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January 4, 2022

TO: President Eli Lipmen, Members of the Board of Neighborhood Commissioners

FROM: Raquel Beltrán, General Manager

SUBJECT: Clarifications on DRAFT Digital Communications Policy

BACKGROUND: The Los Angeles City Charter established the Board of Neighborhood Commissioners' role as being "responsible for policy setting and policy oversight." In September 2020, the Department presented a Digital Communications Policy for the Commission's consideration. The draft policy was introduced in response to requests and complaints from neighborhood councils seeking guidance on how to manage challenging issues related to the management of and posting on neighborhood council and personal digital communications channels. The Department determined that a Commission policy was necessary to enable boards to address the growing challenges. The challenges are at times the subject of acute and damaging conflicts resulting in the resignation of board members, as one example of the consequences.

Additionally, on September 18, 2020, Assembly Bill 992 (Mullin) was signed into law by Governor Gavin Newsom. The law, which became effective January 1, 2021, amended the State's open meeting law, the Ralph M. Brown Act (Brown Act). AB 992 created new restrictions on the use of social media. The DRAFT Digital Communications Policy supports neighborhood council compliance with AB 992.

FISCAL IMPACT: No new financial impact.

REQUESTED ACTION:

Consider:

1. Approving the Digital Communication Policy as a final draft for public circulation. The draft policy reflects neighborhood council feedback and assessment received over 15 months of public review.

2. Circulating the final draft for review and comment in January and February,
3. Concluding decisions about the future of the final draft policy at the Commission's March 1, 2022 meeting.

NEXT STEPS:

A "no" vote to advance the DRAFT Digital Communication Policy as described in action item #1, subjects decisions about digital communications and conflict resolution to the Department's/City's interpretation of state laws and City of Los Angeles rules and regulations. A "no" vote on this policy does not mean neighborhood councils will be free of any constraints on their social media or other digital communications use as boards or individuals. Instead, a "no" vote means defaulting to existing laws and policies that may not be a good fit for neighborhood councils, given their context, limited resources, and volunteer status.

If this policy is not passed, neighborhood councils will still be subject to Brown Act, the City's social media and internet policies set forth by Information Technology Agency (ITA), and laws regarding uses of taxpayer funds and resources. In addition, even without a policy and implementing guidelines, neighborhood councils must be mindful of the public's First Amendment rights on neighborhood council digital communications channels.

A "yes" vote to advance the final draft Digital Communication Policy as described in items #1-3 above, provides an opportunity for further neighborhood council review and comment and for final Commission deliberation on March 1, 2022. This policy has endeavored to customize digital communications requirements for neighborhood councils to the extent possible within the framework of laws and policies already in effect.

1. If approved, the Department suggests that the final draft Digital Communications Policy be circulated throughout the neighborhood council system for 60 days (through the end of February 2022).
2. If approved, the Department suggests the Commission consider having its final deliberation on the draft policy at its March 1, 2022 meeting and to make decisions on how it would like to proceed.
3. If the Digital Communication Policy is approved, the Department can proceed with the development of implementing rules, guidelines, and best practices.
4. If the Digital Communications Policy is approved, the Department can host information workshops to assist board members and their designees to adopt the policy to their unique neighborhood council operations.

PUBLIC COMMENT(S): Community Impact Statements filed by neighborhood councils are posted on the Commission's website, at <https://empowerla.org/commission/community-impact-statements/>. The resources folder containing these and other supporting items is available via a link on the Commission's agenda, and at <http://tiny.cc/DigitalCommsPolicyFolder>.

SUMMARY:

Development of Current Draft Digital Communications Policy

At the October 6, 2020 Commission meeting, the Department presented the first version of the Draft

Digital Communications Policy (dated September 29, 2020). After receiving initial Commission and public feedback, the Chair of the Commission presented an edited version to the public (dated July 1, 2021). At the October 18, 2021 Commission meeting, the Department presented the most current version of the policy (dated October 14, 2021). The current version of the policy represents the incorporation and consideration of comments within Community Impact Statements submitted by neighborhood councils, public comments at Commission meetings, and feedback received at workshops held by the Department.

