAYOR PRO TEM NGUYEN,
MAYOR BROADWATER

Open Session

6:30 p.m.

ROLL CALL: COUNCIL MEMBER BEARD, COUNCIL MEMBER JONES,
COUNCIL MEMBER PHAN, MAYOR PRO TEM NGUYEN,
MAYOR BROADWATER

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

3. PRESENTATIONS:

- 3.a. Community Spotlight: Recognition of the 2014 Garden Grove Chamber of Commerce Man and Woman of the Year, Mark and Debbie Mahoney.
- 3.b. Presentation by Republic Services regarding donations to both the City of Garden Grove and the Garden Grove Community Foundation.

4. ORAL COMMUNICATIONS: (To be held simultaneously with the Successor Agency Oral Communications.)

4.a. Public Comments.

4.b. Council Member response to Public Comments.

5. WRITTEN COMMUNICATIONS: None.

RECESS

CONDUCT SUCCESSOR AGENCY BUSINESS

RECONVENE

-2-

8/12/14

COUNCIL MEMBERS: COUNCIL MEMBER BEARD, COUNCIL MEMBER JONES,
COUNCIL MEMBER PHAN, MAYOR PRO TEM NGUYEN,
MAYOR BROADWATER

6. CONSENT ITEMS: (Items 6.a. through 6.h. will be acted on simultaneously with one motion unless separate discussion and/or action is requested by a Council Member.)

6.a. Adoption of a Resolution in support of House of Representatives Bill 4254 (Royce) the "Vietnam Human Rights Sanctions Act."
(Action Item)

6.b. Acceptance of an easement for public street and highway purposes for a portion of property located at 12011 Ninth Street, Garden Grove.
(Action Item)

6.c. Authorize the issuance of Purchase Orders to Econolite Control Products and JTB Supply Company, Inc. for traffic control products.
(Cost: Econolite Control Products – not to exceed \$55,000; and JTB Supply Company – not to exceed \$75,000) (Action Item)

6.d. Approval of an Amendment No. 2 to the Agreement with 911 Vehicle, Inc., increasing the compensation for the installation and changeout of emergency equipment in police patrol vehicles. (Cost: not to exceed \$175,000) (Action Item)

6.e. Award of contract to J&G Industries, Inc. for the demolition of the former Black Angus Restaurant at 12900 Euclid Street, Garden Grove.
(Cost: \$89,900) (Action Item)

6.f. Receive and file minutes from the January 28, 2014, February 11, 2014, February 25, 2014, March 11, 2014, March 25, 2014, April 8, 2014, and April 22, 2014, meetings.
(Action Item)

6.g. Approval of warrants. (Action Item)

6.h. Waiver of full reading of Ordinances listed. (Action Item)

7. PUBLIC HEARINGS: None.

8. COMMISSION/COMMITTEE MATTERS: None.

9. ITEMS FOR CONSIDERATION: None.

-3-

8/12/14

COUNCIL MEMBERS: COUNCIL MEMBER BEARD, COUNCIL MEMBER JONES,
COUNCIL MEMBER PHAN, MAYOR PRO TEM NGUYEN,
MAYOR BROADWATER

10. ORDINANCES PRESENTED FOR SECOND READING AND ADOPTION:

10.a. Negative Declaration and Planned Unit Development No. PUD-005-2014. Zone change from R-1 (Single-Family Residential) to Planned Unit Development Residential Zone to allow the development of a 6-unit small-lot, single-family residential subdivision on a 36,900 square foot lot located at 13581-13591 Yockey Street, Garden Grove. (*Action Item*)

ORDINANCE NO. 2843, for second reading and adoption, by title only; entitled

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A NEGATIVE DECLARATION AND APPROVING PLANNED UNIT DEVELOPMENT NO. PUD-005-2014, CHANGING THE ZONING DESIGNATION FROM R-1 (SINGLE-FAMILY RESIDENTIAL) TO PLANNED UNIT DEVELOPMENT NO. PUD-005-2014

11. MATTERS FROM THE MAYOR, CITY COUNCIL MEMBERS, AND CITY MANAGER:

12. ADJOURNMENT:

The next Regular Meeting of the City Council will be held Tuesday, August 26, 2014, at 5:30 p.m. in the Community Meeting Center, 11300 Stanford Avenue, Garden Grove.

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal
Dept.: City Manager
Subject: ADOPTION OF AN ORDINANCE
AMENDING THE CITY'S NEPOTISM
POLICY

From: Maria Stipe
Dept.: City Manager
Date: September 9, 2014

OBJECTIVE

The purpose of this report is for the City Council to adopt an ordinance amending the City's Municipal Code nepotism policy and replace it with a nepotism policy that is consistent with the prior policy passed in 2000.

BACKGROUND

In May 2000, the City Council passed Ordinance No. 2517 establishing a nepotism policy for the City. The purpose of the policy was to guide the employment of relatives by the City. Under this policy, applicants for City Employment would not be hired and employees would not be placed into employee positions with respect to the following categories:

1. Where a person would be supervised by or be in the chain of command of a relative;
2. Where one person would participate in making, or advising on, employment decisions concerning a relative;
3. Where a relative of a City Council Member, City Manager, Department Director, or a primary assistant of the City Manager would also be employed by the City;
4. Where a relative of a member of any City Commission would be employed in any City position over which the Commissioner would have direct or indirect influence or control; or for reasons of supervision, morale, safety or security, it is determined that the work involves potential conflicts of interest;
5. Where a person would be employed in the same department, division, or facility as a relative and it is determined that job description for both entails work that could present a conflict of interest or lead to potential hazards in a greater degree for relatives than for non-relatives.

In June 2005, the City Council passed Ordinance No. 2661, which changed the City's nepotism policy so that no person could be disqualified from employment in the City, or be given special consideration for employment, by virtue of the fact that the person is a relative of another person employed in the City or a relative of any person serving as a

ORDINANCE AMENDING THE CITY'S NEPOTISM POLICY

September 9, 2014

Page 2

Council Member or Commissioner. The intent of this change was to allow all qualified candidates the opportunity to work for the City.

DISCUSSION

Several Council Members have requested that staff bring the City's former nepotism policy back for review and to consider reinstating the prior nepotism policy originally passed in 2000. As there are a number of employees, in various departments, who could be impacted by reinstating the former nepotism policy, current employees would be exempted from changes to the policy.

The attached nepotism ordinance follows the blueprint of the prior code sections with a couple of modifications that staff believes are appropriate to limit gaps in the prior ordinance. In subsection (a)(1), it is specified that the ordinance prohibits the hiring of a relative if the hiring could have a significant potential for relatives to be in the same chain of command in the future. In subsection (a)(5), language is added that relatives cannot be hired if they would be in the same department/facility and would have common areas of work responsibilities.

FINANCIAL IMPACT

None.

RECOMMENDATION

It is recommended that the City Council:

- Introduce and conduct the first reading of the attached ordinance amending provisions of Municipal Code Section 2.44.440 relating to the City's Nepotism Policy.

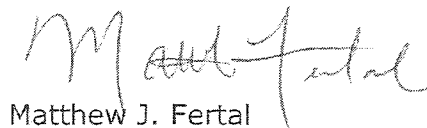


MARIA STIPE
Deputy City Manager

Attachment 1: Proposed Ordinance

Attachment 2: Current Policy (Ordinance No. 2661)

Recommended for Approval



Matthew J. Fertal
City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
AMENDING THE CITY'S NEPOTISM POLICY

City Attorney Summary

This Ordinance amends the regulations on nepotism in the City of Garden Grove. The Ordinance generally provides that (1) no relative of a City Council Member, the City Manager or a Department Director shall be eligible for full time employment with the City; (2) a person shall not be employed by the City if that person would be supervised by or in the chain of command of a relative; and (3) a person shall not be employed in the same department, division or facility as a relative if the job descriptions for both positions could present a conflict of interest, would involve common areas of work responsibilities or could otherwise lead to potential hazards in greater degree for relatives than for non-relatives. The Ordinance provides limited exceptions for part-time employment positions and provides that the employment of current employees is not affected by the change in the nepotism regulations.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Code Amendment.

Municipal Code Section 2.44.440 entitled "Nepotism Policy" is hereby amended in its entirety to read as follows:

"Section 2.44.440. Nepotism Policy.

(a) Nepotism Restrictions.

In order to minimize problems relating to employee supervision, morale, safety and security, it is necessary to regulate the employment of relatives by the City.

Applicants for City employment shall not be hired and employees shall not be placed into employee positions with respect to the following categories:

1. Where a person would be, or could in the future have a significant potential to be, supervised by or be in the chain of command of a relative;
2. Where an employee would participate in making, or advising on, employment decisions concerning a relative;

3. Where a relative of a City Council Member, City Manager, Department Director or a primary assistant of the City Manager would also be employed by the City;
4. Where a relative of a member of any City Commission would be employed in any City position over which the Commissioner would have direct or indirect influence or control; or for reasons of supervision, morale, safety or security, it is determined by the City Manager that the work involves potential conflicts of interest;
5. Where a person would be employed in the same department, division, or facility as a relative and it is determined that job descriptions or positions for both entail work that (a) could present a conflict of interest; (b) involve common areas of work responsibilities; or (3) could lead to potential hazards in a greater degree for relatives than for non-relatives.

The hiring authority shall be responsible for administering these nepotism regulations.

(b) Exception for Part-Time Employment.

1. Applicants for part-time positions of 1,000 hours per year or less who would otherwise be precluded from employment by subsection (a) may be hired on a case-by-case basis with the review and approval of the City Manager.
2. Notwithstanding the restriction of subsection (a)(3), current part-time employees falling within this category, initially hired prior to September 30, 2014, may be hired as full-time employees.

(c) Application of Nepotism Regulations.

Employees of the City who become relatives after the effective date of these provisions and do not conform to these nepotism regulations shall come into compliance with these provisions. The City will make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security or morale.

If no reasonable effort and solution can be found to alleviate the problem of supervision, safety, security or morale, the City Manager shall determine whether, and under what circumstances, if any, both employees may be permitted to remain in their then current positions. In making such a determination, the City Manager shall give primary consideration to the operational needs of the City, including interests of

economy, efficiency and effectiveness. The City Manager shall also consider the work history and seniority of the affected employees.

(d) Definitions.

"Relatives" includes: spouse; parent (including foster); sibling (including foster and step); children (including adoptive, foster or step); in-laws; grandparent or grandchild; aunt or uncle, niece or nephew; and any other legally related person living in the same household as the employee.

(e) Notification.

Employees shall be responsible for advising their immediate supervisor if they are related or become related to another City employee, Council Member or Commissioner.

(f) Miscellaneous.

1. To the extent that hiring of a relative of a City employee is not prohibited by this Chapter 2.44, no City official or employee shall participate in making, or advising on, employment decisions of any kind concerning a relative with regard to employment in the City.
2. Nothing herein shall prevent the Mayor or Member of the City Council from voting on warrants for payment occurring in the regular course of events as part of a consent calendar on the City Council agenda.
3. No person employed by the City as of September 30, 2014, whose initial hiring would have been precluded pursuant to this Chapter 2.44 had it been in effect at the time of such hiring shall, for that reason alone, be required to leave City employment. If, however, such employee leaves City employment subsequent to September 30, 2014, this Chapter 2.44 shall apply to the rehiring of such employee."

SECTION 2: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections,

subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 3: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

ORDINANCE NO. 2661

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
AMENDING PROVISIONS OF SECTION 2.44.440 RELATING TO
NEPOTISM POLICY

The City Council of the City of Garden Grove hereby ordains as follows:

Section 1. Code Amendment.

Municipal Code section 2.44.440 entitled "Nepotism Policy" is hereby amended in its entirety to read as follows:

"Section 2.44.440. Nepotism Policy.

- a) For the purpose of this section, a "relative" is defined as a spouse; parent (including foster); sibling (including foster and step); children (including adoptive, foster, or step); in-laws; grandparent or grandchild; aunt or uncle; niece or nephew.
- b) No city official or employee shall participate in making, or advising on, employment decisions concerning a relative with regard to employment in the city.
- c) No person shall be disqualified from employment in the City, or be given special consideration for employment, by virtue of the fact that the person is a relative of another person employed in the City or a relative of any person serving as a Council Member or Commissioner.
- d) Nothing herein shall prevent the Mayor or Member of the City Council from voting on warrants for payment occurring in the regular course of events as part of a consent calendar on the Council agenda."

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 28th day of June 2005.

ATTEST:

/s/ RUTH E. SMITH
CITY CLERK

/s/ WILLIAM J. DALTON
MAYOR

CALIFORNIA GOVERNMENT CODE
SECTION 835-835.4

835. Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:

- (a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or
- (b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.

California

Negligent Hiring

i. Elements: "An employer may be liable to a third person for the employer's negligence in hiring or retaining an employee who is incompetent or unfit." (Roman Catholic Bishop v. Superior Court, 42 Cal. App. 4th 1556, 1564-1565 (Cal. App. 4th Dist. 1996)). Negligence liability will be imposed upon the employer if it 'knew or should have known that hiring the employee created a particular risk or hazard and that particular harm materializes.' (Doe v. Capital Cities, 50 Cal. App. 4th 1038, 1054 (Cal. App. 2nd Dist. 1996)). As such, 'California follows the rule set forth in the Restatement Second of Agency section 213, which provides in pertinent part: 'A person conducting an activity through servants or agents is subject to liability for harm resulting from his conduct if he is negligent or reckless:...(b) in the employment of improper persons or instrumentalities in work involving risk of harm to others[.]' (Ibid.)' (Evan F. v. Hughson United Methodist Church, 8 Cal. App. 4th 828, 836 (Cal. App. 3rd Dist. 1992))." Delfino v. Agilent Technologies, Inc., 145 Cal. App. 4th 790, 815 (Cal. App. 6th Dist. 2006). Further, liability for negligent supervision and/or retention of an employee is one of direct liability for negligence, not vicarious liability. Id.

b. Negligent Retention

i. Elements: See above.

**City of Garden Grove
Public Service Ethics Education
Proof of Participation Certificate**

Course/Session Title: **AB 1234 Training, 2011**
Course Date & Time: Location: **November 16, 2011, 4:30– 6:30 p.m.**
Eligible Credit: **Two (2) Hours**
Provider: **Thomas F. Nixon, Esq. and James H. Eggart, Esq.**

Satisfies California State Law Requirement for Two (2) Years

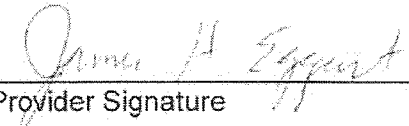
To be completed by provider:

The above course was:

- An overview course on all public service ethics issues necessary to satisfy the requirements of Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- A course on one or more of the following ethics subtopics contemplated by Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites ("perks") of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members; and/or
- General ethical principles relating to public service.



Provider Signature



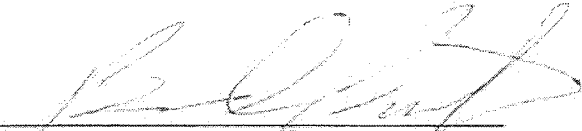
Provider Signature

To be completed by participant:

By signing below, I certify that I participated in the activity described above and am entitled to claim 2 ethics education credit hour(s).



Participant Name (print)



Signature

NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the custodian for such records at your agency. In addition, we recommend you and make a copy of this proof of participation for your own records to retain for at least five years. These certificates are only available at this program; duplicates will not be issued.

