

From: Parker, Barbara
Sent: Tuesday, November 29, 2005 8:08 PM
To: Purnell, Daniel
Cc: Russo, John
Subject: PEC Complaint regarding WIB agenda item

Hi Dan:

The proposed resolution approving the WIB's allocation of the WIA funds was noticed in compliance with the Sunshine Ordinance and the Brown Act. The agenda item and the report advised the public that the Council would consider a resolution that would allocate WIA funds in accordance with the WIB's action. The WIB awarded specific dollar amounts to particular organizations.

The notice entitled the Council to discuss the allocations, ask questions and debate other options and amendments to the proposed resolution. Council also was entitled to:

- i) pass a motion approving the resolution as presented,
- ii) reject the resolution by failing to pass the proposed resolution or by passing a motion rejecting the WIB's allocation,
- iii) make a motion that would amend the allocations and reallocate some of the funding to entities other than the ones identified on the agenda and in the staff report.

. Although Council was entitled to discuss amendments to the WIB's allocation and make a motion amending the WIB's allocations, this Office has consistently ruled that if the amendment makes a significant substantive change in the action that was noticed, the Council may vote on the motion only after the public has received 10 days' notice of the amendment. If an amendment does not make significant substantive changes to the action that was proposed, the Council can pass the amendment on the floor.

President De La Fuente's motion (to reallocate the WIA funding to entities other than the ones identified in the staff report and resolution and increase the allocation to one of the entities that was identified in the report) made a significant substantive change in the proposed action and the options presented in the staff report.

. Accordingly, to insure that the public and councilmembers had notice of the action President De la Fuente proposed, we advised that Council could not vote on the amendment that evening. However, the Council could by motion or consensus

direct staff to bring the motion back for action on a subsequent date. That is precisely what the Council did: it passed a motion directing staff to bring the amendment back to Council on a future agenda.

Based on this Office's ruling, President De La Fuente's motion was noticed 10 days' advance of the date that it appeared on the agenda.

. In summary, for all of the reasons discussed above, this Office ruled that the Council could not vote on the president's motion that evening. But Council could debate the amendment and direct staff to bring the item back, assuring that the public had at least 10 days' notice of the proposed action. Simply because councilmembers voted to bring the item back for discussion and action did not mean that they would vote in favor of the item; they simply gave the body the opportunity to take action on the amendment.

When the amendment was noticed, we worked with staff to present an agenda title that gave the public notice that the council might act on President De la Fuente's motion, the WIB's allocation or some other motion that might include different entities.