



## MEMORANDUM

**To:** Chair and Members of the Planning Commission

**From:** Michael Roush, City Attorney

**Date:** June 26, 2018

**Subject:** Open Meeting Laws, Conflict of Interest Issues and Related Matters

The Planning Commission has received from the Director of Community Development a comprehensive Planning Commissioner Handbook. It covers a host of issues that are important to your service on the Commission. It provides sage advice about the rules and procedures that are applicable to the Commission and provides an overview of the State's Open Meeting laws (the Brown Act) and the State's Conflict of Interest laws. If you have not read these materials, I strongly recommend that you do so as they are helpful in ensuring that Commissioners perform their duties in compliance with the law. If there are general questions about the Brown Act or the Conflict of Interest laws, I will be glad to respond at the Commission's meeting on June 26 or at any time thereafter. You should always feel free to contact me about questions or concerns concerning these two important matters.

The purpose of this memo is to highlight a few issues that may come up from time to time that are not covered in detail (or at all) in the Handbook. These include what constitutes "meetings" under the Brown Act, meeting privately with applicants and/or concerned residents, how the Commission should respond to members of the public who address the Commission under "Oral Communications", how the use of social media affects your role as a Commissioner, when Commissioners must not participate in a decision based on common law conflicts of duty and comments on agenda items when a Commissioner will be absent from a meeting.

### A. Meetings

Under the Brown Act, a meeting is defined as any congregation of a majority of the member of the legislative body at the same time and location to hear, discuss, deliberate or take any action on any item that is within the subject matter jurisdiction of the legislative body. Gov't Code, section 54952.2 (a). (For purposes of the Brown Act, the Planning Commission is considered a legislative body.) A meeting of the legislative body may occur only as provided by the Brown Act and requires notice, an agenda and, except for closed session meetings to discuss, for example, litigation or certain personnel matters, access by members of the public.

There are certain exceptions to the meeting definition: individual contacts, conferences, community meetings, other legislative bodies, standing committees and social or ceremonial events.

Individual contacts. Commissioners may certainly meet with and confer with constituents, advocates, consultants, local agency staff or a colleague. As will be discussed in more detail below, individual contacts with a majority of the Commission, however, could lead to what is called a “serial meeting” which is prohibited under the Act.

Conferences. A majority of the Commission may attend a conference or similar gathering open to the public that addresses areas of interest to the general public, for example, the annual conference of the League of California Cities. A majority of the Commission, however, may not at such conferences discuss among themselves business of a specific nature that is within the Commission’s subject matter jurisdiction, unless a Commission majority was on a program panel discussing, for example, rent control.

Community meetings. A majority of the Commission may attend an open and publicized meeting held by another organization to address a topic of local community concern but, as with conferences, the members may not discuss themselves, other than as part of a scheduled program, business of a specific nature that is within the Commission’s subject matter jurisdiction. For example, assume a residents’ group holds a meeting to which members of the public and all Commission members are invited to attend. A majority could attend such meeting so long as the majority does not discuss the Commission’s subject matter jurisdiction.

Other legislative bodies. A majority of the Commission may attend an open and publicized meeting of another legislative body but, again, the majority may not discuss themselves specific business of the Commission. For example, a Commission majority may attend an open meeting of the Brisbane City Council at which land use issues are discussed.

Standing committees. Many legislative bodies have what are called “standing committees” which are committees of less than a majority of the legislative body. These are committees such as a finance or policy committee that are intended to stay in existence indefinitely. Currently the Commission does not have any standing committees. If such committees were created, a Commission member who is not on such committee could attend but could not participate or speak at the meeting.

Social or ceremonial events. A majority of the Commission may attend a purely social or ceremonial occasion so long as the majority does not discuss among themselves specific business within the Commission’s subject matter jurisdiction. For example, a Commission majority could attend a party, a wedding, a funeral, etc., so long as no Commission business is discussed.

As mentioned above, the Brown Act prohibits “serial meetings”, i.e., individual contacts with a Commission majority where, based on these contacts, a series of communications occur that would lead to the conclusion that a decision had been reached on an item that deprives the public of the opportunity for meaningful input and participation in the decision making process. Such meetings can occur through a “daisy chain” or “hub and spoke”. For example, Commissioner A contacts Commissioner B to discuss a Commission item; Commissioner B then contacts Commission member C to discuss the same item. Or an individual meets with Commissioner A to discuss a Commission item, then the individual meets with Commissioner B and relates what was discussed with Commissioner A, and then meets with Commissioner C and relates what was

discussed with Commissioners A and B. This could lead to discussion or a decision outside of a noticed public meeting, in violation of the Brown Act.