Public Service Ethics Education Online Proof of Participation Certificate

Date of Completion: Dec 06, 2011

Training Time*: 1 hr. 54 min.

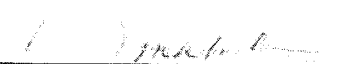
This course is an overview course on all public service ethics issues necessary to satisfy the requirements of Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, including the following:

- Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites ("perks") of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members; and
- General ethical principles relating to public service.

The Fair Political Practices Commission and Attorney General have reviewed this course for course sufficiency and accuracy.



By signing below, I certify that I fully reviewed the content of the entire online AB 1234 course approved by the Attorney General and Fair Political Practices Commission and am entitled to claim two hours of public service ethics law and principles credit.


Participant Signature

DINA NGUYEN

Participant Name

CITY OF GARDEN GROVE

Agency Name

*NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the custodian for such records at your agency. In addition, we recommend you make a copy of this proof of participation for your own records to retain for at least five years. To preserve the integrity of the online certification process; **these certificates are only available upon completing the online session.** * To satisfy AB 1234 requirements, this certificate must reflect that the public official spent two hours or more reviewing the materials presented in the online course. If the certificate reflects less than two hours, the participant should have on file additional certificates demonstrating that the official has satisfied the entire two hour requirement.*

City of Garden Grove
Public Service Ethics Education
Proof of Participation Certificate

RECEIVED
CITY OF GARDEN GROVE
CITY CLERK'S OFFICE

2013 SEP 13 P 1:53

Course/Session Title: **AB 1234 Training, 2013**
Course Date & Time: Location: **September 13, 2013, 8:30- 10:30 a.m.**
Eligible Credit: **Two (2) Hours**
Provider: **Thomas F. Nixon, Esq. and James H. Eggart, Esq.**

Satisfies California State Law Requirement for Two (2) Years

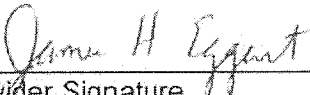
To be completed by provider:

The above course was:

- An overview course on all public service ethics issues necessary to satisfy the requirements of Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- A course on one or more of the following ethics subtopics contemplated by Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites ("perks") of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members; and/or
- General ethical principles relating to public service.



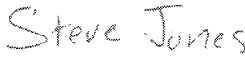
Provider Signature



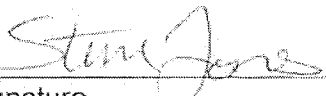
Provider Signature

To be completed by participant:

By signing below, I certify that I participated in the activity described above and am entitled to claim 2 ethics education credit hour(s).



Participant Name (print)



Signature

NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the custodian for such records at your agency. In addition, we recommend you and make a copy of this proof of participation for your own records to retain for at least five years. These certificates are only available at this program; duplicates will not be issued.

City of Garden Grove
Public Service Ethics Education
Proof of Participation Certificate

RECEIVED
CITY OF GARDEN GROVE
CITY CLERK'S OFFICE

2013 SEP 13 P 1:53

Course/Session Title: **AB 1234 Training, 2013**
Course Date & Time: Location: **September 13, 2013, 8:30– 10:30 a.m.**
Eligible Credit: **Two (2) Hours**
Provider: **Thomas F. Nixon, Esq. and James H. Eggart, Esq.**

Satisfies California State Law Requirement for Two (2) Years

To be completed by provider:

The above course was:

- An overview course on all public service ethics issues necessary to satisfy the requirements of Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- A course on one or more of the following ethics subtopics contemplated by Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites ("perks") of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members; and/or
- General ethical principles relating to public service.



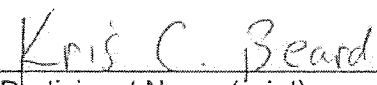
Provider Signature



Provider Signature

To be completed by participant:

By signing below, I certify that I participated in the activity described above and am entitled to claim 2 ethics education credit hour(s).



Participant Name (print)



Signature

NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the custodian for such records at your agency. In addition, we recommend you make a copy of this proof of participation for your own records to retain for at least five years. These certificates are only available at this program; duplicates will not be issued.

RECEIVED
CITY OF GARDEN GROVE
CITY CLERK'S OFFICE
SEP 30 A 10:09

City of Garden Grove
Public Service Ethics Education
Proof of Participation Certificate

Course/Session Title: **AB 1234 Training, 2013**
Course Date & Time: Location: **September 24, 2013**
Eligible Credit: **Two (2) Hours**
Provider: **Thomas F. Nixon, Esq.**

Satisfies California State Law Requirement for Two (2) Years

To be completed by provider:

The above course was:

- An overview course on all public service ethics issues necessary to satisfy the requirements of Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- A course on one or more of the following ethics subtopics contemplated by Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.
- Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites ("perks") of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members; and/or
- General ethical principles relating to public service.




Provider Signature

To be completed by participant:

By signing below, I certify that I participated in the activity described above and am entitled to claim 0.2 ethics education credit hour(s).

Chris Phan
Participant Name (print)



Signature

NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the custodian for such records at your agency. In addition, we recommend you make a copy of this proof of participation for your own records to retain for at least five years. These certificates are only available at this program; duplicates will not be issued.

From: [vote4chrisphan <vote4chrisphan@gmail.com>](mailto:vote4chrisphan@gmail.com)
Date: November 12, 2014 at 10:13:09 PM PST
To: <Anthony.Flores@portsamerica.com>
Subject: RE: City of GG - GGFD 11/12/14 GGCouncil
Reply-To: [vote4chrisphan <vote4chrisphan@gmail.com>](mailto:vote4chrisphan@gmail.com)

Tony,

The quote below was taken out of context. I stated to her I did not know which part of the Brown Act she was referring and I needed to review the section she was citing before I could accurately opine. The discussion took place on my Bluetooth while I was driving.

Chris

Sent from my T-Mobile 4G LTE Device

From: Anthony Flores
Sent: Wednesday, November 12, 2014 6:42 PM
To: Chris Phan (vote4chrisphan@gmail.com); chrisp@garden-grove.org; bruceb@garden-grove.org; kbeard@ci.garden-grove.ca.us; Jones4gg@gmail.com; stevej@garden-grove.org; dinan@garden-grove.org; marias@ci.garden-grove.ca.us; [Kathy Bailor \(kathyb@ci.garden-grove.ca.us\)](mailto:kathybailor@ci.garden-grove.ca.us)
Cc: mwisckol@ocregister.com; shernandez@ocregister.com; chaire@ocregister.com; bradyrhoades@yahoo.com; Brhoades@localnewspapers.org; 'Thy Vo'; clam@ocweekly.com; letters@ocregister.com; johnandkenKFI@kfiam640.com; bill@kfi640.com; MichelleKube@iheartmedia.com; slbutler@cbs.com; brianholt@clearchannel.com; raylopez@clearchannel.com; tony.flores08@hotmail.com
Subject: City of GG - GGFD 11/12/14 GGCouncil

Mr. Phan,

I write to you to express my extreme disappointment in you and the other council members in your apparent lack of action along with your collective, questionable and suspect handling of the above captioned matter associated with the below list of e-mails. And if the below article is correct and accurate then your statement(s) regarding the Brown Act are in direct conflict with the first above attachment(s). In other words you appear to be lying or are you merely feigning ignorance of the Brown Act in an attempt avoid any and all responsibility, transparency and ultimate liability in this sordid predicament?

I believe that you, the other council members and our city manager owe the citizens of Garden Grove an explanation.

Respectfully submitted,

Tony Flores
WGG, CA 92845
714-222-7421

Watchdog Calls Out Garden Grove for Withholding Records

By THY VO | Posted: Thursday, October 30, 2014 1:00 pm

The First Amendment watchdog group Californians Aware is calling on the Garden Grove City Council to publicly apologize under threat of legal action for a violation of the state's open meetings law, after it withheld an investigative report on the fire department last week.

At the Oct. 14 City Council meeting, council members received a written report investigating management issues in the fire department.

The highly-anticipated report, which council members said would be disclosed at the meeting, details a lack of confidence in former Fire Chief Dave Barlag and frustration at the hiring of Mayor Bruce Broadwater's son Jeremy as a firefighter.

The issue arose when a Voice of OC reporter asked for the report at the meeting, City Clerk Kathy Bailor said it would be available the next morning at city hall.

The next day, Bailor acknowledged that the document was public but said the report would be available only after fire union representatives had received it, at the request of City Manager Matthew Fertal.

"My city manager has asked me not to release the report until the [fire] union receives it, as a courtesy to them," Bailor said.

According to the Brown Act, agendas and other writings, except for those exempt from public disclosure, that distributed to the council should be available to the public upon request, without delay.

The reporter and other members of the public received the report by email at 4:30 pm, nearly a day after it was distributed to the council.

Terry Francke, general counsel for CalAware and a consultant for Voice of OC, has issued the city a cease and desist letter demanding the council make an unconditional commitment at an open, public meeting not to repeat such violations of the law.

Should the city council fail to respond within 30 days, Voice of OC and CalAware are prepared to take legal action to prohibit further violation of public records law and for the reimbursement of any legal fees.

Earlier this year, Voice of OC won a long-standing court battle with the county of Orange over the denial of more than 177 pages of documents related to the alleged harassment of county employees.

The county was ultimately forced to release the records and pay more than \$120,905 in taxpayer dollars to Voice of OC.

City Clerk Kathy Bailor said the city attorney is currently reviewing issue, and declined to comment.

When asked for comment, Broadwater said the issue "is not a big deal" and said he didn't even have time to read the report until he went home that evening.

"I don't think I've heard anyone going to jail for a violation of the Brown Act. It doesn't become public information until the Mayor reads it." Broadwater said. "This is so petty it's unbelievable. No one has done anything intentionally wrong. If government runs precisely as you want it to run - it would stop. It would quit running altogether."

Bao Nguyen, Broadwater's opponent who is running on a reform ticket about transparency at city hall, declined to comment.

Councilman Chris Phan, a county deputy district attorney, said that he has not read the Brown Act and would not feel comfortable opining on the situation.

"You have to ask [Fertal] or [Bailor] why they did what they did. From my opinion, I believe the report was given to you in a timely manner. I haven't read the law...so unless we took 2 or 3, days...it's a matter of different opinion as far as how quickly stuff will turn over." Phan said.

Other council members did not respond to requests for comment.

Please contact Thy Vo directly at thyanhvo@gmail.com.

Subject: Re: Settlement Agreement
From: Matt Fertal <mattf@ci.garden-grove.ca.us>
Date: Tue, 16 Sep 2014 17:48:27 -0700 (PDT)
To: David Barlag <davidba@ci.garden-grove.ca.us>
CC: Barbara Raileanu <BRaileanu@wss-law.com>, Laura Stover <lauras@ci.garden-grove.ca.us>

I guess I was wanting to confirm with Laura that this was essentially equal. Lura, are we good?

From: "David Barlag" <davidba@ci.garden-grove.ca.us>
To: "Matt Fertal" <mattf@ci.garden-grove.ca.us>
Cc: "Barbara Raileanu" <BRaileanu@wss-law.com>, "David Barlag" <davidba@ci.garden-grove.ca.us>
Sent: Tuesday, September 16, 2014 3:42:24 PM
Subject: Re: Settlement Agreement

Matt that was to compensate for the loss of reportable holiday hour as pers able.

David R. Barlag

CITY OF GARDEN GROVE

SETTLEMENT AGREEMENT AND GENERAL RELEASE

DNS *M*
This Settlement Agreement and General Release ("Agreement") is made and entered into, to be effective this 29th day of September 2014 ("Effective Date"), by and between the City of Garden Grove ("Employer") and David Barlag (referred to herein as "Employee") (collectively referred to herein as "the Parties").

RECITALS

A. WHEREAS, the Parties desire to mutually resolve any and all possible issues and claims related to Employee's employment with Employer; and

B. WHEREAS, Employer and Employee acknowledge that Employee's retirement date will be December 31, 2016 ("Retirement Date"); and

C. WHEREAS, the Parties acknowledge that by this Agreement Employee and Employer will be agreeing to a mutual release of all claims.

NOW THEREFORE, for good and sufficient consideration, as set forth below, the parties agree as follows:

AGREEMENT

1. Consideration to Employee.

a. Continued Employment. Employee voluntarily and irrevocably resigns from his position as Fire Chief on the Effective Date of this Agreement ("Resignation Date"). Commencing the first day following Employee's Resignation Date, Employee shall be appointed as the City's Public Safety Administrative Officer and shall perform the duties set forth in the job description for the position through and including the Retirement Date, unless he opts to resign or retire sooner. If Employee opts to resign or retire sooner, he shall give 30 days' notice to the City Manager. Employee shall report directly to the City Manager and shall receive the following:

i. Salary which corresponds to C255 on the City's Salary Schedule;

ii. Training Premium of 5%; and

iii. With the exception of a vehicle or a vehicle allowance (which Employee shall not receive), all other benefits provided to Central Management employees pursuant to the Resolution for Central Management Employees currently in effect, and as amended through and including the Retirement Date.

b. Attorneys' Fees. After execution of this Agreement and expiration of the seven day revocation period set forth in Paragraph 10 of this Agreement, Employee shall receive an amount not to exceed \$3,750 in attorneys' fees and costs incurred by Employee in the negotiation of this Agreement. Employee shall receive a form 1099 for this amount.

2. Retirement. As a condition of receiving the consideration set forth in Paragraph 1, Employee voluntarily and irrevocably will retire from his position as Public Safety Administrative Officer on December 31, 2016.

3. Mutual General Releases. In further exchange for the consideration set forth in Paragraph 1, Employee gives up and waives any right to grieve, appeal or litigate any matter or possible claim or cause of action relating to or arising out of his employment with Employer, including his decisions to resign and retire consistent with the terms of this Agreement, against the Employer or any of its officers, directors, supervisors, agents, representatives or employees (collectively the "Employer Releasees"), pursuant to any Employer ordinance, rule, resolution, practice, policy, custom, agreement, memoranda of understanding, or any state or federal law.

Without limiting the generality of the description, the claims herein released include, but are not limited to, claims based upon:

- a. Title VII of the Civil Rights Act of 1964;
- b. Americans with Disabilities Act and the Rehabilitation Act;
- c. Family and Medical Leave Act and California Family Rights Act;
- d. Age Discrimination in Employment Act;
- e. California statutory or decisional law, including but not limited to: (1) the Fair Employment and Housing Act, pertaining to employment discrimination, harassment, and retaliation, (2) wrongful discharge in violation of public policy; and (3) wrongful termination in breach of the implied covenant of good faith and fair dealing;
- f. Any and all state, federal, and local laws as well as common law for breach of contract, employment discrimination, harassment or retaliation, negligent or intentional infliction of emotional distress, defamation, fraud, concealment, false promise, negligent misrepresentation, and intentional interference with contractual relations;
- g. Whistleblower protections;
- h. Any Constitutional or statutory due process rights, right to privacy, and other civil rights violations;
- i. Discrimination claims in violation of Labor Code section 132a;
- j. Claims for unpaid wages arising out of California or federal law through the Retirement Date; and
- k. Firefighters Procedural Bill of Rights Act.

Expressly excluded from this release are any rights Employee may have to a disability retirement pursuant to Government Code sections 21153, *et. seq.* While Employee is not precluded from submitting a disability retirement application to the California Public Employment Retirement System, nothing in this Agreement shall be construed as a guarantee that such application will be granted or that the City will support such an application.