Since the presentation of the most current version of the Draft Digital Communications policy, the Commission has received Community Impact Statements from four neighborhood councils. One neighborhood council sought 60 additional days (from November 10) to review the current version. As stated above, the Department suggests that the Commission approve the current policy for circulation, and a final version be voted upon at the Commission's March 1 meeting.

Clarification on questions raised by Community Impact Statements (CIS)

The CISs received since the latest policy draft was presented contain a variety of suggestions and requests as well as some appreciation for the incorporation of prior feedback within the current version of the policy. The feedback gathered during 15 months of public discussion and review has significantly shaped the current draft.

The Department has identified that some of the recent CISs request clarifications on the implementation of the policy and are thus better addressed in best practices and implementation guidelines, rather than within edits to the Commission policy itself. For example, one neighborhood council suggests establishing a timeline for the Department to respond to issues where a social media user may need to be blocked (Section 10.4). The Department can and will set up a timeline and workflow for processes like these during the implementation stage after a decision on this policy has been reached.

Some of the neighborhood councils' CISs also request clarification on the policy's deference to boards over other groups, such as committees or individuals. That deference is intended to reflect that according to the City's laws and policies, the governing body of the neighborhood council is its board, and that actions taken by the neighborhood council are through the board. Although the policy does state that content should originate from boards, the policy also allows for the board, *if it so chooses*, to appoint designees to make decisions on certain routine content matters. Questions regarding specific content proposed by neighborhood councils may need to be addressed on a case-by-case basis by the boards with the assistance of the Department or other City entities; however, the Department may be able to address how to treat *categories* of content (agendas, City events, campaign forums, e.g.) in its implementing guidelines.

Similarly, Section 6.3, which states that neighborhood council committees should not have separate digital communications accounts of their own, is another situation which can be addressed in best practices and implementation guidelines. For brand clarity and for public accessibility, having a single account per NC per platform is a necessity, and it is also the best way to accommodate the limited hours of volunteer account administrators. But every committee may contribute social media content routinely, and every committee might have its own web page or section on the NC website. A dedicated email for

each committee meeting can be sent to the neighborhood council's mailing list, and the list can even be segmented into committee interest lists, if the NC so chooses.

It has been pointed out that Section 11.3 is inconsistent with other sections that speak to the mandatory obligation to share account password information. The Commission may wish to consider approving the following amendment at Section 11.3 of the policy:

From: "At the departure of an Account Administrator, passwords must be changed and reported to the Neighborhood Council president or chair and the Department."

To: "At the departure of an Account Administrator, passwords must be changed and reported to the Neighborhood Council president or chair **and may be reported to** the Department."

Other suggestions, if accepted, could create conflicts with existing law. For instance, one neighborhood council suggests deleting certain portions of Section 9.2 of the policy, but those portions bring this draft policy into compliance with the First Amendment and state law, specifically the recent Brown Act amendment AB 992. AB 992 governs how officials may or may not interact on social media when it comes to content within their body's subject matter jurisdiction, regardless of whether they are using a personal or public account, and even when the interactions are simply digital icons or reactions to other social media posts.

Other neighborhood councils seek clarifications on Section 8.7 of the policy, which prohibits endorsements of private entities. Taxpayer dollars and resources cannot, by state law, be used to promote a private entity (whether a commercial or nonprofit enterprise), for election campaign purposes, or for legislative advocacy. However, neighborhood councils are still able to name entities within some contexts, such as a neighborhood council event promotion, so long as they use a disclaimer, and should seek the advice of the Department or City Attorney's Neighborhood Council Advice Division on specific situations. The Commission could consider adding this language derived from the City's ITA policy as a preamble to Section 8.7. Adding this information provides clarification on why the section includes this guidance:

"Avoidance of Preferential Treatment. To preserve the public nature of the neighborhood council's Digital Communications channels and to avoid any perception that the neighborhood council endorses or provides favorable treatment of any person or business enterprise, . . ."

CONCLUSION:

On behalf of the Department, we thank the neighborhood councils and individual commenters for their suggestions, observations, and most important, their time. We appreciate the Commission's support of this process and are available to answer questions. Thank you.

Respectfully,



Raquel Beltrán

Raquel Beltrán,
General Manager
Department of Neighborhood Empowerment

Attachment: Digital Communications policy comparison chart