

INVESTIGATION OF ALLEGED INTRUSION

Prepared for:

The County of Los Angeles

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Honorable Board of Supervisors
County of Los Angeles
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Members of the Board of Supervisors:

We are pleased to provide you with this report containing the results of our independent investigation of eight specific allegations of intrusion by Board of Supervisors Offices in the operations of the County Department of Regional Planning. The results of our investigation of each allegation are presented in a separate section of this report. An Executive Summary of the results and discussion of some related Countywide issues is also provided.

Our investigation commenced in September 2009 and consisted of: reviews of public and Department of Regional Planning documents; interviews with Department staff, Board office staff and other County personnel with knowledge of the allegation topics; and, reviews of communications between Department staff, Board office staff members and other County personnel.

Thank you for the opportunity to conduct this independent investigation. Please contact us at any time if you wish to discuss the contents of this report.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Fred Brousseau'.

Fred Brousseau
Principal

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Executive Summary

This investigation of Alleged Intrusion by Board of Supervisors Offices in the operations of the Los Angeles County Department of Regional Planning (DRP) was conducted due to former Director of Regional Planning Bruce McClendon making allegations that violations of the non-intrusion provision of the Governance Ordinance within the County Code routinely occurred while he was Director of the Department. The former Director provided the Auditor-Controller's Office of County Investigations (OCI) with information about eight specific incidents in which he believed Board of Supervisors Deputies violated the non-intrusion provision. Those eight allegations are the subject of this investigation.

The non-intrusion provision of the Governance Ordinance, which was approved by the Board of Supervisors on March 27, 2007 and became operational on July 1, 2007, states:

Except as otherwise provided in this chapter, the board of supervisors, as governing board of the county, retains full authority to take any and all official action for the governance of the county. However, no individual member of the board, nor any deputy or assistant to any member of the board of supervisors, shall give orders to or instruct any county officer or employee, but may seek information and/or seek assistance from county officers and employees.¹

No additional legislation has been adopted or guidelines produced to interpret and guide County officials and staff on the implementation of the non-intrusion provision.

To determine if such intrusion occurred in the eight situations identified by the former Director, we collected and reviewed pertinent public and Department documents and interviewed the Board Deputies named by Mr. McClendon as well as DRP and other County staff with knowledge of the subject of the allegations. We also reviewed emails and other internal communications between Department staff, the Chief Executive Office, Board Deputies, other County staff and, in some cases, parties external to the County. A summary of the allegations and the results of the investigation are presented in Table E.1.

Investigation Results

As shown in Table E.1, we found insufficient evidence, including staff testimony, to fully substantiate the former Director of Regional Planning's eight allegations. In three of the allegations, however, we found evidence to qualify our conclusions including limited incidents of Board Deputy intrusion, though not to the extent alleged by Mr. McClendon, misunderstandings about the scope of the non-intrusion provision, and, an apparently long-standing Board Office practice of approving departmental discretionary funding expenditures, in conflict with the non-intrusion provision. Otherwise, the evidence obtained was too limited to conclude that some or all of the elements of the five other allegations of Board Deputy intrusion occurred.

¹ County Code Section 2.01.500

Table E.1 Summary of Allegations and Investigation Conclusions			
Name	Page	Allegation	Conclusion
Baldwin Hills Community Standards District	11	Former Board Deputy Mike Bohlke instructed Director to change recommendations regarding number of oil wells to be allowed at site.	Not substantiated, with qualifications.
Mitigation Monitoring Program	23	Board Deputy Ben Saltsman reviewed and did not support DRP proposal for expanding program; instructed CEO's Office not to bring proposal to the Board of Supervisors.	Not substantiated.
Hope Gardens Family Center Permit Application	32	Board Deputy Paul Novak instructed Director and Deputy Director to delay processing and approval of permit application.	Not substantiated
Wildfire Hazard Planning & Mitigation	37	Board Deputy Paul Novak reviewed and did not support Dept. proposal to hire consultant for study of fire hazards and regulations; instructed CEO's Office not to approve proposal to the Board of Supervisors.	Not substantiated.
Staff Attendance at Two Professional Conferences	46	Board Deputy Nicole Englund overrode Director's authority by selecting and providing funding for certain DRP employees to attend conferences in Las Vegas and San Francisco	Not substantiated, with qualifications.
Green Building, Low Impact Development and Drought Tolerant Landscaping Ordinances	58	Board Deputies Ben Saltsman and Paul Novak provided conflicting direction to DRP staff regarding exemptions and applicability of the new "green" building and planning regulations.	Not substantiated, with qualifications
Availability and Safety of Water: State Legislative Agenda	72	Board Deputy Paul Novak removed DRP item from Board of Supervisors State Legislative Agenda because Director had not provided him with advance copy.	Not substantiated.
Deputy Director Promotions	78	Board Deputies Ben Saltsman, Julie Moore and Paul Novak instructed CEO's Office to hold up approval of DRP Director's recommended promotions because they did not support his choices.	Not substantiated.