In consideration for the agreement by Employee, Employer Releases release Employee from any claims through the Effective Date of this Agreement.

4. Mutual Releases of Unknown Claims. Employee and Employer acknowledge that they may have claims that are covered by the terms of this Agreement which they have not yet

discovered. The Parties hereby release any and all such unknown or unsuspected claims against the other that may have arisen through and including the Effective Date of the Agreement. The Parties expressly waive and relinquish all rights and benefits under Section 1542 of the California Civil Code which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

5. No Admission of Liability. Employer and Employee agree that this Agreement and the consideration provided by the Employer described herein is not an admission by either party of any wrongdoing or liability. Each party specifically denies any liability or wrongful acts against the other. The parties have entered into this Agreement in order to settle all possible and potential disputes and differences between them, without admitting liability or wrongdoing by any party.

6. Confidentiality. Both parties agree that this Agreement shall remain confidential as a personnel record within the meaning of Government Code Section 6254(c) to the extent permitted by law. In the event a Public Records Act request is made to review and/or copy this Agreement, Employer's only obligation shall be to timely notify Employee of that request. Employer shall not be obligated to incur legal expenses to deny such a request. Except to the extent required by law, neither party shall disclose the terms or substance of this Agreement, except that Employee may disclose such terms to his counsel, financial advisors, and immediate family. Failure to comply with this provision shall constitute a material breach of the Agreement.

7. Advice of Counsel. Employee has been advised of his right to seek the advice of counsel prior to executing this Agreement and Employee has accordingly retained legal services. Employee has read and fully understands all of the provisions of this Agreement and is freely and voluntarily entering into this Agreement.

8. Enforcement. The prevailing party in any action brought to enforce this Agreement or resolve any dispute or controversy arising under the terms and conditions hereof shall be entitled to payment of reasonable attorneys' fees and costs.

9. Acknowledgement and Waiver of Twenty-One Days to Consider. Employee has been advised of the right to consider this Agreement for up to twenty-one (21) days prior to its execution and voluntarily waives this period, electing with full knowledge and consent to execute this Agreement at this time.

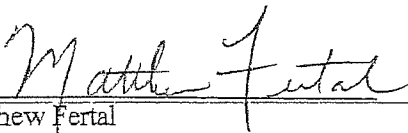
10. Revocation. Employee may revoke this Agreement for a period of seven (7) calendar days following its execution which will coincide with Effective Date. Said revocation must be in writing, must specifically revoke this Agreement, and must be received by the City's Human Resources Director, prior to the end of the seventh day following Employee's execution. Upon expiration of the seven-day period, this Agreement becomes effective, enforceable and irrevocable.

11. Complete Agreement. This is the entire agreement between Employer and Employee with respect to the subject matter herein and this Agreement supersedes all prior and contemporaneous oral and written agreements and discussions.


12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any Party may execute this Agreement by way of a facsimile or electronic signature, a copy of which will operate as an original. The party executing a facsimile or electronically scanned and transmitted copy shall promptly transmit a copy thereof to all other parties.

CITY OF GARDEN GROVE

EMPLOYEE



Matthew Fertal
City Manager



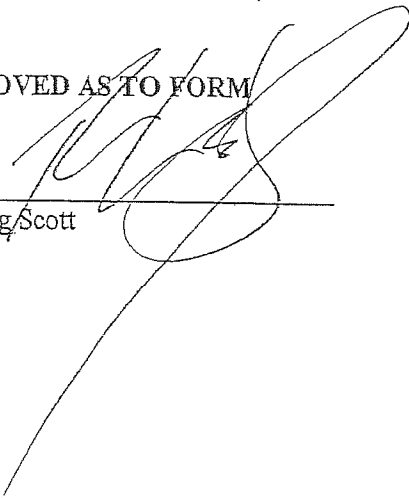
David Barlag

APPROVED AS TO FORM



Barbara Raileanu
Deputy City Attorney

APPROVED AS TO FORM


R. Craig Scott

Subject: Re: Settlement Agreement

From: Matt Fertal <mattf@ci.garden-grove.ca.us>

Date: Tue, 16 Sep 2014 17:49:32 -0700 (PDT)

To: David Barlag <davidba@ci.garden-grove.ca.us>

CC: Barbara Raileanu <BRaileanu@wss-law.com>, Laura Stover <lauras@ci.garden-grove.ca.us>

OK Matt

From: "David Barlag" <davidba@ci.garden-grove.ca.us>

To: "Matt Fertal" <mattf@ci.garden-grove.ca.us>

Cc: "Barbara Raileanu" <BRaileanu@wss-law.com>, "David Barlag" <davidba@ci.garden-grove.ca.us>

Sent: Tuesday, September 16, 2014 3:42:24 PM

Subject: Re: Settlement Agreement

Matt that was to compensate for the loss of reportable holiday hour as pers able.

David R. Barlag

Subject: Proposal

From: David Barlag <davidba@ci.garden-grove.ca.us>

Date: Thu, 18 Sep 2014 08:01:24 -0700 (PDT)

To: Matt Fertal <mattf@ci.garden-grove.ca.us>

Matt,

Just FYI I shared the proposal with my attorney, he had some proposal changes as far language and he also felt that the offer could be enhanced as far as value. I understand that you are limited as far as what you can do. Don't take it personal but this is my last shot to negotiate for the rest of my life. I have suffered a lot of professional and personal damage because of the situation.

David R. Barlag

Subject: Call me before you talk to Tom
From: David Barlag <davidba@ci.garden-grove.ca.us>
Date: Thu, 25 Sep 2014 13:45:51 -0700 (PDT)
To: Matt Fertal <mattf@ci.garden-grove.ca.us>

--

David R. Barlag

Fire Chief

Garden Grove Fire Department

davidba@garden-grove.org

www.gardengrovefire.org

Office(714) 741-5618

Cell (714) 357-2654



Subject: Statement regarding resignation
From: David Barlag <davidba@ci.garden-grove.ca.us>
Date: Mon, 29 Sep 2014 13:06:48 -0700 (PDT)
To: Matt Fertal <mattf@ci.garden-grove.ca.us>

Having worked in the fire service for the past 32 years, it has been my pleasure to serve as Fire Chief in Garden Grove. My resignation comes as a means for the department to begin to rebuild.

I will like to thank all the persons, in the City that have been there, providing me support over the years. Garden Grove is and will continue to be a wonderful place to work and the Fire Department will and has always provided an excellent service to its citizens.

David R. Barlag

Note. Ana use whatever works for you in a press release. I know you always make me look good.

Dave

Subject: Fwd: Fire Chief

From: Matt Fertal <mattf@ci.garden-grove.ca.us>

Date: Tue, 30 Sep 2014 12:39:06 -0700 (PDT)

To: David Barlag <davidba@ci.garden-grove.ca.us>, Kevin Raney <kevinr@ci.garden-grove.ca.us>, Todd Elgin <todde@ci.garden-grove.ca.us>, Kingsley Okereke <kingsley@ci.garden-grove.ca.us>, Kim Huy <kihuy@ci.garden-grove.ca.us>, Susan Emery <susan1@ci.garden-grove.ca.us>, Bill Murray <wem@ci.garden-grove.ca.us>, Charles Kalil <charlesk@ci.garden-grove.ca.us>, Tom Nixon <tomn@ci.garden-grove.ca.us>, Maria Stipe <marias@ci.garden-grove.ca.us>

Dear Central Management,

With much regret, I have accepted Fire Chief Barlag's resignation. It goes without saying that this was a unpleasant situation without any good outcomes for positive resolution. Dave recognized that the situation with the Fire Labor Group had deteriorated to a point that it would have been very difficult for him move the department forward. I hope we can continue to support Dave in anyway we can. Dave has had a distinguished career within the Fire Service. He is a dedicated member of our City family and a great member of our Central Management team.

Although I have just informed the City Council, official notice is still pending. Please keep this information confidential until a formal notice is made public.

Thanks for your support during this difficult time.

Matt

From: "Matt Fertal" <mattf@ci.garden-grove.ca.us>

To: "Steve Jones" <jones4gg@gmail.com>, "Dina Linh" <dinalinhesq@gmail.com>, "CM Beard" <beard4gg@gmail.com>, "vote4chrisphan" <vote4chrisphan@gmail.com>

Sent: Tuesday, September 30, 2014 11:30:17 AM

Subject: Fire Chief

Dear Mayor and City Council,

This morning I met with the Fire Labor Group and presented the resignation of Fire Chief Dave Barlag. The resignation will become effective immediately.

I also informed the Labor Group that the City would commence a nationwide search for the best candidate to fill the Fire Chief position. The Labor Group did suggest that I consider former Garden Grove Fire Chief Warren Hartley, as an Interim Chief. The Labor Group believes that appointing Warren Hartley Interim Chief would be the best option to transition into a positive environment moving forward. I told them that I would take their suggestion into consideration.

Please contact me if you have any questions. Thank you for your support, input and patience with this very complex matter.

Matt

Garden Grove Fire Chief's Settlement Illegal, Say Experts

Posted: Monday, November 17, 2014 6:00 am | Updated: 2:07 pm, Mon Nov 24, 2014.

By THY VO Voice of OC

A secret settlement giving former Garden Grove fire chief David Barlag a two-year employment deal in exchange for dropping any litigation against the city was made in violation of the state's open meetings law, known as the Ralph M. Brown Act, according to open government experts.

City manager Matthew Fertal and deputy city attorney Barbara Raileneau signed the settlement agreement with Barlag agreeing to resign as fire chief in exchange for a new position as a "Public Safety Administrative Officer" for two years, on the condition that he retire at the end of 2016 and drop any right to sue the city.

Fertal and Barlag signed the agreement in mid-September. His resignation, per the agreement, became effective Sept. 30.

Yet neither the settlement of the litigation nor the signing of the agreement -- authorizing a salary between \$160,884 to \$215,604, plus benefits -- were reported out from three closed sessions in August and September when council members discussed the litigation, nor was it ever voted on by the city council.

Although city council minutes from those meetings -- not yet available online -- show the council announced before closed session that they would be discussing Barlag's threat to sue, agendas for those meetings only list "anticipated litigation."

According to Fertal, the city council directed him, but did not vote, in closed session on Sept. 23 to finalize the agreement, action that "did not require it to be reported out," he wrote in an email.

The settlement and Barlag's continued employment were only publicly disclosed after Voice of OC obtained the contract through a request under the California Public Records Act and reported on the deal last week.

Meanwhile, Fertal and city council members have defended the deal as the best resolution possible for a difficult situation.

"We mismanaged the fire department," said Mayor Bruce Broadwater, saying that Barlag took the brunt of criticism for what was a collective failure.

Fertal said there was no evidence of a specific incident that would warrant the removal of the chief.

"There was however, clear evidence, based on the sentiments of the Fire Labor Group, that Chief Barlag [sic] would have a difficult challenge to retain control of the Fire Department," Fertal wrote. "The Settlement Agreement was determined to be the most respectful way to resolve a very challenging situation. I don't believe that the City and/or Chief Barlag should be subjected to further scrutiny for resolving a very difficult situation."

Experts: The Council Must Disclose

Two open government experts disagreed with Fertal's statement that the council did not need to report its action out of closed session.

Terry Francke, a consultant for Voice of OC and a statewide open government expert, said that state law requires access to information rules be interpreted broadly.

Under the Brown Act, "a collective decision" or "collective commitment or promise by a majority" of the council constitutes an action just as much as taking a formal vote, Francke said.

Francke also noted that a properly authorized closed session would require the threat of litigation be made in writing.

When asked to authenticate the litigation with a letter from Barlag's attorney, the city returned a handwritten, undated note on lined paper from city attorney Thomas Nixon stating, "On August 5, 2014, Dave Barlag informed me that he was prepared to file a suit against the city if his employment situation was not satisfactorily resolved."

Francke questioned the lack of details in the letter.

"If a casual note like this...is legally sufficient to warrant a closed session to consult on litigation, then any severance package...can be sought and approved with no notice to the public that it's even on the table until and unless someone asks about it after the fact," Francke said.

"In other words, the employee can simply bluff his way to the severance deal he wants, without having his bluff called because the council wants him gone without any public fuss, and is ready to reward him to get that result," he continued.

Even without a legal threat, Francke said, the city should have voted in open session to approve the employment negotiations.

"If what's happening is negotiation of a severance package, don't pretend there's any serious litigation threat—or if there is, spell out just what it amounts to for the enlightenment of the public," Francke said.

"We're discovering that this litigation threat/settlement pretext looks like a standard dodge to hide severance package approvals from the public at the time they're agreed upon," he added.

Cory Briggs, a San Diego-based attorney who represented a citizen group that successfully sued the city of Anaheim over a violation of the Brown Act, agreed with Francke.

As city manager, Fertal is authorized to sign contracts worth \$50,000 or less without city council approval. He is also authorized to hire and fire city employees.

Briggs said that in order to authorize additional spending above that limit, Fertal needs a majority vote of the council at an open, public meeting.

"He basically is taking a new position that is not budgeted for and is agreeing to spend a quarter million dollars a year -- that's a big old no-no," Briggs said. "At a minimum, the city manager doesn't have the authority to sign that contract -- it's legally suspect, to put it mildly."

Barlag Loses Support of Fire Union

Disapproval of Barlag's management has been percolating among the fire union for nearly two years, culminating with the hiring of the mayor's 37-year-old son Jeremy Broadwater as a firefighter in June 2013 despite a series of misdemeanor arrests and a vote by battalion chiefs not to recommend Broadwater for the job.

According to an independent report by the firm Management Partners, Jeremy's hiring was the final straw for firefighters who felt Barlag was a weak chief who lacked a leadership presence, failed to discipline employees and acted unfairly by intervening in the hiring process.

That discontent led to a near-unanimous vote of no confidence from firefighters in June.

When firefighters asked Barlag why he hired the mayor's son, the chief reportedly replied that "everybody has a boss," according to the report.

By signing the agreement, Barlag agreed to drop all legal claims against the city regarding his employment and to "voluntarily and irrevocably resign from his position as Fire Chief," effective Sept. 30.

In exchange, Barlag receives a salary ranging from \$160,884 to \$215,604 a year, a 5 percent training premium, pension and "all other benefits provided to Central Management employees," excluding a vehicle allowance, according to the contract.

He also received a \$3,750 reimbursement for attorney fees.

Barlag will hold that position until his voluntary retirement on December 31, 2016, according to the settlement.

"Don't take it personal [sic] but this is my last shot to negotiate for the rest of my life. I have suffered a lot of professional and personal damage because of the situation," Barlag wrote in a Sept. 18 email to Fertal obtained by Voice of OC.

On Oct. 1, the first day of Barlag's new job, the city posted a press release announcing his resignation with no mention of the contract.

Fertal later described Barlag's job responsibilities as advising and reporting to the city manager "regarding a variety of public safety matters," and as a project manager for the construction of a new Fire Department headquarters, a project he was previously involved with.

The city has yet to respond to a Public Records Act request submitted Nov. 7 for a description of job duties, salary and names of individuals who have held the position previously.

The city's online salary schedule, last updated in July 2014, did not list the position until it was updated on Nov. 7, a day after a reporter called Fertal and submitted the records request.

Council Members: Litigation Too Costly

Still unknown is the nature of Barlag's threat to sue the city.

