



Ordinance Fact Sheet

TO: CITY COUNCIL **DATE:** March 8, 2010

FROM: CITY ATTORNEY

SUBJECT: **AN ORDINANCE AMENDING CHAPTER 2.175 OF THE PASADENA MUNICIPAL CODE WITH RESPECT TO MEMBERSHIP QUALIFICATIONS FOR TENANT REPRESENTATIVES TO THE RBOC**

TITLE OF PROPOSED ORDINANCE

AN ORDINANCE AMENDING CHAPTER 2.175 OF THE PASADENA MUNICIPAL CODE WITH RESPECT TO MEMBERSHIP QUALIFICATIONS FOR TENANT REPRESENTATIVES TO THE RBOC

PURPOSE OF THE ORDINANCE

This ordinance would establish a membership qualification for tenant representatives to the RBOC similar to the qualification for business representatives on the Pasadena Center Operating Company which recognizes their appointment to represent and further certain business interests. This will enable the broadest participation of the tenant representatives on a variety of issues affecting the Rose Bowl.

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03/15/2010
MEETING OF 03/08/2010
AGENDA ITEM NO. 14- 11

REASON WHY LEGISLATION IS NEEDED

The City Council directed preparation of this ordinance at its meeting of December 14, 2009, at the request of the Rose Bowl Operating Company.

The Rose Bowl Operating Company has two board members nominated by the major tenants, the Tournament of Roses Association and the University of California, to help provide the perspective of the tenants in the policies that govern the operation of the stadium. Because the need to represent these economic interests is not explicitly articulated in the Pasadena Municipal Code Section creating the tenant seats, the question arises from time to time as to whether the tenants should participate in discussions that affect the economic interest of the organizations they represent.

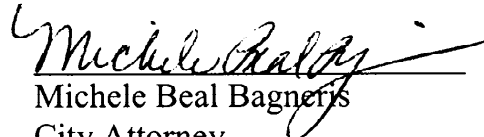
This same question has been addressed and resolved at the Pasadena Center Operating Company with respect to board members who are commercial property owners in the surrounding area. Specifically, Pasadena Municipal Code Section 2.16.5030, explicitly recognizes that certain members of the board have an economic interest in surrounding commercial property and are appointed to represent those interests. Under the Fair Political Practices Act, an economic interest might ordinarily create a “conflict of interest” preventing participation in some issues; however, there is an exception created in the Act for persons who are appointed to represent a specific economic interest, and so the commercial property owner representatives are able to participate in most decisions of the PCOC.

Similarly, the membership qualifications of the Tournament of Roses Association and the University of California representatives can be amended to state that they are appointed to represent and further the interests of the tenants on the RBOC Board. The attached letter from the Tournament of Roses Association expresses support for this direction being taken. The currently seated tenant representatives on the RBOC Board for the Tournament and for UCLA meet the qualifications for membership under the proposed ordinance.

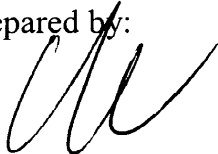
FISCAL IMPACT

There is no fiscal impact to implementing the proposed ordinance.

Respectfully submitted,



Michele Beal Bagnery
City Attorney

Prepared by:

 2/24/10

Nicholas Rodriguez
Chief Assistant City Attorney

Concur:



Michael J. Beck
City Manager

Introduced by: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2.175 OF THE PASADENA MUNICIPAL CODE TO CREATE A MEMBERSHIP QUALIFICATION FOR TENANT REPRESENTATIVES TO THE ROSE BOWL OPERATING COMPANY

The People of the City of Pasadena ordain as follows:

SECTION 1. Pasadena Municipal Code, Title 2, Chapter 2.175 is hereby amended by adding a new Section 2.175.045 to read as follows:

“2.175.045 Appointment of Tenant Representatives. The City Council finds and declares that tenant representatives appointed pursuant to subsection (A)(3) and (A)(5) of section 2.175.030 of this chapter, are appointed for the express purpose of representing and furthering the interests of the Tournament of Roses Association and the University of California, respectively. As contemplated by California Code of Regulations, Section 18707.4, and to the extent contemplated by any successor provision, each tenant representative shall have an economic interest in the organization that the representative is appointed to represent, which may include, but without limitation, a position as an employee, or a position as a member of the governing body. To the maximum extent permitted by law, each tenant representative may deliberate and vote on the business of the Rose Bowl Operating Company, except that, just as with all other members of the board, a tenant representative may not deliberate or vote where the board’s decision has a reasonably foreseeable material financial effect on any other economic interest held by the tenant representative, other than the economic interest the member was appointed to represent. In addition, a tenant representative may not deliberate or vote on the price and terms of payment for the use of the Rose Bowl stadium by or for the organization the tenant representative is appointed to represent.”