Of course a Commissioner has the right, if not the duty, to meet with constituents to hear their concerns or to discuss with a Commission colleague Commission business. But in the former case, a Commissioner must take care not to express a point of view that, if such were related to a Commission majority, would be seen as engaging in a discussion or arriving at a decision outside the Commission meeting. In the latter case, care should be taken to have a discussion with only one other Commissioner. Particular care should be exercised when staff or a member of the public communicates to the entire Commission by email that a Commissioner's response does not involve the "reply to all" button that may inadvertently result in a Brown Act violation.

### **B. Meeting Privately With Applicants and/or Concerned Residents**

Notwithstanding that Commissioners have the right to meet with constituents to hear their concerns, from time to time applicants who have matters pending before the Commission, or residents who are concerned about a pending application, may want to meet with you privately to discuss the item. Some cities have adopted policies that either prohibit or strongly discourage such meetings because of concerns that a Commissioner may obtain information that is not available to the general public that could influence a Commissioner's thinking and vote on the application. The Brisbane City Council has not adopted such a policy.

The Department's advice, with which I agree, is that it is up to each individual Commissioner whether to have these kinds of meetings although historically Commissioners have avoided such interactions. If, however, a Commissioner decides to have such a meeting, the Commissioner should be in a listening mode and avoid making any kind of commitment. In addition, at the meeting when the item is under discussion, if such a meeting has occurred, the Commissioner must disclose that fact and relate the substance of what was discussed.

### **C. Oral Communications**

Under "Oral Communications", members of the public may ask questions or raise concerns about any item within the subject matter jurisdiction of the Planning Commission that is not on the agenda.

Under the Brown Act, a legislative body, such as the Planning Commission, may not undertake any action or discussion on any item not appearing on the posted agenda except that Commission members or City staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights when there is an opportunity for the public to address the legislative body on any item of interest to the public that is within the subject matter jurisdiction of the legislative body. (Emphasis added.) Gov. Code, sections 54954.2 (a)(2)), 54954.3. In addition, in response to questions posed by the public, a member of the legislative body or its staff may ask a question for clarification, the legislative body may provide a reference to staff for factual information, request staff to report back to the body at a subsequent meeting concerning

any matter or direct staff to place a matter of business on a future agenda. Gov. Code, section 54954.2 (a)(2).

Not observing this portion of the Brown Act can lead to litigation. Recently, it was determined that the Marin County Board of Supervisors had violated the Brown Act by discussing an item that was not on the agenda. Apparently in response to a flurry of emails to the Board from housing critics, a member of the Board requested staff to make a presentation to the Board (which lasted only 10 minutes) but was not on the agenda. A member of the public thereafter sued, claiming the Board had violated the Brown Act by having that presentation and discussion. The trial court agreed and the Board subsequently apologized to the public.

That serves as a reminder that the Commission and staff need to be vigilant in observing what the Brown Act permits and does not permit. Members of the public should be and are encouraged to address the Commission under Oral Communications. The Commission's responses, if any, must be brief or the Commission may ask staff for clarification. If the matter deserves more information, the Commission should ask staff to report back to it or place the matter on a future agenda. By observing these rules, the Commission will treat all members of the public consistently and fairly and be well within the dictates of the Brown Act.

Finally, on the issue of public comment about matters not on the agenda, although the Brown Act requires a time and place on the agenda for the public to be heard, it does not prescribe how that item is to be handled. Accordingly, the Commission may reasonably regulate the total amount of time that may be spent on particular issues and the amount of time for each individual speaker. Many cities place a time limit on comments by the public and time limits of one to five minutes are not unusual. Neither the Commission nor the Council has adopted a formal policy on this but from time to time, speakers at meetings have spoken for greater than five minutes. With no time limits on speakers, the Commission may find that it is not completing its business at a reasonable hour.