The few incidents of partially substantiated Board Deputy intrusion found in this investigation were more than offset in the evidence reviewed showing the Deputies acting in accordance with the non-intrusion provision of the Governance Ordinance. Board Deputies interviewed for this investigation indicated their awareness of behavior required by the non-intrusion provision.

To the extent it occurs, Board Deputy intrusion is not something one would expect to be well documented. In a number of the allegations, the intrusion reportedly occurred in unrecorded one-on-one conversations or small group settings. As shown on Table E.1, in three of the unsubstantiated allegations, the charges are that Board Deputies intervened in Department operations indirectly by influencing the Chief Executive Office to block the Department's attempts to present Department initiatives to the Board of Supervisors in two of the cases and to approve promotions of Department employees in the third case. Again, if such communications occurred between the Chief Executive Office and Board Deputies, they are not likely to have been recorded.

Further, since the County governance structure mandates a reporting relationship between the Chief Executive Office and the Board of Supervisors, it is not clear that such communications would constitute a violation of the non-intrusion provision. One would expect Board Deputies to communicate their concerns about department operations or policy and legislative initiatives to the Chief Executive Office, and it would be appropriate for the Chief Executive Office, under the new governance structure, to direct departments accordingly.

A Countywide shared definition of Board Office intrusion is not in place

The lack of a clear definition of Board intrusion understood and shared by all County employees and officials was identified as an issue in our review of Mr. McClendon's allegations and in our interviews with Board Deputies and other County staff. More than one Board Deputy stated to us that their role in policy development since adoption of the new governance structure is not entirely clear.

In a 2007 report to the Board of Supervisors prepared by the Chief Administrative Officer on the County's new governance structure, the role of Board Deputies was described as follows:

Board Deputies, as representatives of the elected Supervisor, identify issues and provide input regarding Board policy and represent constituent issues and concerns.²

² Los Angeles County Administrative Governance Transition Report, prepared by the Chief Administrative Officer, May 15, 2007

The report went on to say that Board Policy Deputies, the subject of all eight allegations in this investigation, should participate and provide input in the development of program and policy initiatives, including: (1) participation in clusters; (2) coordination of district specific policy and program initiatives, working directly with individual departments or groups of departments, and/or engagement of the appropriate Deputy CEO's assistance; and, (3) recommending the establishment of policy planning efforts within or among clusters. In many of the allegations investigated, Board Deputies were performing these roles, but Mr. McClendon believed they were violating the non-intrusion provision in so doing.

In two of the allegations where we found limited violations of the non-intrusion provision, the Board Deputies were "coordinating district specific policy and program initiatives", "providing input", and "representing constituent issues and concerns." However, it is not difficult to see how effective "coordination" and "providing input" by a Board Deputy or anyone could easily involve some degree of ordering or instructing, both of which are prohibited by the non-intrusion provision. A more clear demarcation is needed between Board Deputy coordinating and providing input versus ordering and instructing.

In two of the allegations where limited Board Deputy intrusion was found, though not to the extent alleged by the former Director of Regional Planning, evidence was also found showing DRP staff requesting direction or orders from the Board Deputies and the Board Deputies providing it, possibly without even realizing they were violating the non-intrusion provision. In one of the allegations, emails were reviewed where the Board Deputies used directive language in communicating with staff on some occasions though more frequently, in their other communications, they used language that could be characterized as suggestive or collaborative.

The lack of a clear definition of Board Office intrusion, the difficulty of documenting it, and some of our investigation observations indicate that implementation and enforcement of the non-intrusion provision has not been fully fleshed out in the County. Details and guidelines are particularly needed for the Board Deputy roles of providing input in the development of program and policy initiatives, coordinating district specific program and policy initiatives, and working directly with individual departments or groups of departments. Due to the nature of such activities by Board Deputies, they all pose the risk of easily becoming instructions or orders to department staff.

Introduction

Investigation Objectives

The Los Angeles County Auditor-Controller’s Office retained Harvey M. Rose Associates, LLC to conduct an Investigation of Alleged Intrusion by Board of Supervisors Offices in the operations of the Department of Regional Planning. The objective of this investigation was to review eight instances of potentially inappropriate intrusion into the operations of the Department of Regional Planning (DRP) by members of the Board of Supervisors and their Deputies. The primary standard against which inappropriate intrusion was measured is County Code Section 2.01, which states that the Board of Supervisors has delegated responsibility for:

“...general administration, including responsibilities for the oversight, evaluation and recommendation for appointment and removal of specified department heads and officers of the county, to the chief administrative officer (now Chief Executive Officer).”¹

The non-intrusion provision of the County Code states that,

“Except as otherwise provided in this chapter, the board of supervisors, as governing board of the county, retains full authority to take any and all official action for the governance of the county. However, no individual member of the board, nor any deputy or assistant to any member of the board of supervisors, shall give orders to or instruct any county officer or employee, but may seek information and/or seek assistance from county officers and employees”.²

The key to this review was to determine, through review of documentation and interviews, if members of the Board of Supervisors, their deputies, or other staff were giving orders to or instructing the former Director of Regional Planning or his staff on department operations, as compared to seeking information or assistance. The governance structure sections of the Code do not specifically address how, if at all, Board members and their staffs are to provide legitimate input regarding department operations, policy and legislative initiatives or proposals, or communicate constituent concerns to departments.