Mayor Broadwater called the deal a "severance project" that would ultimately be cheaper than risking a lawsuit, saying that cities rarely win legal challenges.

"I guess we could have fired him. But do you know how much litigation costs?" Broadwater said.

Broadwater, who has consistently denied any involvement in his son's hiring, has argued that the focus on his son is a politically motivated attack.

As the Management Partners report notes, the department has long operated with "weak fire chiefs and strong union leadership."

The union is "angry that they don't run the fire department," Broadwater said.

Councilwoman Dina Nguyen said considering Barlag's 28-year career with the city, the deal was a "semi-retirement settlement" that would allow the city to resolve its dispute with the fire union while retaining the chief's expertise.

"I think it's the best outcome...because it saves the integrity of the fire department and [Barlag's] integrity," Nguyen said. "I don't want to give the message to other employees that they can work their way up and end up like the chief and be treated meanly...because at the end of his career he made some mistake."

Both Nguyen and councilmember Chris Phan were unclear about what Barlag's new duties would be.

Phan said he is concerned about whether Barlag's duties merit his six-figure salary, but doesn't think it's a problem for Barlag to continue working for the city.

"The issue that we have with the chief was that he allegedly mismanaged the fire department. Now that he's no longer in that role, I don't see how there's a problem that he's still in the city for a supportive role," Phan said.

Councilmembers did not answer questions about the nature of Barlag's threat to sue.

Asked why the settlement was never made public, Phan said he "didn't know."

Councilmembers Kris Beard and Steve Jones did not return calls for comment.

Many residents, on the other hand, say the city continues to pay for a mistake -- Jeremy Broadwater's hiring -- that has never been accounted for. The mayor's son, still a firefighter, has since been transferred to a desk position.

"The whole thing is costing us taxpayers money, money, money. How the hell did we let this thing get so goddang far?" said resident Tony Flores of Barlag's continued employment. "The five councilmembers...either they didn't know about it and aren't doing their jobs, or they're complicit."

The settlement was also news to firefighters.

"In midst of a scenario when we're trying to get a bang for our buck, we can't get a paramedic for [the west end of Garden Grove], because of budget issues?" said one firefighter, who wished to remain anonymous. "We don't have a

paramedic on the west end of Garden Grove...but we can pay these two buffoons.”

Contact Thy Vo at thyanhvo@gmail.com.

AGENDA



Garden Grove City Council
Regular Meeting
Garden Grove Housing Authority
Regular Meeting
The City of Garden Grove as
Successor Agency to the Garden
Grove Agency for Community
Development
Regular Meeting
Garden Grove Sanitary District
Regular Meeting

November 25, 2014

05:45 p.m.

Community Meeting Center
11300 Stanford Avenue, Garden
Grove, CA 92840

**Bruce A.
Broadwater**
Mayor
Dina Nguyen
Mayor Pro Tem
**Steven R.
Jones**
Council
Member
**Christopher V.
Phan**
Council
Member
Kris Beard
Council
Member

Meeting Assistance: Any person requiring auxiliary aids and services, due to a disability, to address the City Council, should contact the City Clerk's Office 72 hours prior to the meeting to arrange for accommodations. Phone: 714) 741-5040.

Agenda Item Descriptions: Are intended to give a brief, general description of the item. The City Council may take legislative action deemed appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda.

Documents/Writings: Any revised or additional documents/writings related to an item on the agenda distributed to all or a majority of the Council Members within 72 hours of a meeting, are made available for public inspection at the same time (1) in the City Clerk's Office at 11222 Acacia Parkway, Garden Grove, CA 92840, during normal business hours; (2) on the City's website as an attachment to the City Council meeting agenda; and (3) at the Council Chamber at the time of the meeting.

Public Comments: Members of the public desiring to address the City Council are requested to complete a **pink speaker card** indicating their name and address, and identifying the subject matter they wish to address. This card should be given to the City Clerk prior to the start of the meeting. General comments are made during "Oral Communications," and should be limited to

matters under consideration and/or what the City Council has jurisdiction over. Persons wishing to address the City Council regarding a Public Hearing matter will be called to the podium at the time the matter is being considered.

Manner of Addressing the City Council: After being called by the Mayor, you may approach the podium, it is requested that you state your name for the record, and proceed to address the City Council. All remarks and questions should be addressed to the City Council as a whole and not to individual Council Members or staff members. Any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the City Council shall be called to order by the Mayor. If such conduct continues, the Mayor may order the person barred from addressing the City Council any further during that meeting.

Time Limitation: Speakers must limit remarks for a total of (5) five minutes. When any group of persons wishes to address the City Council on the same subject matter, the Mayor may request a spokesperson be chosen to represent the group, so as to avoid unnecessary repetition. At the City Council's discretion, a limit on the total amount of time for public comments during Oral Communications and/or a further limit on the time allotted to each speaker during Oral Communications may be set.

PLEASE SILENCE YOUR CELL PHONES DURING THE MEETING.

CLOSED SESSION: 6:15 P.M.

CONDUCT CITY COUNCIL CLOSED SESSION

ROLL CALL: COUNCIL MEMBER BEARD, COUNCIL MEMBER JONES,
COUNCIL MEMBER PHAN, MAYOR PRO TEM NGUYEN, MAYOR
BROADWATER

1. ORAL COMMUNICATIONS ON CLOSED SESSION MATTERS ONLY:

ADJOURN TO CLOSED SESSION TO THE FOUNDERS ROOM

2. CLOSED SESSION

2.a. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Government Code Section 54956.9 (d)(1) McGraw v. City of Garden Grove

2.b. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2) (One potential case)

2.c. CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION

Pursuant to Government Code Section 54956.9 (d)(4) (Three potential cases)

2.d. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE Pursuant to Government Code Section 54957

ADJOURN CLOSED SESSION TO THE COUNCIL CHAMBER

OPEN SESSION 6:30 P.M.

CONDUCT HOUSING AUTHORITY MEETING

ROLL CALL: COMMISSIONER BECKLES, COMMISSIONER BROADWATER, COMMISSIONER JONES, COMMISSIONER NGUYEN, COMMISSIONER O'CONNOR, VICE CHAIR PHAN, CHAIR BEARD

1. ORAL COMMUNICATIONS:
2. CONSENT ITEMS: (Items 2.a. through 2.c. will be acted on simultaneously with one motion unless separate discussion and/or action is requested by a Commissioner.)
- 2.a. Receive and file the Housing Authority Status Reports for September and October 2014. (Action Item)

Agenda Report

- 2.b. Adoption of a Resolution adopting a supplemental Housing Authority Budget for Fiscal Year 2014-2015. (Companion Item to City Council Agenda Item No. 4.e.) (Action Item)

Agenda Report

- 2.c. Receive and file minutes from the September 23, 2014, meeting. (Action Item)
3. PUBLIC HEARINGS:
- 3.a. Approval of the Housing Authority Revised Administrative Plan. (Action Item)

Agenda Report

Administrative Plan

4. MATTERS FROM CHAIR, COMMISSIONERS AND DIRECTOR:
5. ADJOURNMENT: The Garden Grove Housing Authority is adjourned to Tuesday, December 9, 2014, at 6:30 p.m.

CONDUCT CITY COUNCIL BUSINESS

ROLL CALL: COUNCIL MEMBER BEARD, COUNCIL MEMBER JONES, COUNCIL MEMBER PHAN, MAYOR PRO TEM NGUYEN, MAYOR BROADWATER

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

1. PRESENTATIONS:
- 1.a. Community Spotlight: Recognition of Patti Widdicombe for her dedicated support to the community.
- 1.b. Presentation: Renaming the Police Department Juvenile Justice Center to "Bruce Beauchamp Juvenile Justice Center," by Kevin Raney and Pat Halberstadt.
2. ORAL COMMUNICATIONS: (To be held simultaneously with the Successor Agency and Sanitary District Oral Communications.)
- 2.a. Public Comments.
- 2.b. Council Member response to Public Comments.
3. WRITTEN COMMUNICATIONS: None.

RECESS CITY COUNCIL AND SANITARY DISTRICT

CONDUCT SUCCESSOR AGENCY BUSINESS

ROLL CALL: MEMBER BROADWATER, MEMBER NGUYEN, MEMBER PHAN, VICE CHAIR BEARD, CHAIR JONES

2. CONSENT ITEMS:
- 2.a. Approval of warrants. (Action Item)
3. PUBLIC HEARINGS: None.
4. ITEMS FOR CONSIDERATION: None.
5. MATTERS FROM SUCCESSOR AGENCY CHAIR, MEMBERS AND DIRECTOR:
6. ADJOURNMENT OF SUCCESSOR AGENCY:
CONDUCT SANITARY DISTRICT BUSINESS
ROLL CALL: MEMBER BROADWATER, MEMBER JONES, MEMBER NGUYEN, VICE PRESIDENT BEARD, PRESIDENT PHAN
2. CONSENT ITEMS: (Items 2.a. and 2.b. will be acted on simultaneously with one motion unless separate discussion and/or action is requested by a Board Member.)
- 2.a. Accept Project No. 7822 - Lenore Avenue/Lampson Avenue Sewer Improvements as complete. (Action Item)

Agenda Report

- 2.b. Receive and file minutes from the September 23, 2014, meeting. (Action Item)
3. PUBLIC HEARINGS: None.
4. CONSENT ITEMS: (Items 4.a. through 4.h. will be acted on simultaneously with one motion unless separate discussion and/or action is requested by a Council Member.)
- 4.a. Approval to rename the Police Department Juvenile Justice Center to "Bruce Beauchamp Juvenile Justice Center." (Action Item)

Agenda Report

- 4.b. Receive and file the Fiscal Year 2013-14 Development Impact Fee Annual Report. (Action Item)

Agenda Report

- 4.c. Approval of warrants. (Action Item)
- 4.d. Approval of Waiver of full reading of Ordinances listed. (Action Item)
- 4.e. Adoption of a Resolution adopting a supplemental Housing Authority Budget for Fiscal Year 2014-2015. (Companion Item to Housing Authority Agenda Item No. 2.b.) (Action Item)

Agenda Report

- 4.f. Adoption of a Resolution adopting a Budget Reallocation for Fiscal Year 2014-15. (Action Item)

Agenda Report

- 4.g. Adoption of a Resolution amending the Central Management Personnel Classification List to add the position of Public Safety Administrative Officer and establishing the salary therefor, and approval of a previously authorized Settlement Agreement with David Barlag regarding threatened litigation. (Action Item)

Agenda Report

- 4.h. Acceptance of the Demolition of the Black Angus Building Project at 12900 Euclid Street, Garden Grove, as complete.

Agenda Report

5. PUBLIC HEARINGS:

- 5.a. Conduct a Protest Hearing regarding the 2014 Fall Weed/Rubbish Abatement Notices. (Action Item)

Agenda Report

- 5.b. Municipal Code Amendment amending Title 14 regarding water conservation (Action item)

- 5.b.1. ORDINANCE NO. , for introduction and first reading, by title only, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING CHAPTER 40 OF TITLE 14 OF THE GARDEN GROVE MUNICIPAL CODE TO REFLECT RECENT CHANGES IN STATE LAW REGARDING WATER CONSERVATION AND AMENDING SECTIONS 14.08.090 AND 14.20.020 OF TITLE 14 OF THE GARDEN GROVE MUNICIPAL CODE TO UPDATE CERTAIN PROVISIONS

Agenda Report

- 5.c. Approval of an Agreement with Garden Grove MXD, Inc. regarding development and operating covenants for the Water Park Hotel including a determination that no further environmental review is required. (Action Item)

Agenda Report

6. COMMISSION/COMMITTEE MATTERS: None.

7. ITEMS FOR CONSIDERATION:

- 7.a. Approval of the contract awarded to Paulus Engineering, Inc. by the Sanitary District for the construction of Project No. 7831 - Joyzelle Drive/Hill Road Water and Sewer Improvements. (Contract Total Cost: \$885,695; Water Funds: \$231,450) (Companion Item to Sanitary District Agenda Item No. 4.a.) (Action Item)

Agenda Report

8. ORDINANCES PRESENTED FOR SECOND READING AND ADOPTION: None.

9. MATTERS FROM THE MAYOR, CITY COUNCIL MEMBERS, AND CITY MANAGER:

10. ADJOURNMENT:

Happy Birthday Council Member Nguyen

The next Regular Meeting of the City Council will be held on Tuesday, December 9, 2014, at 6:30 p.m. in the Community Meeting Center, 11300 Stanford Avenue, Garden Grove.

4. ITEMS FOR CONSIDERATION:

- 4.a. Award of contract to Paulus Engineering, Inc. for Project No. 7831 - Joyzelle Drive/Hill Road Water and Sewer Improvements. (Contract Cost: \$885,695; Sewer Funds: \$654,245) (Companion Item to City Council Agenda Item No. 7.a.) (Action Item)

Agenda Report

5. MATTERS FROM BOARD MEMBERS AND GENERAL MANAGER:

6. ADJOURNMENT OF THE SANITARY DISTRICT: The Garden Grove Sanitary District Board is adjourned to Tuesday, December 9, 2014, at 6:30 p.m.

RECONVENE CITY COUNCIL

GARDEN GROVE CITY COUNCIL

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
AMENDING RESOLUTION NO. 9251-14 RELATING TO PERSONNEL CLASSIFICATIONS
FOR CENTRAL MANAGEMENT POSITIONS OF THE CITY OF GARDEN GROVE

NOW, THEREFORE, BE IT RESOLVED that:

Resolution No. 9251-14 is amended to add the following Personnel
Classification to Section 1 of the Central Management Personnel Classification List
as follows:

SECTION 1:

The following classification is a new title and shall be added to the Central
Management Personnel Classification List:

<u>Personnel Classification</u>	<u>Salary Range</u>
Public Safety Administrative Officer	255

CITY OF GARDEN GROVE

SETTLEMENT AGREEMENT AND GENERAL RELEASE

DAS MY
This Settlement Agreement and General Release ("Agreement") is made and entered into, to be effective this 29th day of September 2014 ("Effective Date"), by and between the City of Garden Grove ("Employer") and David Barlag (referred to herein as "Employee") (collectively referred to herein as "the Parties").

RECITALS

A. WHEREAS, the Parties desire to mutually resolve any and all possible issues and claims related to Employee's employment with Employer; and

B. WHEREAS, Employer and Employee acknowledge that Employee's retirement date will be December 31, 2016 ("Retirement Date"); and

C. WHEREAS, the Parties acknowledge that by this Agreement Employee and Employer will be agreeing to a mutual release of all claims.

NOW THEREFORE, for good and sufficient consideration, as set forth below, the parties agree as follows:

AGREEMENT

1. Consideration to Employee.

a. Continued Employment. Employee voluntarily and irrevocably resigns from his position as Fire Chief on the Effective Date of this Agreement ("Resignation Date"). Commencing the first day following Employee's Resignation Date, Employee shall be appointed as the City's Public Safety Administrative Officer and shall perform the duties set forth in the job description for the position through and including the Retirement Date, unless he opts to resign or retire sooner. If Employee opts to resign or retire sooner, he shall give 30 days' notice to the City Manager. Employee shall report directly to the City Manager and shall receive the following:

i. Salary which corresponds to C255 on the City's Salary Schedule;

ii. Training Premium of 5%; and

iii. With the exception of a vehicle or a vehicle allowance (which Employee shall not receive), all other benefits provided to Central Management employees pursuant to the Resolution for Central Management Employees currently in effect, and as amended through and including the Retirement Date.

b. Attorneys' Fees. After execution of this Agreement and expiration of the seven day revocation period set forth in Paragraph 10 of this Agreement, Employee shall receive an amount not to exceed \$3,750 in attorneys' fees and costs incurred by Employee in the negotiation of this Agreement. Employee shall receive a form 1099 for this amount.