#### **D. Social Media**

Presumably many Commission members participate in private social media, such as Facebook, Twitter, etc. Participating in social media, however, may raise Brown Act issues. For example, is a Commission member use social media, such as Friends of Brisbane, to express views or opinions about items that are within the subject matter jurisdiction of the Commission, other Commissioners who are also members may likewise express a view or opinion on that site. If a majority of the Commission were to do so, it could be claimed that a "serial meeting" has occurred and consensus reached about the item that occurred outside of a noticed, open and public meeting, contrary to the Brown Act.

Many cities have adopted social media policies. Brisbane has such a policy but currently the policy addresses the use of the City's social media rather than the use of private social media. The Council's Information Technology Committee is considering a broader social media policy but no final action on that policy has been adopted.

Moreover, the line for what may be appropriate post for an appointed official, such as the Commission, is not always bright. For example, on a private web site, may a member of the Planning Commission post or respond to a posting concerning whether development of the Baylands with residential uses should be supported? On one hand, because that decision is currently out of the hands of the Commission and it is speculative whether such uses will be allowed, it seems unreasonable to prohibit a Commissioner at this time from commenting on such matters on private social media. On the other hand, if the General Plan were to be amended to allow residential development on the Baylands, a Specific Plan that has housing requires consideration and a recommendation from the Commission.

Postings on social media may also demonstrate bias. If a Commissioner expresses on social media strong views about housing on the Baylands (or any other matters within the subject matter jurisdiction of the Commission), it raises a concerns about the unacceptable possibility of bias which would disqualify the Commissioner from participating in the decision.

Accordingly, Commissioners, as appointed officials, will need to use discretion and good judgment as to postings on private social media. I would encourage Commission members not to post or respond to posts—including “like”—about matters that are before, or likely to be before, the Commission.

#### **E. Financial Conflicts of Interest**

Except as provided in the next paragraph, any Commissioner who has a conflict of interest, as defined by State Law and/or the City’s Conflict of Interest Guidelines, with respect to a matter coming before the Commission shall, as soon as the item is called on the agenda, state on the record that a conflict exists and the nature of the conflict. That Commissioner shall then disqualify him or herself from discussing or voting on such matter and shall remove him or herself from the meeting room until the Commission has ceased discussion or deliberations on the matter in question. The Commissioner may not participate in the decision or be counted for purposes of a quorum.

An exception to the rule requiring disqualification based on a conflict of interest exists if disqualification of a Commissioner or Commissioners renders it impossible for the Commission to take an action, in which case the Commission may bring back as many disqualified Commissioners as is necessary to establish a quorum. Which Commissioner or Commissioners are brought back shall be determined by lot, or by some other impartial and equitable means of random selection. Such Commissioners may vote on the matter but shall not otherwise participate in the discussion or deliberations.

Where it is not clear whether a Commissioner has an interest of a disqualifying nature, the affected Commissioner may request an opinion of the City Attorney or may request advice from the Fair Political Practices Commission..

Staff shall endeavor to inform a Commissioner who is disqualified specifically due to financial conflicts of interest prior to the meeting at which that matter is to be considered. However, it is

ultimately the responsibility of individual Commissioners to determine and disclose any conflicts of interest.

### Background

The Political Reform Act was adopted by a vote of the people in a statewide initiative in 1974 and is embodied in Government Code Sections 81000-91014. The overall purpose of the Act was to make sure that the public's business is conducted in a lawful and unbiased manner. To accomplish this goal, several levels of regulation have been established.

### Regulations

The Fair Political Practices Commission (FPPC) adopts regulations interpreting the Political Reform Act. The regulations cover public officials of many types, including officers, employees and certain types of consultants to local government.

The first area of regulation is disclosure of economic interests. All incoming and outgoing Commission members must disclose certain types of financial interests. Form 700 must be submitted within 30 days of assuming or leaving office. Also, on an annual basis, Commission members must update their forms to reflect changes in the previous calendar year. All of these forms are public records, available for public review. A second area of regulation deals with the disqualification of public officials from participating in decisions. The purpose of these regulations is to determine when a public official has a financial interest which should either be disclosed to the public and/or require that the elected official be disqualified from participating in the decision-making process.

### Administration/Advice

The administration of the Political Reform Act is handled by the FPPC, an independent statewide body that is made up of members appointed by the Governor and the Legislature. The FPPC has a full-time staff which provides assistance to local elected officials. Informal FPPC assistance is available by phone to any person with a conflict of interest question. This is a valuable tool that can be used by all elected officials to spot conflict issues prior to a matter coming before them. The advice line is available Monday through Thursday, from 9 to 11:30 a.m., at 1-866-275-3772. The FPPC website is [www.fppc.ca.gov](http://www.fppc.ca.gov).

