

Mid City WEST Community Council
Bylaws/Grievance Committee
Meeting Minutes – October 6, 2009 6:30pm
543 North Fairfax Avenue, Suite 106 / Los Angeles, CA 90036 / 323.651.3512
www.midcitywest.org

MINUTES

I. Opening

A. Call to Order & Roll Call. Call to order at 6:35 pm. Charles Lindenblatt, Chair, and Tom Eisenhower were present. Chris Denson was absent.

B. Public Comment. None.

C. Approval & Reading of Previous Minutes. The Chair submitted minutes for the meetings of 11/10/08, 12/15/08 and 09/16/09. The Chair moved acceptance of the minutes. Eisenhower seconded. Approved 2-0.

II. Chairman's Report.

The Chair thanked the Grievant and the Respondents for their respect for and participation in the process set out by the Bylaws. He said the Committee takes Grievances seriously. He said the Committee will provide fair and thorough hearings for each of the Grievances on its agenda today.

III. New Business

A. Hearing, in accordance with MCWCC grievance procedure prescribed by MCWCC Bylaws Article V., Section 10e., of grievance filed September 8, 2009 by Mr. Robert Chernobal alleging “Conflict of Interest Violations.” Grievant: Mr. Robert Chernobal. Respondent: Mr. Stephen Kramer.

1. Public Comment for the Grievant (3 minutes/speaker allowed). None.

2. Presentation by the Grievant (10 minutes allowed)

Robert Chernobal, the Stakeholder who filed the Grievance, stated that he expects this issue to end up in court. He restated the allegations in his complaint against Mr. Stephen Kramer, MCWCC Director and Land Use Committee member. He recounted his longstanding concerns regarding Mr. Kramer’s role as President of the Miracle Mile Chamber of Commerce. He stated his concerns with the decisions made by the Land Use Committee and the Board.

3. Public Comment for the Respondent (3 minutes/speaker allowed)

Brad Seiling, MCWCC Director and Land Use Committee Chair, spoke in support of both Respondents, Mr. Kramer and Bruce McCormick [Agenda Item 3.B]. He asserted that the Grievances against them have no basis in fact and law. In reference

to the Grievance's citation of the "Common Law Conflict of Interest Rules" section of the "State and City Conflict of Interest Laws: Information for Board Members of Neighborhood Councils," a product of the Office of the City Attorney's Neighborhood Council Advice Division, Mr. Seiling said that the section cites an Attorney General's opinion on common law and conflicts of interests that is from a 1928 case. He asserted the primacy of the Political Reform Act and the City ethics law.

Jeff Jacobberger, MCWCC Chair and Land Use Committee member, spoke in support of the Respondent. He said that the purpose of the neighborhood council system is to bring together all interests in the community to discuss issues affecting the community.

4. Presentation by the Respondent (10 minutes allowed)

Mr. Kramer asked if the written comments he submitted to the Chair had been distributed. The Chair said that the Committee had them. The Chair distributed Mr. Kramer's written comments to the Grievant and others present. Eisenhower asked Mr. Chernov if he wished the Committee to give him time to read the comments before proceeding. He declined the offer. In the interest of time, Mr. Kramer said that he would not read his comments aloud.

5. Committee Questions

Eisenhower asked Mr. Chernov if he believes that Mr. Kramer should not participate in MCWCC matters relating to any member of the Miracle Mile Chamber of Commerce.

Mr. Chernov said that the Chamber promotes itself as advocating for its members. He said that conflict of interest does not depend on whether someone has a financial interest. He asserted that Land Use Committee members have friendships and biases.

The Chair asked Mr. Kramer how Chamber officers are chosen.

Mr. Kramer said that it is a volunteer organization and has a paid Executive Director who mostly coordinates monthly lunches and forums. He said that the Chamber positions are established by a vote, and that the organization rarely takes a position on an issue.

6. Closing Remarks of the Respondent (5 minutes allowed)

Mr. Kramer said that the Chamber of Commerce is a diverse group of businesses that often have differing perspectives on issues. He denied that his MCWCC votes are determined by Chamber membership. He said that City and state law supercede common law.

7. Closing Remarks of the Grievant (5 minutes allowed)

Mr. Chernov said that the Board needs to read the aforementioned document regarding the common law and conflicts of interest. He said the issue is that the Land Use Committee is not responsive to the community.

8. Committee Questions

Eisenhauer read from the last sentence of the "Common Law Conflict of Interest Rules" section, which advises neighborhood council members to be "alert to whether their private interests, whether financial or otherwise, would be enhanced by any particular action they take on an item before them." He asked Mr. Chernov for his reaction to that statement.

Mr. Chernov pointed to other language in that section of the document regarding personal relationships. He restated his Grievance and his concerns regarding the Land Use Committee and the Board.

Mr. Kramer was asked for his opinion. Mr. Kramer said that many Directors know people who bring matters before the Board. He said the specifics of the Grievance do not hold up.