2. Retirement. As a condition of receiving the consideration set forth in Paragraph 1, Employee voluntarily and irrevocably will retire from his position as Public Safety Administrative Officer on December 31, 2016.

3. Mutual General Releases. In further exchange for the consideration set forth in Paragraph 1, Employee gives up and waives any right to grieve, appeal or litigate any matter or possible claim or cause of action relating to or arising out of his employment with Employer, including his decisions to resign and retire consistent with the terms of this Agreement, against the Employer or any of its officers, directors, supervisors, agents, representatives or employees (collectively the "Employer Releasees"), pursuant to any Employer ordinance, rule, resolution, practice, policy, custom, agreement, memoranda of understanding, or any state or federal law.

Without limiting the generality of the description, the claims herein released include, but are not limited to, claims based upon:

- a. Title VII of the Civil Rights Act of 1964;
- b. Americans with Disabilities Act and the Rehabilitation Act;
- c. Family and Medical Leave Act and California Family Rights Act;
- d. Age Discrimination in Employment Act;
- e. California statutory or decisional law, including but not limited to: (1) the Fair Employment and Housing Act, pertaining to employment discrimination, harassment, and retaliation, (2) wrongful discharge in violation of public policy; and (3) wrongful termination in breach of the implied covenant of good faith and fair dealing;
- f. Any and all state, federal, and local laws as well as common law for breach of contract, employment discrimination, harassment or retaliation, negligent or intentional infliction of emotional distress, defamation, fraud, concealment, false promise, negligent misrepresentation, and intentional interference with contractual relations;
- g. Whistleblower protections;
- h. Any Constitutional or statutory due process rights, right to privacy, and other civil rights violations;
- i. Discrimination claims in violation of Labor Code section 132a;
- j. Claims for unpaid wages arising out of California or federal law through the Retirement Date; and
- k. Firefighters Procedural Bill of Rights Act.

Expressly excluded from this release are any rights Employee may have to a disability retirement pursuant to Government Code sections 21153, *et. seq.* While Employee is not precluded from submitting a disability retirement application to the California Public Employment Retirement System, nothing in this Agreement shall be construed as a guarantee that such application will be granted or that the City will support such an application.

In consideration for the agreement by Employee, Employer Releases release Employee from any claims through the Effective Date of this Agreement.

4. Mutual Releases of Unknown Claims. Employee and Employer acknowledge that they may have claims that are covered by the terms of this Agreement which they have not yet

discovered. The Parties hereby release any and all such unknown or unsuspected claims against the other that may have arisen through and including the Effective Date of the Agreement. The Parties expressly waive and relinquish all rights and benefits under Section 1542 of the California Civil Code which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

5. No Admission of Liability. Employer and Employee agree that this Agreement and the consideration provided by the Employer described herein is not an admission by either party of any wrongdoing or liability. Each party specifically denies any liability or wrongful acts against the other. The parties have entered into this Agreement in order to settle all possible and potential disputes and differences between them, without admitting liability or wrongdoing by any party.

6. Confidentiality. Both parties agree that this Agreement shall remain confidential as a personnel record within the meaning of Government Code Section 6254(c) to the extent permitted by law. In the event a Public Records Act request is made to review and/or copy this Agreement, Employer's only obligation shall be to timely notify Employee of that request. Employer shall not be obligated to incur legal expenses to deny such a request. Except to the extent required by law, neither party shall disclose the terms or substance of this Agreement, except that Employee may disclose such terms to his counsel, financial advisors, and immediate family. Failure to comply with this provision shall constitute a material breach of the Agreement.

7. Advice of Counsel. Employee has been advised of his right to seek the advice of counsel prior to executing this Agreement and Employee has accordingly retained legal services. Employee has read and fully understands all of the provisions of this Agreement and is freely and voluntarily entering into this Agreement.

8. Enforcement. The prevailing party in any action brought to enforce this Agreement or resolve any dispute or controversy arising under the terms and conditions hereof shall be entitled to payment of reasonable attorneys' fees and costs.

9. Acknowledgement and Waiver of Twenty-One Days to Consider. Employee has been advised of the right to consider this Agreement for up to twenty-one (21) days prior to its execution and voluntarily waives this period, electing with full knowledge and consent to execute this Agreement at this time.

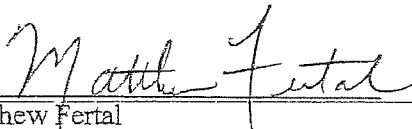
10. Revocation. Employee may revoke this Agreement for a period of seven (7) calendar days following its execution which will coincide with Effective Date. Said revocation must be in writing, must specifically revoke this Agreement, and must be received by the City's Human Resources Director, prior to the end of the seventh day following Employee's execution. Upon expiration of the seven-day period, this Agreement becomes effective, enforceable and irrevocable.

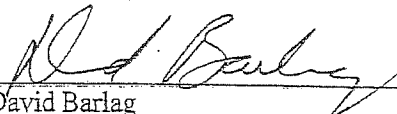
11. Complete Agreement. This is the entire agreement between Employer and Employee with respect to the subject matter herein and this Agreement supersedes all prior and contemporaneous oral and written agreements and discussions.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any Party may execute this Agreement by way of a facsimile or electronic signature, a copy of which will operate as an original. The party executing a facsimile or electronically scanned and transmitted copy shall promptly transmit a copy thereof to all other parties.

CITY OF GARDEN GROVE


EMPLOYEE

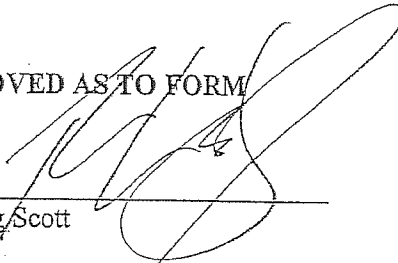

Matthew Fertal
City Manager


David Barlag

APPROVED AS TO FORM

APPROVED AS TO FORM


Barbara Raileanu
Deputy City Attorney


R. Craig Scott

GARDEN GROVE CITY COUNCIL

RESOLUTION NO. 9251-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
 ESTABLISHING A SALARY PLAN FOR CERTAIN POSITIONS IN CENTRAL
 MANAGEMENT CLASSIFICATIONS AND EXEMPTING CENTRAL MANAGEMENT
 CLASSIFICATIONS FROM MUNICIPAL CODE SECTION 2.44.390 AND OVERTIME

WHEREAS, Chapter 2.44 of the Garden Grove Municipal Code, revised, Volume 1, provides that the City Council shall by resolution: (1) establish salary ranges and salary rates and the allocation of classes thereto; and (2) set forth the classification of full-time positions in the various City departments and offices;

BE IT RESOLVED that all prior Resolutions in conflict herewith are hereby repealed so as to avoid all conflict.

BE IT FURTHER RESOLVED that the City Council does establish the following:

SECTION 1: CENTRAL MANAGEMENT CLASSIFICATIONS

For purposes of this Resolution, Central Management positions are identified as follows:

<u>Personnel Classification</u>	<u>Salary Range</u>
Community Development Director	245
Community Services Director	240
Economic Development Director	245
Finance Director	245
Fire Chief	250
Information Technology Director	240
Human Resources Director	240
Police Chief	255
Public Works Director	245
Deputy City Manager	240

SECTION 2: WAGES

1. Effective the first full pay period following July 1, 2014, the salary range of each classification listed in this Resolution will be increased by two percent (2%).

SECTION 3: BENEFITS

Unless otherwise provided, benefits and leave Policies as offered in the Middle Management group will be offered to the classifications listed in this Resolution.

Central Management employees are not eligible for any education incentive programs offered by the City, but are eligible to participate in the Tuition Reimbursement Program.

Central Management employees who meet the same qualifications for the vacation buy-back provision shall have the option to use this benefit any time during the calendar year.

Central Management employees are eligible for an executive medical (physical) examination on an annual basis, to be provided by the City if requested. Central Management employees also receive the executive long-term disability insurance benefit.

SECTION 4: RETIREMENT

- a. Effective January 1, 1994, the employee shall begin to pay the Employee's Contribution to the Public Employees Retirement System (PERS). The City shall allow these contributions to be treated as "pick-up" in accordance with Section 414 (h) 2 of the Internal Revenue Service and applicable Government Code Sections. These "pick-up" contributions, to the extent permissible, shall be treated as deferred income to the employee for federal and state tax purposes.

The employee shall indemnify and hold the City harmless from any and all claims, demands, suits, actions, liabilities, or judgments of any kind whatsoever arising out of or in connection with the actions to be taken and/or the "pick-up" contributions to be made pursuant hereto.

Any future income tax obligations resulting from the "pick-up" contributions shall be the exclusive responsibility of the employee. In the event the Internal Revenue Service shall change its current position and determine that such contributions constitute salary, not deferred income, any resulting tax obligations shall be the exclusive responsibility of the employee and the City shall not be held responsible therefore.

- b. The City currently contracts with PERS for the following retirement formula for miscellaneous employees:

- 1) Section 21354.4 (2.5% at 55 Full formula for local miscellaneous members – Active members only)
 - 2) Section 20024.2 (Highest Year)
 - 3) Section 20862.8 (Credit for Unused Sick Leave)
 - 4) Employees pay the entire Employee Contribution.
- c. Miscellaneous employees pay a total of eight percent (8%) Employee Contribution for the 2.5% at 55 Full formula.
- d. The City currently contracts with PERS to provide the following benefit to the Public Safety retirement plan, for sworn Police and Fire management employees:
- 1) Section 21362.2 (3% at 50 Full formula for local Public Safety members)
 - 2) Section 20024.2 (Highest Year)
 - 3) Section 20862.8 (Credit for Unused Sick Leave)
 - 4) Sworn Public Safety Management employees pay the entire Employee Contribution.
- e. Police Chief and Fire Chief
- 1) General Provision

Effective January 1, 2013, the Police Chief and the Fire Chief will each receive ten (10) hours of pay in-lieu of holiday leave for each of the eleven (11) holidays as designated below in subpart 4 of this subsection. This additional compensation will be paid as the holiday occurs and shall be reported to PERS as Special Compensation pursuant to Title 2, Division 1, Chapter 2 of the California Code of Regulations, specifically § 571 (a)(5) – Statutory Items, Holiday Pay.
 - 2) Part-Year Employment

A Fire Chief or Police Chief who commences employment at a time other than the beginning of a calendar year shall only be entitled to receive those holidays described in subpart 4 of this subsection that occur during the period actually worked.
 - 3) Effect of Unpaid Leave of Absence

A Police Chief or Fire Chief who is on an unpaid leave of absence during any holiday designated in subpart 4 of this subsection is not entitled to receive any holiday benefits for that holiday.

4) Designated Holidays for Fire Chief and Police Chief

January 1st (New Year's Day)
Third Monday of February (President's Day)
Last Monday of May (Memorial Day)
July 4th (Independence Day)
First Monday in September (Labor Day)
November 11th (Veteran's Day)
Fourth Thursday in November (Thanksgiving Day)
The Day after Thanksgiving
December 24th (Christmas Eve)
December 25th (Christmas Day)
December 31st (New Year's Eve)

f. PEPRA

Pursuant to the Public Employees' Pension Reform Act of 2013 (PEPRA) and notwithstanding any provision of any other City Council Resolution or Memorandum of Understanding (MOU) any new member employee, as defined by PEPRA, who is hired on or after January 1, 2013, shall be subject to the following retirement benefits:

For Non-Safety Employees

Government Code Section 7522.20 (2% @ 62 retirement formula).

Government Code Section 7522.32 (final compensation rate used to calculate pension benefit is average of member's highest annual pensionable compensation over a consecutive 36 month period).

For Safety Employees

Government Code Section 7522.25 (2% @ 50 retirement formula, maximum benefit of 2.7% @ 57).

Government Code Section 7522.32 (final compensation rate used to calculate pension benefit is average of member's highest annual pensionable compensation over a consecutive 36 month period).

SECTION 5: ADDITIONAL ASSIGNMENT PAY

The City Manager may authorize additional compensation of up to five percent (5%) over base pay to an employee who has assumed additional job duties due to a vacant position, long-term leave of absence, or a reorganization. The

duration of this additional pay shall be at the sole determination of the City Manager.

SECTION 6: POSITIONS EXEMPT FROM FLSA

Employees in Central Management classifications are designated as exempt from the provisions of the Fair Labor Standards Act (FLSA). Those employees who have used all their accrued leave benefits and are absent for less than one (1) day, shall not have that time treated as an absence without pay. Employees in this category shall be subject to disciplinary actions involving unpaid time off in accordance with FLSA regulations.

SECTION 7: ADMINISTRATIVE LEAVE

The Central Management positions listed in this Resolution shall be exempt from all overtime provisions contained in the Municipal Code or in any Memorandum of Understanding. The provisions of Administrative Leave for Middle Management will also be offered to the classifications listed in this Resolution.

SECTION 8: EXEMPT CENTRAL MANAGEMENT CLASSES

All classes listed in this Central Management Resolution shall be designated as exempt and be considered to be exempt from the provisions of the Municipal Code Section 2.44.390.

The appointment and removal of Department heads and the primary assistants in the City Manager's Office are governed by the Municipal Code Section 2.08.100.

SECTION 9: CITY AUTOMOBILE USAGE

Central Management employees may be assigned a City vehicle by the City Manager to conduct city business in accordance with the Administrative Regulations. The City Manager may, in lieu of assigning a City vehicle, provide the employee with an allowance equal to the City's budgeted equipment rental rate for a standard sedan.

Those employees assigned a City-owned vehicle to conduct City business, may also use the vehicle for private purposes in accordance with Administrative Regulations.

SECTION 10: SPECIAL VACATION ALLOWANCE

The City Manager, in his sole discretion, may authorize a central management employee to receive up to 80 additional vacation hours each fiscal year to recognize exceptional accomplishment and/or significant and ongoing work

beyond the scope of their position. Such special vacation shall not affect the employee's vacation accrual rate.

SECTION 11: UNIFORM ALLOWANCE

Employees may be required to wear uniforms issued by the City if so determined by their respective department director(s). The City will replace uniforms due to normal wear.

The cost of uniforms shall not constitute compensation for purposes of the regular rate calculation under the Fair Labor Standard Act. This policy shall remain in effect unless a change is dictated by applicable law.

The City shall report to CalPERS the monetary value of uniforms and uniform maintenance for those employees required to wear uniforms. The monetary value by classification is listed in Exhibit A, entitled "UNIFORM ALLOWANCE."

Uniform allowance is defined as compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain.

Adopted this 8th day of July 2014.