In addition to informal assistance, the FPPC also offers formal assistance through written responses. If you seek formal advice, the FPPC staff will respond in writing within 30 days of your written request. The FPPC issues "I" (informal) advice letters and "A" (formal) advice letters. If you rely upon formal letter advice (an "A" letter) received from the FPPC, you will not be subject to prosecution for any actions taken, within the scope of the facts in the advice letter, by the FPPC. However, actions could still be brought by the District Attorney. To the knowledge of the City Attorney, no public official has been prosecuted for following a formal opinion letter from the

FPPC. Therefore, the reliance on the written formal advice letter is a good method of making sure that what participation you will engage in on a questionable conflict issue will be the proper course of conduct. (Note: informal advice letters do not confer immunity.)

The Political Reform Act does not delegate to city attorneys the role of advising elected or appointed officials; however, the Office of the City Attorney legal staff is available to discuss FPPC conflict of interest issues. The best practice is to pose the question well in advance of any participation on the particular matter that might present a conflict situation. Questions raised on the day of a hearing will usually result in advice that is conservative because no time is given to research the matter. In short time frame situations, the advice usually is that it is safer to declare the conflict unless all facts can be thoroughly researched ahead of time. In matters involving potential conflicts, advance preparation is the key to participating in votes in a proper manner. A public official is not immunized from an FPPC enforcement action or prosecution by relying on guidance provided by the City Attorney.

The City Attorney serves as the advisor to all Commission members and staff. If the City Attorney has advised a particular Commissioner about a conflicts issue, the City Attorney must respond to questions by other Commissioners about the same conflict. The City Attorney will disclose to other Commissioners that they will be participating in a matter in which a conflict may or may not exist. The City Attorney cannot keep confidential any particular financial issue that was discussed with an individual Commissioner if that Council member is to vote on a particular issue. For that reason, it is often best in sensitive situations to go directly to the FPPC.

### Analysis

In the event of a conflict of interest, the individual Commissioner in question has the duty to disqualify himself or herself. This duty cannot be delegated to staff members or the attorney. The duty rests with the Commissioner in question because only that individual knows the extent of his or her own personal financial dealings. The four basic questions are: (1) whether you are participating in a governmental decision, (2) whether the governmental decision will foreseeably affect your or your immediate family members economic interests, (3) whether it is reasonably foreseeable that the economic effect of the governmental decision on you or your family is material, and (4) whether the effect of the governmental decision on your economic interests is distinguishable from the effect on the public in general.

### Ownership of or Interest in Real Property Conflict Issues

One of the main areas in which conflicts occur deals with the ownership of real property. There are several steps that need to be taken to determine whether or not real property ownership or interest subjects an individual to disqualification.

The first step that must be taken is to determine whether you own an interest in real property to which the decision might relate. In order to determine this, the elected official must first determine whether his or her interest in real property includes "any real property" in which the official "has a direct or indirect interest worth two thousand dollars (\$2,000) or more." If the person owns such an interest, the analysis must continue.

The next step is to determine whether it is reasonably foreseeable that the decision will have a material financial effect on your property. There are a host of factors to consider in determining this issue but the overarching issue is whether the decision would cause a reasonably prudent person, using due care and consideration under the circumstances, to believe the governmental decision was of such a nature that it's reasonably foreseeable effect would influence the market value of the official's property. More specifically, if the decision affects the value of any real property located within 500 feet of the official's property, the effect is deemed material. (There is an exception if the real property is commercial property and contains a business entity in which case different materiality standards apply.)

But even if the decision affect real property more than 500 feet from the official's property, there are other factors to consider in determining if it is reasonably foreseeable that the decision will have a material financial effect on the official's property. These include, but are not limited to, whether the decision will change the character of the official's property by substantially altering traffic levels or patterns, altering views, affect privacy, create noise levels, impact air quality, such as odors, or any other factors that would affect the market value of the official's real property.

And, to make this issue even a bit more complicated, different factors apply when an official has a leasehold interest in real property. Under those circumstances, a governmental decision is presumed to have a material financial effect if the decision (a) changes the termination date of the lease, (b) increases or decreases the potential rental value of the property, (c) increases or decreases the rental value of the property and the official has the right to sublease it, (d) changes the official's actual and legally allowable use of the real property or (e) impact the official's use and enjoyment of the real property.