9. Committee Deliberations and Votes on Findings and Recommendations

The Committee deliberated and tabled the matter.

B. Hearing, in accordance with MCWCC grievance procedure prescribed by MCWCC Bylaws Article V., Section 10e., of grievance filed September 8, 2009 by Mr. Robert Chernov alleging "Conflict of Interest Violations." Grievant: Mr. Robert Chernov. Respondent: Mr. Bruce McCormick.

1. Public Comment for the Grievant (maximum 3 minutes/speaker)

Debbie Epstein read from a document that she said was a letter from Ethan Pilaian, whom she said is a local resident. The letter expressed concerns regarding parking.

2. Presentation by the Grievant (10 minutes)

Robert Chernov, the Stakeholder who filed the Grievance, stated that he has received numerous complaints regarding the restaurant BLD. He restated the allegations in his complaint against Mr. McCormick. He recounted his complaints regarding the Land Use Committee. He recounted his concerns regarding parking in the neighborhood. He said that at a City hearing regarding BLD, McCormick identified himself as a friend of the applicant, said he does business with him, and identified himself as representing MCWCC. Mr. Chernov said that following that meeting he sent an email, using another person's email address, to Mr. McCormick regarding the issue. Mr. Chernov said that he does not believe that MCWCC does not have any real authority over the conflict of interest complaints that are the subject of his Grievances.

3. Public Comment for the Respondent (maximum 3 minutes/speaker)

Mr. Seiling said that Mr. Chernov's statement indicates his real concerns are with the decision made by the Land Use Committee regarding BLD. He said that Mr. McCormick has a First Amendment right to speak before public bodies and express his own opinions. He said that the Grievance asserts that Mr. McCormick's conflict stems from attending the restaurant, which is not sufficient to create a conflict of interest.

Mr. Jacobberger recommended that the Committee consider an action that relates to prospective behavior. He echoed Mr. Seiling's comments that Mr. Chernov's comments were directed at the outcome of the Land Use Committee's decision.

4. Presentation by the Respondent (10 minutes)

Mr. McCormick said that he does dine at BLD, but has no fiduciary relationship with it. He said his wife has held many events at the restaurant. He said that she knows the owner but that he is not friends with him. He said that he did not identify himself as speaking for MCWCC at the City hearing. He said he gave Mr. Chernov his MCWCC business card after the hearing because he is retired and does not have any other cards with his contact information on them.

5. Committee Questions

None.

6. Closing Remarks of the Respondent (5 minutes)

Mr. McCormick said that he does not identify himself as speaking for MCWCC.

7. Closing Remarks of the Grievant (5 minutes)

Mr. Chernov restated his assertion that Mr. McCormick, at the City hearing, said he was representing the Board and said that he has a friendship with the applicant.

8. Committee Questions

Eisenhauer asked Mr. McCormick whether his wife has any financial relationship with BLD and whether she receives any financial benefit from it.

Mr. McCormick answered "no" to both questions.

9. Committee Deliberations and Votes on Findings and Recommendations

The Committee deliberated and tabled the matter.

C. Initial review of the complaint filed September 23, 2009 by Mr. Robert Cherno regarding MCWCC Board member Jeff Jacobberger.

1. Determination of whether or not the complaint that was filed is in compliance with Article V., Section 10 in accordance with MCWCC grievance procedure prescribed by Article V., Section 10b.

Mr. Seiling said that Mr. Jacobberger has a First Amendment right to express his personal opinion.

Mr. Kramer said he echoes Mr. Seiling's comments.

The Grievant, Mr. Cherno, was not present.

Mr. Jacobberger, the Respondent, said that he did not speak for MCWCC at the City hearing. He said that the Grievance leaves out the Board's vote to defeat a motion to oppose BLD's application.

Eisenhauer said that Article V, Section 10 of the Bylaws specifies that the "grievance process shall only resolve disputes involving compliance with these By-Laws, State and Federal law, local ordinances, the Brown Act, the City Charter or the Plan for Neighborhood Councils." He also said that Article V, Section 10.a of the Bylaws specify that the Grievance "shall contain," among other information, "the basis for the complaint." He said that it does not involve compliance with the Bylaws, and that he did not know whether its allegations involve violations of "State and Federal law, local ordinances, the Brown Act, the City Charter or the Plan for Neighborhood Councils." He said that the Grievance does not specify a "basis for the complaint."

Eisenhauer moved that Committee dismiss the Grievance on those grounds and send a letter to Mr. Cherno explaining that it does not meet the requirements of Article V, Section 10. The Chair seconded. Approved 2-0.

2. If the complaint is found to be compliance, Committee will affirm the affected party, and approve service, in compliance with MCWCC grievance procedure prescribed by Article V., Section 10c. (i.-iii.).

No action necessary.

A. and B. The Committee resumed discussion of Items 3.A and 3.B. The Chair moved to table both items. Approved 2-0.

IV. Closing

- A. Good of the Order (Board Member Announcements).** None.
- B. Adjournment.** Adjourned at 9:58 p.m.