ATTEST:

/s/ BRUCE A. BROADWATER
MAYOR

/s/ KATHLEEN BAILOR, CMC
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Garden Grove, California, at a meeting held on the 8th day of July 2014, by the following vote:

AYES: COUNCIL MEMBERS: (5) BEARD, JONES, NGUYEN, PHAN, BROADWATER
NOES: COUNCIL MEMBERS: (0) NONE
ABSENT: COUNCIL MEMBERS: (0) NONE

/s/ KATHLEEN BAILOR, CMC
CITY CLERK

EXHIBIT "A"

CENTRAL MANAGEMENT UNIFORM ALLOWANCE

<u>TITLE</u>	<u>REPORTED TO PERS EACH PAY PERIOD</u>
POLICE CHIEF	\$ 8.11
FIRE CHIEF	\$ 54.21

Working for the City of Garden Grove Is a Family Affair

By THY VO 8/08/2013

Courtesy of the Associated Press

At least eight current and former Garden Grove employees are close relatives of high-ranking city officials, including the son of Mayor Bruce Broadwater, City Manager Matthew Fertal's three sons and the daughters of Finance Director Kingsley Okereke, according to a Voice of OC review.

Fertal's sons — Jason, Alex and Matthew Fertal Jr. — and niece, Shawna McDonough, have worked at the city in paid, rank-and-file positions since Fertal became city manager in 2004, according to records provided by the city clerk's office.

The records also show that Okereke's two college-age daughters, Kimberly and Jennifer, have worked temporary summer jobs for the city's recreation department and that Broadwater's son, Jeremy, has been working as a community services coordinator for the city since 2007.

Before 2005, such hiring would have violated the city's nepotism policy, which was passed as an ordinance in 2000 during one of Broadwater's earlier terms as mayor. But in 2005 when Broadwater was off the City Council, it voted to change the policy so relatives of top-level officials could work for the city.

In an interview late Monday, Broadwater said that aside from his own son he was unaware until about a week ago that relatives of higher-ups were working for the city. He said he will bring the policy before the council by the end of the year.

"I will get some background on this before we do anything. I can't give you any dates. I will tell you that something will happen," said Broadwater.

Broadwater said he disapproves of his son's position with the city and played no role in his hiring.

"[Jeremy] told me, 'If other guys can have it worked out, why can't I?' So he did take employment here, none of which I had anything to do with," Broadwater said. "I said there's no reason he can't do it. He's not violating the law."

Meanwhile, both Fertal and Okereke defended their offspring's employment by the city, saying it did not present a conflict of interest.

"There's no conflict. If there was, I wouldn't support this or allow it," said Fertal.

Matthew Fertal Jr. worked as an intern in 2007 and has held two other positions between 2009 and 2012. Jason Fertal started as a part-time trainee in July 2007 and was later promoted to a full-time position, which he still holds.

Alex Fertal worked temporary summer jobs for the city starting in 2008 and has since worked almost two years as a part-time paid intern.

McDonough, the niece, interned at the city's redevelopment agency for more than a year starting in 2008, eventually interned at the Finance Department and was later promoted to her current job as a senior account specialist.

Additionally, Veronica Avila, a friend of Fertal's son, began as a part-time intern in 2011 and still works for the city.

The maximum salaries of Fertal's sons range from \$27,248 annually for a paid internship to \$62,784 annually for an administrative aide position. The highest salary his niece could receive is \$55,152 annually.

Kimberly and Jennifer Okereke earned more than \$2,000 each summer, and the annual salary range for Jeremy Broadwater is between \$44,568 and \$59,724.

A California Public Records Act request by Voice of OC for resumes, employment history and hiring notices for each of the officials' relatives is pending, after a 14-day extension requested by the city.

A History of Nepotism

Garden Grove is no stranger to controversy over nepotism.

In 2011, the council appointed the relatives of two council members despite receiving applications from more than 40 residents for 12 seats, according to the Los Angeles Times.

Councilwoman Dina Nguyen's husband, Joe Dovich, was appointed to the Planning Commission. Dalton's son, Robert, was appointed to the Traffic Commission.

Under the 2000 ordinance, none of the current officials' relatives could be collecting a city paycheck. It prohibited the employment of relatives of top-level officials, such as council members, the city manager, his or her assistant and department directors.

But in 2005, the council, under then Mayor William Dalton, voted 4-1 to change the policy, removing the ban on hiring relatives of top-level employees.

That policy, still in place today, does not allow employees to work within the same department or under the supervision of a relative but also states that "no person shall be disqualified from employment in the City, or be given special consideration ... by virtue of the fact that the person is a relative" of a current employee.

Human Resources Director John Clark said the hires do not violate the city's nepotism policy.

"There's nothing in our administrative policy or municipal code that has any prohibition [on hiring family members]," said Clark. "And I'll say that just in general, it's not unusual for sons to follow in their father's footsteps in the public sector as well as in the private sector."

When asked whether he influenced or played a role in his offspring's hiring, Fernalt declined to answer any further questions and said, "I think your public records request will provide you the information you're looking for."

Okereke said his children applied for employment without his help or involvement.

"I acknowledge that public servants are held to a higher standard," said Okereke. "But if they go through the same process as anybody else, should I deprive them of that opportunity?"

"I wouldn't hire them myself and I wouldn't want them to work for the Finance Department," he added.

Please contact Thy Vo directly at thyanhvo@gmail.com

Garden Grove Municipal Codes

GGMC 2.02.020 Responsibilities of Public Office

Public officials are all elective officials of the City and the members of all official boards, commissions, and committees of the City. Public officials and employees are bound to uphold the Constitution of the United States and the Constitution of the State and to carry out the laws of the nation, state, and municipality. Public officials and employees are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their offices, regardless of personal considerations; recognizing that the public interest must be their primary concern, and that conduct in both their official and private affairs should be above reproach. (2813 § 1, 2012; 1301 § 1, 1972)

GGMC 2.02.040 Fair and Equal Treatment

Preferential consideration of the request or petition of any individual citizen or group of citizens shall not be given. No person shall receive special advantages beyond that which are available to any other citizen. (2813 § 1, 2012; 1301 § 1, 1972)

GGMC 2.02.060 Obligations to Citizens

A. **CONFLICT WITH PROPER DISCHARGE OF DUTIES.** No public official or employee, while serving as such, shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by law.

B. **INCOMPATIBLE EMPLOYMENT.** No public official or employee shall accept other employment that he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her or induce him or her to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

C. **DISCLOSURE OF CONFIDENTIAL INFORMATION.** No public official or employee shall willfully and knowingly disclose for pecuniary gain to any other person confidential information acquired by him or her in the course of and by reason of his or her official duties nor shall any public official or employee use any such information for the purpose of pecuniary gain.

D. **CONFLICT OF INTEREST.** A conflict of interest exists in a matter before a public official for consideration or determination if:

1. The public official has a substantial financial or substantial personal interest in the outcome or as owner, member, partner, officer, employee, or stockholder of any corporation or other professional enterprise that will be affected by the outcome, and such interest is or may be adverse to the public interest in the proper performance of governmental duties by the public official;

2. The public official has reason to believe or expect that he or she will derive direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity;

3. The public official, because of bias, prejudice, or because he or she has prejudged a matter set for public hearing, is incapable because of such bias, prejudice or prejudgment of granting to the matter before him or her a fair and impartial hearing.

4. Personal interest as distinguished from financial interest is defined as including, among other matters, an interest arising from blood or marriage relationships, or close business association. (2813 § 1, 2012; 1301 § 1, 1972)

GGMC 2.02.070 Disclosure of Interest and Disqualification

A. Any Councilmember who has a conflict of interest as defined herein, in any matter before the City Council, shall disclose such fact on the record of the City Council and refrain from participating in any discussion of voting thereon, provided that such exceptions shall be observed as are required by law.

B. Any member of any official board, commission, or committee who has a conflict of interest as defined herein in any matter before the board, commission, or committee of which he or she is a member, shall disclose such fact on the record of such board, commission, or committee and refrain from participating in any discussion or voting thereon, provided that such exceptions shall be observed as are required by law.

C. Any employee who has a financial or other special interest in a matter before the City Council or any board, commission, or committee and who participates in discussion with, or gives an official opinion to the City Council, or to such board, commission, or committee relating to such matter, shall disclose on the record of the City Council or such board, commission, or committee, as the case may be, the nature and extent of such interest. (2813 § 1, 2012; 1301 § 1, 1972)

GGMC 2.02.080 Compliance with State Law

Public officials and employees of the City shall comply with applicable provisions of state law relative to conflicts of interest and generally regulating the conduct of public officials and employees. (2813 § 1, 2012; 1301 § 1, 1972)

GGMC 2.02.090 Violations—Actions

The violation of any provision of this chapter shall be:

- A. As to all City employees, grounds for dismissal from City employment;
- B. As to any appointed position on any board, commission, or committee, grounds for removal from any such board, commission, or committee;
- C. As to any prosecution of any elected public official, the City Council shall make findings of fact by at least a vote of three City Councilmembers that an elected public official has, in fact, violated this chapter as a prerequisite to prosecution. (2813 § 1, 2012; 1301 § 1, 1972)

GGMC 2.02.110 Violations—Penalty

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, is punishable as provided in Section 1.04.010 of this Code. (2813 § 1, 2012; 1301 § 1, 1972)

GOVERNMENT CODE SECTIONS 835, 54950-54963

835. Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:

(a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or

(b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.

54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

54950.5. This chapter shall be known as the Ralph M. Brown Act.

54952.6. As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

54956.9. (a) Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

(b) For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

(c) For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(d) For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(1) Litigation, to which the local agency is a party, has been initiated formally.

(2) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(3) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (2).

(4) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

(e) For purposes of paragraphs (2) and (3) of subdivision (d), "existing facts and circumstances" shall consist only of one of the following:

(1) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(2) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(3) The receipt of a claim pursuant to the Government Claims Act (Division 3.6 commencing with Section 810) of Title 1 of the Government Code) or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(4) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(5) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(f) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1).

(g) Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the paragraph of subdivision (d) that authorizes the closed session. If the session is closed pursuant to paragraph (1) of subdivision (d), the body shall state the title

of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(h) A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person,

the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect

to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

CALIFORNIA PENAL CODES

182. (a) If two or more persons conspire:

- (1) To commit any crime.
- (2) Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime.
- (3) Falsely to move or maintain any suit, action, or proceeding.
- (4) To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform those promises.
- (5) To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.
- (6) To commit any crime against the person of the President or Vice President of the United States, the Governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States.

They are punishable as follows:

When they conspire to commit any crime against the person of any official specified in paragraph (6), they are guilty of a felony and are punishable by imprisonment pursuant to subdivision (h) of Section 1170 for five, seven, or nine years.

When they conspire to commit any other felony, they shall be punishable in the same manner and to the same extent as is provided for the punishment of that felony. If the felony is one for which different punishments are prescribed for different degrees, the jury or court which finds the defendant guilty thereof shall determine the degree of the felony the defendant conspired to commit. If the degree is not so determined, the punishment for conspiracy to commit the felony shall be that prescribed for the lesser degree, except in the case of conspiracy to commit murder, in which case the punishment shall be that prescribed for murder in the first degree.

If the felony is conspiracy to commit two or more felonies which have different punishments and the commission of those felonies constitute but one offense of conspiracy, the penalty shall be that prescribed for the felony which has the greater maximum term.

When they conspire to do an act described in paragraph (4), they shall be punishable by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

When they conspire to do any of the other acts described in this section, they shall be punishable by imprisonment in a county jail for not more than one year, or pursuant to subdivision (h) of Section 1170, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine. When they receive a felony conviction for conspiring to commit identity theft, as defined in Section 530.5, the court may impose a fine of up to twenty-five thousand dollars (\$25,000).

All cases of conspiracy may be prosecuted and tried in the superior court of any county in which any overt act tending to effect the conspiracy shall be done.

(b) Upon a trial for conspiracy, in a case where an overt act is necessary to constitute the offense, the defendant cannot be convicted unless one or more overt acts are expressly alleged in the indictment or information, nor unless one of the acts alleged is proved; but other overt acts not alleged may be given in evidence.

Penal Code 67. Every person who gives or offers any bribe to any executive officer in this state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment in the state prison for two, three or four years, and is disqualified from holding any office in this state.

Penal Code 67.5. (a) Every person who gives or offers as a bribe to any ministerial officer, employee, or appointee of the State of California, county or city therein, or political subdivision thereof, any thing the theft of which would be petty theft is guilty of a misdemeanor.

(b) If the theft of the thing given or offered would be grand theft the offense is a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170.

Penal Code 68. (a) Every executive or ministerial officer, employee, or appointee of the State of California, a county or city therein, or a **political subdivision thereof**, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his or her vote, opinion, or action upon any matter then pending, or that may be brought before him or her in his or her official capacity, shall be influenced thereby, is punishable by imprisonment in the state prison for two, three, or four years and, in cases in which no bribe has been actually received, by a restitution fine of not less than two thousand dollars (\$2,000) or not more than ten thousand dollars (\$10,000) or, in cases in which a bribe was actually received, by a restitution fine of at least the actual amount of the bribe received or two thousand dollars (\$2,000), whichever is greater, or any larger amount of not more than double the amount of any bribe received or ten thousand dollars (\$10,000), whichever is greater, and, in addition thereto, forfeits his or her office, employment, or appointment, and is forever disqualified from holding any office, employment, or appointment, in this state.

(b) In imposing a restitution fine pursuant to this section, the court shall consider the defendant's ability to pay the fine.

Penal Code 424. (a) Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who either:

1. Without authority of law, appropriates the same, or any portion thereof, to his or her own use, or to the use of another; or,

2. Loans the same or any portion thereof; makes any profit out of, or uses the same for any purpose not authorized by law; or,

3. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or,
4. Fraudulently alters, falsifies, conceals, destroys, or obliterates any account; or,
5. Willfully refuses or omits to pay over, on demand, any public moneys in his or her hands, upon the presentation of a draft, order, or warrant drawn upon these moneys by competent authority; or,
6. Willfully omits to transfer the same, when transfer is required by law; or,
7. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him or her under any duty imposed by law so to pay over the same;--

Is punishable by imprisonment in the state prison for two, three, or four years, and is disqualified from holding any office in this state.

(b) As used in this section, "public moneys" includes the proceeds derived from the sale of bonds or other evidence or indebtedness authorized by the legislative body of any city, county, district, or public agency.

(c) This section does not apply to the incidental and minimal use of public resources authorized by Section 8314 of the Government Code.

Penal Code 425. Every officer charged with the receipt, safe keeping, or disbursement of public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of felony.

Penal Code 426. The phrase "public moneys," as used in Sections 424 and 425, includes all bonds and evidence of indebtedness, and all moneys belonging to the state, or any city, county, town, district, or public agency therein, and all moneys, bonds, and evidences of indebtedness received or held by state, county, district, city, town, or public agency officers in their official capacity.

Penal Code 503. Embezzlement is the fraudulent appropriation of property by a person to whom it has been intrusted.

Penal Code 504. Every officer of this state, or of any county, city, city and county, or other municipal corporation or subdivision thereof, and every deputy, clerk, or servant of that officer, and every officer, director, trustee, clerk, servant, or agent of any association, society, or corporation (public or private), who fraudulently appropriates to any use or purpose not in the due and lawful execution of that person's trust, any property in his or her possession or under his or her control by virtue of that trust, or secretes it with a fraudulent intent to appropriate it to that use or purpose, is guilty of embezzlement.