The next step in the process is to determine "whether the effect of the governmental decision is distinguishable from its effect on the public generally." The question revolves around whether a "significant segment of the public" is affected by the decision. A good example of this would be a General Plan amendment that affects a significant part of the City. Since a significant segment of the public would be affected, a Commissioner may vote on the amendment even though his or her property could be impacted (negatively or positively) depending on the vote.

### Business Entity Conflict Issues

Another area of potential disqualification deals with business entity interests. It is a conflict of interest for any public official to make, participate in making or to use his or her official position



to influence a governmental decision which the public official knows or has reason to know to have a material financial effect on any business entity in which the public official:

1. has a direct or indirect investment worth \$2,000 or more; or
2. is a director, officer, partner, trustee, employee, or holds any position of management.

The business entity rules also deal with direct and indirect effects. A business entity is "directly affected" by a governmental decision before a public official or a public official's agency if the business entity or an employee or agent of the business entity initiates proceedings before the public official or the public official's agency by filing an application, petition, claim or similar request. If the entity is named as a party to or a subject of proceedings before the public official or the public official's agency, the entity is "directly affected."

A business entity is "indirectly affected" by a governmental decision where it is reasonably foreseeable that the financial effect on the business entity, such as the gross revenues, expenses, assets or liabilities of the business entity, will be materially affected by the decision, even though the business entity has not initiated the proceeding which results in the decision and/or is not a subject of the proceeding which results in the decision. A decision will have material financial effect if a prudent person with sufficient information would find it reasonably foreseeable that the decision's financial effect would contribute to a change in the value of the business entity. Examples of decisions that may be applicable include those that increase or decrease the amount of competition in a field in which the business entity is engaged and/or that increase or decrease the need for the services the business entity supplies. To determine whether the financial effect of the decision is reasonably foreseeable, in general the decision is reasonably foreseeable if the financial effect of the decision can be recognized as a realistic possibility and more than hypothetical or theoretical.

#### Effect of Determining a Conflict

Once it is determined that a conflict exists, the public official is disqualified from all participation in the decision. This includes voting, participating in any manner or using his or her official position to influence the decision. This would include contacts with staff regarding the staff recommendation, speaking from the floor and any other attempt to influence votes or staff input on the matter. Indeed, where there is a financial conflict of interest, not only must the public official leave the dais but also the official must leave the Council chambers itself.

The only exception where the official may address the Council notwithstanding the financial conflict of interest is where the decision affects the official's own real property interest. For example, if the Commission were considering a zoning change that affected the official's residence, the official, although disqualified from participating in the decision, may nevertheless come to the podium and address the Commission on the merits of the proposal.

## Enforcement

If a conflict of interest exists, there are several agencies or persons who may bring an action to enforce the Political Reform Act: the District Attorney or the Fair Political Practices Commission. The District Attorney may bring criminal actions; the FPPC files only civil actions. In addition, any person residing within the jurisdiction may obtain authorization to bring a civil action to enjoin violations or compel compliance with the Act. Finally, a local agency may discipline persons who violate certain provisions of the Act. A violation of campaign regulations carries the criminal penalties of imprisonment or jail for a period not exceeding one year.

A violation of other provisions of the Act is a misdemeanor. A violator may be fined the greater of \$10,000 or three times the amount a person fails to report properly or unlawfully contributes, expends, gives, or receives. Finally, a violator is barred from being a candidate for any elective office or acting as a lobbyist for four (4) years following the conviction.

### **F. Common Law Conflicts of Interest**

As mentioned above, when you were appointed to the Planning Commission and annually thereafter, you filed with the City Clerk a form prepared by the Fair Political Practices Commission (Form 700) stemming from the Political Reform Act of 1974 (Government Code, section 81000 and following) addressing financial conflicts of interest. That law requires public officials (which under the City's Conflict of Interest Code includes persons appointed to the Planning Commission) to disqualify themselves from participating in governmental decisions in which they know, or should know, that such decisions will have a material financial effect on the official's economic interests, such sources of income, real property interests or business entity interests.

Other state statutes prohibit a city official or employee from having a financial interest in contracts by the official/employee or by any board or body of which the official is a member. See Government Code, Section 1090.