SECTION 2. This ordinance shall take effect upon its publication.

Signed and approved this _____ day of _____ 2010.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held the day of _____, 2010, by the following vote:

AYES:

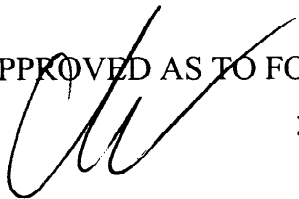
NOES:

ABSENT:

ABSTAIN:

PUBLISHED:

APPROVED AS TO FORM:

 2/24/10

Nicholas George Rodriguez
Assistant City Attorney

Mark Jomsky, CMC
City Clerk



PASADENA TOURNAMENT *of* ROSES

'09 OCT 16 8:11
REC'D
--CITY MGR

October 12, 2009

Mr. Michael Beck
City Manager
100 N. Garfield Ave, Room 237
Pasadena, CA 91109-7215

Dear Michael,

It has come to my attention over the last year or so, that there are concerns regarding the appearance of a conflict of interest for our Tournament representative on the Rose Bowl Operating Company. We believe this is something that needs to be settled before we get into serious discussions regarding the strategic plan for the future of the Rose Bowl Stadium.

As I understand the situation, the present language of Pasadena Municipal Code Section 2.175.030 (RBOC membership), states, "The Tournament of Roses Association shall nominate 1 member." Apparently that language is insufficient to trigger the "public generally" exemption outlined in Section 18707.4 of the California Administrative Code (attached) in that it does not contain a specific finding and declaration that the our representative is appointed to represent and further the interests of the Tournament of Roses while serving on the Board.

It is my understanding that if the wording of the Municipal Code were changed to something like, "The Tournament of Roses may nominate one individual to represent its interests on the Board", this language might be sufficient to trigger the "public generally" exemption for our appointed representative.

I would appreciate your consideration of a wording change to the Code so that we can eliminate any issue of conflict of interest for our representative to the RBOC. If the language proposed in the paragraph above is not sufficient, we would appreciate recommendations on how to better word the Code to eliminate the issue.

Thanks for your consideration.

John M. Dorger
Chief Executive Officer

cc: Scott Jenkins
Rich Chinen

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 6. FAIR POLITICAL PRACTICES COMMISSION
CHAPTER 7. CONFLICTS OF INTEREST
ARTICLE 1. CONFLICTS OF INTEREST; GENERAL PROHIBITION

This database is current through 9/25/09 Register 2009, No. 39

§ 18707.4. Public Generally: Appointed Members of Boards and Commissions.

(a) For the purposes of Government Code section 87103, the "public generally" exception applies to appointed members of boards and commissions who are appointed to represent a specific economic interest, as specified in section 87103(a) through (d), if all of the following apply:

(1) The statute, ordinance, or other provision of law which creates or authorizes the creation of the board or commission contains a finding and declaration that the persons appointed to the board or commission are appointed to represent and further the interests of the specific economic interest.

(2) The member is required to have the economic interest the member represents.

(3) The board's or commission's decision does not

have a reasonably foreseeable material financial effect on any other economic interest held by the member, other than the economic interest the member was appointed to represent.

(4) The decision of the board or commission will financially affect the member's economic interest in a manner that is substantially the same or proportionately the same as the decision will financially affect a significant segment of the persons the member was appointed to represent. For purposes of this regulation, a significant segment constitutes fifty percent of the persons the member was appointed to represent.

(b) In the absence of an express finding and declaration or requirement of the types described in 2 Cal. Code Regs. section 18707.4(a)(1) and (2), the "public generally" exception only applies if such a finding and declaration or requirement is implicit, taking into account the language of the statute, ordinance, or other provision of law creating or authorizing the creation of the board or commission, the nature and purposes of the program, any applicable legislative history, and any other relevant circumstance.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Section 83112, Government Code. Reference: Section 87103, Government Code.

HISTORY

1. New section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).

2. Editorial correction of History 1 (Register 2000, No. 25).

3. Amendment of subsections (a)(3)-(b) filed 7-11-2002; operative 8-10-2002 (Register 2002, No. 28).

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