Penal Code 518: Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

Penal Code 484. (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) (1) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and that property has a value greater than one thousand dollars (\$1,000) and is not a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 10 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(2) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and where the property has a value no greater than one thousand dollars (\$1,000), or where the property is a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice

addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

Penal Code 422.77. (a) Any willful and knowing violation of any order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code shall be a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) A person who has previously been convicted one or more times of violating an order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code upon charges separately brought and tried shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time of the sentencing of a defendant pursuant to this subdivision.

(c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to Section 52.1 of the Civil Code.

(d) The court may order a defendant who is convicted of a hate crime to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than his or her hours of employment or school attendance.

CA Penal Code 186. This act may be cited as the "California Control of Profits of Organized Crime Act."

186.2. For purposes of this chapter, the following definitions apply:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

- (1) Arson, as defined in Section 451.
- (2) Bribery, as defined in Sections 67, 67.5, and 68.
- (3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.
- (4) Felonious assault, as defined in Section 245.
- (5) Embezzlement, as defined in Sections 424 and 503.
- (6) Extortion, as defined in Section 518.
- (7) Forgery, as defined in Section 470.
- (8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.
- (9) Kidnapping, as defined in Section 207.
- (10) Mayhem, as defined in Section 203.
- (11) Murder, as defined in Section 187.
- (12) Pimping and pandering, as defined in Section 266.
- (13) Receiving stolen property, as defined in Section 496.
- (14) Robbery, as defined in Section 211.
- (15) Solicitation of crimes, as defined in Section 653f.
- (16) Grand theft, as defined in Section 487 or subdivision (a) of Section 487a.
- (17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.
- (18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.
- (19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter that may be prosecuted as a felony.
- (20) Presentation of a false or fraudulent claim, as defined in Section 550.
- (21) False or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code.
- (22) Money laundering, as defined in Section 186.10.
- (23) Offenses relating to the counterfeit of a registered mark, as specified in Section 350.
- (24) Offenses relating to the unauthorized access to computers, computer systems, and computer data, as specified in Section 502.
- (25) Conspiracy to commit any of the crimes listed above, as defined in Section 182.**
- (26) Subdivision (a) of Section 186.22, or a felony subject to enhancement as specified in subdivision (b) of Section 186.22.

(27) Any offenses related to fraud or theft against the state's beverage container recycling program, including, but not limited to, those offenses specified in this subdivision and those criminal offenses specified in the California Beverage Container Recycling and Litter Reduction Act, commencing at Section 14500 of the Public Resources Code.

(28) Human trafficking, as defined in Section 236.1.

(29) Any crime in which the perpetrator induces, encourages, or persuades a person under 18 years of age to engage in a commercial sex act. For purposes of this paragraph, a commercial sex act means any sexual conduct on account of which anything of value is given or received by any person.

(30) Any crime in which the perpetrator, through force, fear, coercion, deceit, violence, duress, menace, or threat of unlawful injury to the victim or to another person, causes a person under 18 years of age to engage in a commercial sex act. For purposes of this paragraph, a commercial sex act means any sexual conduct on account of which anything of value is given or received by any person.

(31) Theft of personal identifying information, as defined in Section 530.5.

(32) Offenses involving the theft of a motor vehicle, as specified in Section 10851 of the Vehicle Code.

(33) Abduction or procurement by fraudulent inducement for prostitution, as defined in Section 266a.

(b) (1) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this chapter, that meet the following requirements:

(A) Have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(B) Are not isolated events.

(C) Were committed as a criminal activity of organized crime.

(2) Acts that would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime that is of a conspiratorial nature and that is either of an organized nature and seeks to supply illegal goods and services such as narcotics, prostitution, loan-sharking, gambling, and pornography, or that, through planning and coordination of individual efforts, seeks to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, fraud against the beverage container recycling program, or systematically encumbering the assets of a business for the purpose of defrauding creditors. "Organized crime" also means crime committed by a criminal street gang, as defined in subdivision (f) of Section 186.22. "Organized

crime" also means false or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code, and the theft of personal identifying information, as defined in Section 530.5.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

Federal CRIMINAL RICO: 18 U.S.C. §§ 1961-1968: Under the law, the meaning of **racketeering activity** is set out at 18 U.S.C. § 1961. As currently amended it includes:

- Any violation of state statutes against gambling, murder, kidnapping, extortion, arson, robbery, bribery, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in the Controlled Substances Act);
- Any act of bribery, counterfeiting, theft, embezzlement, fraud, dealing in obscene matter, obstruction of justice, slavery, racketeering, gambling, money laundering, commission of murder-for-hire, and many other offenses covered under the Federal criminal code (Title 18);
- Embezzlement of union funds;
- Bankruptcy fraud or securities fraud;
- Drug trafficking; long-term and elaborate drug networks can also be prosecuted using the Continuing Criminal Enterprise Statute;
- Criminal copyright infringement;
- Money laundering and related offenses;
- Bringing in, aiding or assisting aliens in illegally entering the country (if the action was for financial gain);
- Acts of terrorism.

California Civil Code Section 52.1

52.1. (a) If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or **coercion**, or attempts to interfere by threats, intimidation, or **coercion**, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

(d) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: **VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.77 OF THE PENAL CODE.**

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk of the court to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or

modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.77 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any proceeding pursuant to the Code of Civil Procedure, if it is determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone is not sufficient to support an action brought pursuant to subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

California

a. Negligent Hiring

i. Elements: “An employer may be liable to a third person for the employer’s negligence in hiring or retaining an employee who is incompetent or unfit.’ (Roman Catholic Bishop v. Superior Court, 42 Cal. App. 4th 1556, 1564-1565 (Cal. App. 4th Dist. 1996)). Negligence liability will be imposed upon the employer if it ‘knew or should have known that hiring the employee created a particular risk or hazard and that particular harm materializes.’ (Doe v. Capital Cities, 50 Cal. App. 4th 1038, 1054 (Cal. App. 2nd Dist. 1996)). As such, California follows the rule set forth in the Restatement Second of Agency section 213, which provides in pertinent part: ‘A person conducting an activity through servants or agents is subject to liability for harm resulting from his conduct if he is negligent or reckless:… (b) in the employment of improper persons or instrumentalities in work involving risk of harm to others[.]’ (Ibid.)’ (Evan F. v. Hughson United Methodist Church, 8 Cal. App. 4th 828, 836 (Cal. App. 3rd Dist. 1992)).” *Delfino v. Agilent Technologies, Inc.*, 145 Cal. App. 4th 790, 815 (Cal. App. 6th Dist. 2006). Further, liability for negligent supervision and/or retention of an employee is one of direct liability for negligence, not vicarious liability. *Id.*

b. Negligent Retention

i. Elements: See above.

Subject: City Council Priority Setting/Planning Retreat
From: Nancy Hetrick <nhetrick@managementpartners.com>
Date: Thu, 25 Feb 2016 19:27:25 +0000
To: "baon@ci.garden-grove.ca.us" <baon@ci.garden-grove.ca.us>
CC: Maria Stipe <marias@ci.garden-grove.ca.us>

Mayor Nguyen,

My name is Nancy Hetrick and I am a Senior Manager with Management Partners. I will be the facilitator of the Council's Priority Setting/Planning Retreat on Friday, March 11, 8:00 am - 3:00 pm at the Sheraton Hotel. The goal of the session is to identify an approved list of City Council priorities that staff will subsequently develop into a strategic action plan for FY 2016-17. As part of the preparation for the session, I would like to schedule a time for a short phone or video interview with you to get initial thoughts regarding what you see as priorities for the upcoming fiscal year. Please let me know if one of the following blocks of time will work for you and if not, please suggest a time that would. We will need approximately 30 minutes. My preference is to arrange for a video conference if you have a camera on your laptop or tablet device; however, a phone call also works fine.

Here are a few blocks of time for consideration:

Monday, Feb 29

3:00 – 3:30

Monday, Feb 29

3:45 – 4:15

Monday, Feb 29

4:30 – 5:00

Monday, Feb 29

any time after 5pm if evenings are better

Tuesday, March 1

any time

Wednesday, March 2

any time after 10:30am

I look forward to talking with you next week.

Best,

Nancy

Nancy Hetrick | Senior Manager
Office: 408-437-5400 | Cell: 408-674-3369
2107 N First Street, Suite 470, San Jose, CA 95131

Management
Partners 

From: "Maria Stipe" <marias@ci.garden-grove.ca.us>

Cc: "Scott Stiles" <ssstiles@ci.garden-grove.ca.us>, "Pam Haddad" <pamha@ci.garden-grove.ca.us>

Sent: Tuesday, February 23, 2016 3:35:11 PM

Subject: Phone Interviews to be Scheduled In Preparation For Council Retreat

Mayor and City Council Members,

As you know, we have scheduled a City Council Priority Setting/Planning Retreat for Friday, March 11, 8:00 am -3:00 pm at the Sheraton Hotel. Nancy Hetrick, Senior Manager, with Management Partners will be working with us to facilitate the meeting. Nancy would like to schedule a short phone interview with each of you to get your initial thoughts regarding what you see as priorities for the upcoming fiscal year. She will be reaching out to you in the next several days. The information you share will be integrated into a discussion presentation similar to the format used last year. At the end of the planning meeting, we hope to identify an approved list of City Council priorities that staff will subsequently develop into a strategic action plan for FY 2016-17. I have attached an updated copy of the current strategic plan for your reference.

Please call or email me or Scott if you have any questions. (Members of the Council have been blind copied.)

Maria

Subject: County takes exception to Public Records request on animal shelter

From: "Rose Tingle" <roselite@comline.com>

Date: Thu, 25 Feb 2016 14:31:21 -0800

To: "Susan Ray" <SRay@anaheim.net>, <phatb@garden-grove.org>, <phuang@yorba-linda.org>, <rjohnson@ci.cypress.ca.us>, <tbeall@cityofrsm.org>, <stevENV@ci.brea.ca.us>, "Nick, Adam" <anick@lakeforestca.gov>, <jim.katapodis@surfcity-hb.org>, <pmorales@ci.cypress.ca.us>, <jill.hardy@surfcity-hb.org>, "Gardner, Jim" <jgardner@lakeforestca.gov>, <sberry@ci.cypress.ca.us>, <bwwhitaker@live.com>, <glennp@ci.brea.ca.us>, <jpeat@ci.cypress.ca.us>, <barbara.delgleize@surfcity-hb.org>, <baon@garden-grove.org>, <ppatterson@sanjuancapistrano.org>, <jperry@sanjuancapistrano.org>, <martys@ci.brea.ca.us>, <Dave.Sullivan@surfcity-hb.org>, <kbeard@garden-grove.org>, <mschwing@yorba-linda.org>, <jenniferf@cityoffullerton.com>, <gregs@cityoffullerton.com>, <kmurray@anaheim.net>, <myarc@ci.cypress.ca.us>, <mike.posey@surfcity-hb.org>, <council@cityoffullerton.com>, <chrisp@ci.garden-grove.ca.us>, <tlindey@yorba-linda.org>, <stevej@garden-grove.org>, <jholloway@cityofrsm.org>, <cyoung@yorba-linda.org>, <lkring@anaheim.net>, <kferguson@sanjuancapistrano.org>, <dreeve@sanjuancapistrano.org>, <cgamble@cityofrsm.org>, <sallevalo@sanjuancapistrano.org>, <ttait@anaheim.net>, <ehernandez@yorba-linda.org>, "Cecilia" <CeciliaH@ci.brea.ca.us>, <christinem@ci.brea.ca.us>, <billy.oconnell@surfcity-hb.org>, <erik.peterson@surfcity-hb.org>, <bmcgirr@cityofrsm.org>, "Gardner, Jim" <jgardner@lakeforestca.gov>, <barbarakogerman@me.com>

CC: "Norberto Santana" <voiceofoc@gmail.com>, "Theresa Sears" <tsears@voiceofoc.org>

Honorable mayors and council members,

I submitted a Public Records Request to the county for information on the county animal shelter. Their response is attached.

As you will read the county took exemption to the majority of my request citing California Government Code Section 6255 which is commonly called the "catch all" exemption. Most of the exemptions under the California Public Records Act are set forth under Section 6254 and are specific to certain records or types of records, but under Section 6255 a general exemption exists where, on the facts of the particular case, *"the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record."*

I could sue, but I think you can reach your own conclusion. Do you really want to commit to the county by April 1, as they have requested?

Respectfully,
Rose Tingle

16-0145 final.pdf	Content-Type: application/pdf Content-Encoding: base64
-------------------	---

 ORANGE COUNTY
OC Community Resources
Our Community. Our Commitment.

2/23/2016

Rose Tingle

RE: Public Records Act Request #16-0145

Dear Ms. Tingle,

This letter is in response to the above-referenced Public Records Act request, which OC Community Resources received on 2/17/2016. In your request, you requested the following records:

1. Agendas of the Financial Operations and Advisory Board (FOAB) from July 2015 through the present,
2. A copy of the property map as well as documents and correspondence regarding the status of the property "swap" between the County of Orange and the "College District",
3. A copy of the RFQ, and
4. An updated copy of the OC Animal Care Design Build.

OC Animal Care conducted a search for records responsive to your request. At this time, we are prepared to produce responsive records in regards to item #1 only. The attached records are the only responsive records OC Animal Care possesses with regard to your request.

In regards to the remaining items in your request, currently the County of Orange and College District are involved in negotiations regarding this issue; therefore we are unable to provide the requested documentation as it is considered privilege under the Deliberative Process and Draft exceptions pursuant to California Government Code Section 6255.

Some of the information contained in the responsive records is exempt from release under the Public Records Act. That information has been redacted pursuant to California Government Code Sections 6254(c) and (k) and 6255 and the California Constitution Article 1, Section 1. The decision to redact this information was made by the undersigned.

Sincerely,

Jeffrey Kirkpatrick
Custodian of Records

 ORANGE COUNTY
OC Community Resources
Our Community. Our Commitment.



**OC COMMUNITY RESOURCES
OC ANIMAL CARE**
561 The City Drive South, Orange, CA 92868

FINANCIAL/OPERATIONAL ADVISORY BOARD MEETING
August 20, 2015 2:00 PM

ATTENDANCE

- | | | |
|---|---|--|
| <input type="checkbox"/> Steve Franks | <input type="checkbox"/> Damion Arrula | <input type="checkbox"/> Debra Rose |
| <input type="checkbox"/> Jennifer Hawkins | <input type="checkbox"/> Jim Box | <input type="checkbox"/> Maria Stipe |
| <input type="checkbox"/> Bill Castro | <input type="checkbox"/> Jennifer Cervantes | <input type="checkbox"/> James Wren |
| <input type="checkbox"/> Alan Young | <input type="checkbox"/> Stefanie Turner | <input type="checkbox"/> Don White |
| <input type="checkbox"/> Connie Chang | <input type="checkbox"/> David Belmer | <input type="checkbox"/> Stephen Parker |
| | <input type="checkbox"/> Irma Hernandez | <input type="checkbox"/> Eduardo DeLaTorre |

AGENDA/Action Items

- ❖ Canvassing _____
- ❖ Budget Update _____
- ❖ OC Grand Jury Reports _____
- ❖ Adoption Centers _____
- ❖ Animal Shelter _____
 - Shelter Maintenance _____
- ❖ New Shelter Update _____
 - Business Plan _____
 - Calendar for Concept Design _____

NOTES

Please RSVP to Dr, Jennifer Hawkins (714) 796-6417 or Jennifer.Hawkins@occr.ocgov.com on or before August 20, 2015, if you have not already.