But in addition to these statutes, there is a common law doctrine against conflicts of interest which doctrine is applied to require public officials from participating in decisions where the official's private interests may conflict with his or her official duties. That is, by holding public office, a public official is impliedly bound to exercise the powers bestowed by the office with disinterested skill, zeal and diligence for the benefit of the public. Such official bears a fiduciary duty to the public not to use the powers of the office for the benefit of private interests.

A person who serves on a board of directors of an organization, as contrasted with a person who simply is a member of such organization, likewise owes that organization a duty of loyalty to act with skill, zeal and diligence for the benefit of the organization.

Accordingly, there is a common law conflict of interest where matters concerning an organization of which the public official is on the board of directors comes before the public official's committee or commission. Under those circumstances, the member must avoid the

conflict by not participating in any decision concerning the organization nor attempting to influence the action.

### **G. Comments on Agenda Items When a Commissioner is Absent From a Meeting**

From time to time, whether due to vacation plans, illness or unexpected scheduling conflicts, a Commissioner may not be able to attend a Council meeting. The issue is whether under those circumstances the Commissioner who is not able to attend should express by written communication to other Commissioners his or her views on the agenda items. This may be more of a policy issue than a legal issue but I am aware that in other jurisdictions land use applicants and, to a lesser degree, members of the public have expressed concern about Commissioners' expressing their views about agenda items when the member is not present at the meeting.

The argument is to why this practice should not be allowed is as follows: Presumably a Commissioner should make a decision about an agenda item only after the member has read the staff report, heard staff presentation, asked clarifying questions, heard from the public and discussed the matter with the other Commissioners. Without the benefit of this input, a Commissioner may not be able to make an informed decision. Because it is likely that a Commissioner will take into account the views of all other Commissioners, both present and absent, before voting, the public interest may not be served by an absent member's commenting on an item that has not been fully vetted at a public meeting.

On the other hand, if an absent Commissioner explains that his/her views are based on what the Commissioner then knows or understands, and that such views could change as or if the Commissioner obtains additional knowledge, such qualification could potentially ameliorate any concerns that an applicant or a member of the public might have that the present Commissioners would be unreasonably influenced by the views of the absent Commissioner.

Moreover, there is always the possibility of a Brown Act violation, however slight, when Commissioners share their views on City related matters with other Commissioners outside the meeting forum. A meeting means any congregation of a majority of the members of a legislative body at the same time and location to hear, discuss, deliberate or take action on any item that is within the subject matter jurisdiction of the legislative body. The Brown Act also prohibits a majority of the members of a legislative body, outside of a noticed and public meeting, from using a series of communications of any kind to directly or through intermediaries to discuss, deliberate or take action on any item of business within the subject matter jurisdiction of the legislative body.

For the same reason that we remind the Commission regularly not to push the "reply all" button when they receive email that is addressed to all of them out of concern that such could be viewed as a communication in which a Commission majority discusses City business, a communication from a Commissioner to the remainder of the Commission expressing views about items on an agenda at a meeting at which the Commissioner will be absent could be interpreted as a communication in which there is the potential that a Commission majority would be discussing City business.

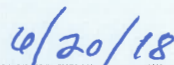
Of course, most Commissioners will miss meetings from time to time and there is no requirement a member express to the rest of the Commission his/her views on those matters that the Commission will be considering in the member's absence. If, however, a Commissioner will be absent from a meeting but wants to share his/her views with the rest of the Commission concerning the agenda items, that a Commissioner do one of two things. First, if there is an item on which the Commissioner believes warrants the member's input, the member should request the item be continued so the member may be present for the item. Generally a two week continuance is not problematic. Second, if there are no items on the agenda on which the Commission believes his or her input is necessary and the member wants to let the rest of the Commission know that, then a simple message indicating no objection to the Commission's proceeding with the items, without getting into the specifics about any particular item, would be in order.

#### **H. Conclusion**

This memo is intended to highlight some of the legal issues that you may encounter as you serve on the Commission. As mentioned, you should always feel free to contact me if there are particular issues or circumstances that you believe need my assistance or advice. Many issues do not involve bright line rules and turn on the particular facts presented. If there are questions concerning the items discussed in this memo, I will be present at the Commission's meeting on June 26 to respond.



Michael Roush, City Attorney



Date

C John Swiecki, Director of Community Development  
Mayor and Members of the City Council  
Clay Holstine, City Manager