The next Financial/Operational Advisory Board Meeting is scheduled for:

September 17, 2015



**OC COMMUNITY RESOURCES
OC ANIMAL CARE**

561 The City Drive South, Orange, CA 92868

FINANCIAL/OPERATIONAL ADVISORY BOARD MEETING

October 15, 2015 2:00 PM

ATTENDANCE

- | | | |
|---|---|--|
| <input type="checkbox"/> Steve Franks | <input type="checkbox"/> Damion Arrula | <input type="checkbox"/> Debra Rose |
| <input type="checkbox"/> Jennifer Hawkins | <input type="checkbox"/> Jim Box | <input type="checkbox"/> Maria Stipe |
| <input type="checkbox"/> Bill Castro | <input type="checkbox"/> Jennifer Cervantes | <input type="checkbox"/> James Wren |
| <input type="checkbox"/> Alan Young | <input type="checkbox"/> Stefanie Turner | <input type="checkbox"/> Don White |
| <input type="checkbox"/> Connie Chang | <input type="checkbox"/> David Belmer | <input type="checkbox"/> Stephen Parker |
| | <input type="checkbox"/> Irma Hernandez | <input type="checkbox"/> Eduardo DeLaTorre |
| | <input type="checkbox"/> Ken Domer | <input type="checkbox"/> Sharlyn De La Paz |
| | | <input type="checkbox"/> Sandra Sagert |

AGENDA/Action Items

- ❖ Adoption Centers—RFP issuance
- ❖ Current Shelter Update
 - Kennel Door/Separator Repairs
 - Kennel Cleaning
- ❖ New Animal Shelter Update
 - Draft Business Plan
 - Grand Ave vs. Tustin
- ❖ Board Direction PDD/Vicious
 - Behaviorist
- ❖ Upcoming Events
 - Race for the Rescues

NOTES

Please RSVP to Ariana Mandujano (714) 796-6415 or Ariana.Mandujano@occr.ocgov.com on or before Oct. 15, 2015, if you have not already.

The next Financial/Operational Advisory Board Meeting is scheduled for:

November 19, 2015



**OC COMMUNITY RESOURCES
OC ANIMAL CARE**

561 The City Drive South, Orange, CA 92868

FINANCIAL/OPERATIONAL ADVISORY BOARD MEETING

November 19, 2015 2:00 PM

ATTENDANCE

- | | | |
|---|---|--|
| <input type="checkbox"/> Steve Franks | <input type="checkbox"/> Damion Arrula | <input type="checkbox"/> Debra Rose |
| <input type="checkbox"/> Jennifer Hawkins | <input type="checkbox"/> Jim Box | <input type="checkbox"/> Maria Stipe |
| <input type="checkbox"/> Bill Castro | <input type="checkbox"/> Jennifer Cervantes | <input type="checkbox"/> James Wren |
| <input type="checkbox"/> Alan Young | <input type="checkbox"/> Stefanie Turner | <input type="checkbox"/> Don White |
| <input type="checkbox"/> Connie Chang | <input type="checkbox"/> David Belmer | <input type="checkbox"/> Stephen Parker |
| | <input type="checkbox"/> Irma Hernandez | <input type="checkbox"/> Eduardo DeLaTorre |
| | <input type="checkbox"/> Ken Domer | <input type="checkbox"/> Sharlyn De La Paz |
| | | <input type="checkbox"/> Sandra Sagert |

AGENDA/Action Items

- ❖ Budget
 - Protocol Legal Review
 - Program Review and Design Consultation
 - Maintenance/Vehicles
 - Behaviorist
 - Chameleon Update
 - Adoption Center RFP

- ❖ New Shelter Update

- ❖ Cogs for Dogs

- ❖ Upcoming Events

NOTES

Please RSVP to Ariana Mandujano (714) 796-6415 or Ariana.Mandujano@occr.ocgov.com on or before Oct. 15, 2015, if you have not already.

The next Financial/Operational Advisory Board Meeting is scheduled for:

December 17, 2015



**OC COMMUNITY RESOURCES
OC ANIMAL CARE**

561 The City Drive South, Orange, CA 92868

FINANCIAL/OPERATIONAL ADVISORY BOARD MEETING

November 19, 2015 2:00 PM

ATTENDANCE

- | | | |
|---|---|--|
| <input type="checkbox"/> Steve Franks | <input type="checkbox"/> Damion Arrula | <input type="checkbox"/> Debra Rose |
| <input type="checkbox"/> Jennifer Hawkins | <input type="checkbox"/> Jim Box | <input type="checkbox"/> Maria Stipe |
| <input type="checkbox"/> Bill Castro | <input type="checkbox"/> Jennifer Cervantez | <input type="checkbox"/> James Wren |
| <input type="checkbox"/> Alan Young | <input type="checkbox"/> Stefanie Turner | <input type="checkbox"/> Don White |
| <input type="checkbox"/> Connie Chang | <input type="checkbox"/> David Belmer | <input type="checkbox"/> Stephen Parker |
| | <input type="checkbox"/> Irma Hernandez | <input type="checkbox"/> Eduardo DeLaTorre |
| | <input type="checkbox"/> Ken Domer | <input type="checkbox"/> Sharlyn De La Paz |
| | | <input type="checkbox"/> Sandra Sagert |

AGENDA/Action Items

- ❖ Budget
 - Sheriff
 - Classification Studies/Results
- ❖ Hours of Operation
- ❖ Project Construction Update
- ❖ Long-Term Agreement
 - Draft MOU
 - Charge Day Formula Comparison
- ❖ Upcoming Events

NOTES

Please RSVP to Ariana Mandujano (714) 796-6415 or Ariana.Mandujano@occr.ocgov.com on or before December 17, 2015, if you have not already.

The next Financial/Operational Advisory Board Meeting is scheduled for:

January 21, 2015



**OC COMMUNITY RESOURCES
OC ANIMAL CARE**
561 The City Drive South, Orange, CA 92868

FINANCIAL/OPERATIONAL ADVISORY BOARD MEETING
January 21, 2016 2:00 PM

ATTENDANCE

- | | | |
|---|---|--|
| <input type="checkbox"/> Steve Franks | <input type="checkbox"/> Damion Arrula | <input type="checkbox"/> Debra Rose |
| <input type="checkbox"/> Jennifer Hawkins | <input type="checkbox"/> Jim Box | <input type="checkbox"/> Maria Stipe |
| <input type="checkbox"/> Bill Castro | <input type="checkbox"/> Jennifer Cervantez | <input type="checkbox"/> James Wren |
| <input type="checkbox"/> Alan Young | <input type="checkbox"/> Stefanie Turner | <input type="checkbox"/> Don White |
| <input type="checkbox"/> Connie Chang | <input type="checkbox"/> David Belmer | <input type="checkbox"/> Stephen Parker |
| | <input type="checkbox"/> Irma Hernandez | <input type="checkbox"/> Eduardo DeLaTorre |
| | <input type="checkbox"/> Ken Domer | <input type="checkbox"/> Sharlyn De La Paz |
| | | <input type="checkbox"/> Sandra Sagert |

AGENDA/Action Items

- ❖ Budget
 - City Billing Projection _____
 - City Billing Methodology Review _____

- ❖ Shelter Intake Procedures
 - Owner Surrender Euthanasia _____
 - Cats _____

- ❖ New Shelter Update
 - Construction _____
 - Long Term Agreements _____

- ❖ Upcoming Events _____

NOTES

Please RSVP to Ariana Mandujano (714) 796-6415 or Ariana.Mandujano@occr.ocgov.com on or before January 21, 2016, if you have not already.

The next Financial/Operational Advisory Board Meeting is scheduled for:

February 18, 2016

Subject: L-Rate Study Input - email sent on behalf of Rob Hunter
From: Bryce Roberto <BRoberto@mwdoc.com>
Date: Thu, 25 Feb 2016 23:02:05 +0000
To: "baon@garden-grove.org" <baon@garden-grove.org>
CC: "sstiles@ci.garden-grove.ca.us" <sstiles@ci.garden-grove.ca.us>

RE: MWDOC Board of Directors Request for Input
Ongoing Rate Study

Dear Mayor Nguyen:

The Board of Directors of the Municipal Water District of Orange County (MWDOC) has directed me to contact the governing bodies of all our Member Agencies and request your input on the water rate study we are currently conducting. MWDOC's rate structure for our operating budget is currently defined by the Settlement Agreement, which will expire in June 2016. Therefore, MWDOC has initiated the legally required rate study for use in Fiscal Year 2016-2017. MWDOC has contracted with the nationally recognized firm Raftelis Financial Consultants for the technical aspects of the rate study, and the legal review will be performed by Best Best & Krieger. The MWDOC Board has established two primary principles for the rate design: legal and equitable. Obviously, the rate structure must be legal, but the Board also believes that the structure must be equitable to the Member Agencies and general public. It is in this regard we are seeking your input.

MWDOC's rate structure has varied considerably over the past 65 years. Originally tax-based, the rates were a combination of variable and fixed charges for many years. The variable component was a fee based on the volume of water each Member Agency purchased. The fixed component was based on the number of retail meters in each agency's service area. The Settlement Agreement implemented the migration to a 100% fixed rate structure, which was completed for this fiscal year. These rates for MWDOC's core operating budget are in addition to the Choice programs to which Member Agencies may voluntarily subscribe and the actual cost of the water from the Metropolitan Water District of Southern California. This rate study is being conducted to provide a legal basis for our rates. It is not being conducted to implement any specific change in the rate structure.

There are two primary areas for which we are seeking your input. The first is an equity consideration. MWDOC's rate structure is subject to the requirements of Prop 26. As a wholesale provider, we are not subject to Prop 218 requirements. A consequence of the Settlement Agreement rate structure is that Orange County Water District (OCWD) does not pay any fees. As a regional groundwater agency, they have no retail meters. We are currently reviewing the legal issues under Prop 26 that this may trigger and, obviously, the legal decision will dictate our actions. However, the MWDOC Board would like your opinion on the equity of this situation. OCWD clearly receives benefits from MWDOC's actions, but is not directly paying any fees. It can be argued that those benefits accrue to only the groundwater basin agencies and that OCWD should pay a fee. It can also be argued that those benefits accrue to the entire MWDOC service area and that OCWD should not pay a fee. The water is further muddied by the fact that Santa Ana, Fullerton, and Anaheim are OCWD member agencies but not MWDOC member agencies. Therefore the first question is whether your agency feels it is equitable that OCWD is not assessed a fee. If that condition is legal, and our member agencies support that arrangement, then it does not have to become an issue.

The second area has to do with the actual structure of the rates. There was enough interest in this several years ago that the Settlement Agreement required the migration from a combined variable and fixed structure to a 100% fixed. The MWDOC Board is interested in knowing if there are any opinions on this issue. In addition, there is a question as to what is the appropriate metric for allocating the fee. While variable rates are based on the volume of water purchased, fixed rates can be based on several metrics. None of these metrics are perfectly equitable. We are currently using the metric of number of retail meters in a member agencies service area. This tends to under-bill agencies with higher proportions of customers on master meters (i.e., multi-family units, HOAs, commercial properties) or a large commuter influx. Other alternative metrics include factoring in water meter size, previous year's water volume, or population. The rate study is evaluating different metrics, and we welcome your input.

While we would like to receive your input as soon as possible, this subject requires careful consideration by your member agency. However, we would like to hear back from you before the end of March. I am available to come and provide additional information and discuss these issues with you at your convenience.

Thank you for your timely attention.

Sincerely

Robert J. Hunter

General Manager

L-Rate Study Input - 160225 (002).docx	Content-Description: L-Rate Study Input - 160225 (002).docx Content-Type: application/vnd.openxmlformats-officedocument.wordprocessingml.document Content-Encoding: base64
---	---

February 25, 2016

[Member Agency Representative Name & Address]

RE: MWDOC Board of Directors Request for Input
Ongoing Rate Study

Dear [Insert Title & Last Name]:

The Board of Directors of the Municipal Water District of Orange County (MWDOC) has directed me to contact the governing bodies of all our Member Agencies and request your input on the water rate study we are currently conducting. MWDOC's rate structure for our operating budget is currently defined by the Settlement Agreement, which will expire in June 2016. Therefore, MWDOC has initiated the legally required rate study for use in Fiscal Year 2016-2017. MWDOC has contracted with the nationally recognized firm Raftelis Financial Consultants for the technical aspects of the rate study, and the legal review will be performed by Best Best & Krieger. The MWDOC Board has established two primary principles for the rate design: legal and equitable. Obviously, the rate structure must be legal, but the Board also believes that the structure must be equitable to the Member Agencies and general public. It is in this regard we are seeking your input.

MWDOC's rate structure has varied considerably over the past 65 years. Originally tax-based, the rates were a combination of variable and fixed charges for many years. The variable component was a fee based on the volume of water each Member Agency purchased. The fixed component was based on the number of retail meters in each agency's service area. The Settlement Agreement implemented the migration to a 100% fixed rate structure, which was completed for this fiscal year. These rates for MWDOC's core operating budget are in addition to the Choice programs to which Member Agencies may voluntarily subscribe and the actual cost of the water from the Metropolitan Water District of Southern California. This rate study is being conducted to provide a legal basis for our rates. It is not being conducted to implement any specific change in the rate structure.

There are two primary areas for which we are seeking your input. The first is an equity consideration. MWDOC's rate structure is subject to the requirements of Prop 26. As a wholesale provider, we are not subject to Prop 218 requirements. A consequence of the Settlement Agreement rate structure is that Orange County Water District (OCWD) does not pay any fees. As a regional groundwater agency, they have no retail meters. We are currently reviewing the legal issues under Prop 26 that this may trigger and, obviously, the legal decision will dictate our actions. However, the MWDOC Board would like your opinion on the equity of this situation. OCWD clearly receives benefits from MWDOC's actions, but is not directly paying any fees. It can be argued that those benefits accrue to only the groundwater basin agencies and that OCWD should pay a fee. It can also be argued that those benefits accrue to the entire MWDOC service area and that OCWD should not pay a fee. The water is further muddied by the fact that Santa Ana, Fullerton, and Anaheim are OCWD member agencies but not MWDOC member agencies. Therefore the first question is whether your agency feels it is equitable that OCWD is not assessed a fee. If that condition is legal, and our member agencies support that arrangement, then it does not have to become an issue.

The second area has to do with the actual structure of the rates. There was enough interest in this several years ago that the Settlement Agreement required the migration from a combined variable and fixed structure to a 100% fixed. The MWDOC Board is interested in knowing if there are any opinions on this issue. In addition, there is a question as to what is the appropriate metric for allocating the fee. While variable rates are based on the volume of water purchased, fixed rates can be based on several metrics. None of these metrics are perfectly equitable. We are currently using the metric of number of retail meters in a member agencies service area. This tends to under-bill agencies with higher proportions of customers on master meters (i.e., multi-family units, HOAs, commercial properties) or a large commuter influx. Other alternative metrics include factoring in water meter size, previous year's water volume, or population. The rate study is evaluating different metrics, and we welcome your input.

While we would like to receive your input as soon as possible, this subject requires careful consideration by your member agency. However, we would like to hear back from you before the end of March. I am available to come and provide additional information and discuss these issues with you at your convenience.

Thank you for your timely attention.

Sincerely

Robert J. Hunter
General Manager

cc: MA General Manager
MWDOC Board of Directors