The instances investigated involve alleged intrusion by Board Deputies in six areas of DRP operations:

- (1) The development project application process
- (2) Ordinance development
- (3) RPD program and service enhancements
- (4) Contract approval process
- (5) DRP staffing
- (6) Staff training

¹ County Code Sect. 2.01.010

² County Code Section 2.01.500

Investigation Scope

Subsequent to his release from County service on January 16, 2009, former Director of Regional Planning Bruce McClendon alleged that Board Deputies exercised improper influence over DRP staff and interfered with the Department's day-to-day operations. We conducted an investigation into eight of these allegations, which pertained to the following subject areas:

- (1) Baldwin Hills Community Standards District
- (2) Mitigation Monitoring Program
- (3) Hope Gardens Homeless Project
- (4) Wildfire Hazard Planning and Mitigation
- (5) Staff Attendance at Two Professional Conferences
- (6) Green Building, Low Impact Development, and Drought Tolerant Landscaping Ordinances
- (7) Development of the State Legislative Agenda
- (8) Deputy Director Promotions

The former Director of Regional Planning provided his allegations to the Auditor-Controller's Office of County Investigations (OCI) in an interview on February 23, 2009. At the time he was interviewed, Mr. McClendon submitted a written summary of each of his allegations. In his interview Mr. McClendon prefaced his comments by stating that his allegations were based solely on his recollections since he did not have access to the files on his County computer. Subsequent to this interview, OCI staff offered to provide Mr. McClendon access to his files, but he did not take the opportunity to review these files.

A summary of the eight allegations and the objectives of our investigation for each allegation, as set by OCI, are listed below.

1) Baldwin Hills Community Standards District

Summary of Allegation

The former Director of Regional Planning alleges former Second Supervisorial District Board Deputy Mike Bohlke intervened and demanded changes to an ordinance being drafted by the Department pertaining to oil and gas production development standards and procedures for the Baldwin Hills area. The former Director stated that he opposed the proposed changes and that they were not consistent with what had been presented to the community at public meetings. Against the wishes of the Director, the version of the ordinance presented to, and approved by, the Board of Supervisors contained the changes requested by Mr. Bohlke.

Investigation Objectives

Conduct an investigation to determine whether former Second District Supervisor Yvonne B. Burke, former Second District Board Deputy Mike Bohlke, or any former or present Board member or representative demanded last minute Ordinance changes that opposed the intent and understanding of DRP management and staff and of concerned citizens who had previously participated in public forums held by the Commission.

In addition, determine whether the Regional Planning Commission and Board hearings allowed sufficient time for the members of the public to speak.

2) Mitigation Monitoring Program

Summary of Allegation

The former Director of Regional Planning stated that during his tenure he found the Department's existing complaint-driven mitigation monitoring program inadequate and he planned a number of actions to enhance the program and make it proactive, including adding a Senior Biologist position to his staff for the program. His plan was to cover the costs of the proposed enhancements using already collected mitigation monitoring and developer impact fees. The former Director alleges that Third Supervisorial District Board Deputy Ben Saltsman opposed the program enhancement and additional position and communicated this to him and the CEO's Office. As a result, his proposed program enhancement was never presented to the Board of Supervisors.

Investigation Objectives

Conduct an investigation to determine whether Mr. Saltsman or any Board member or representative inappropriately interfered with Mr. McClendon's plan to implement a proactive Mitigation Monitoring program, including the hiring of a Senior Biologist.

3) Hope Gardens Homeless Project

Summary of Allegation

The former Director of Regional Planning alleges that Fifth Supervisorial District Board Deputy Paul Novak directed him to delay or deny an application to expand a homeless complex in the Fifth District. The Department reportedly did not adhere to Mr. Novak's direction and recommended approval of the project to the Regional Planning Commission, which approved the application.

Investigation Objectives

Conduct an investigation to determine whether Mr. Novak or any Board member or representative attempted to obstruct the approval of the Hope Gardens permit.

Determine also whether Mr. Novak or any Board member or representative exerted inappropriate influence over day-to-day Departmental operations, including making recommendations and issuing reports.

4) Wildfire Hazard Planning and Mitigation

Summary of Allegation

The former Director of Regional Planning alleges that Fifth Supervisorial District Board Deputy Paul Novak objected to the Director's plan to retain the American Planning Association to conduct a study developing recommendations for County actions that could reduce the potential for wildfires. The Board Deputy allegedly believed such a study would reveal weaknesses in the County's current efforts and would reduce development potential in the Fifth District. As a result, the CEO's Office allegedly never presented the Director's proposal to the Board of Supervisors for approval.

Investigation Objectives

Conduct an investigation into Mr. McClendon's allegations concerning the proposed wildfire hazard study.

5) Staff Attendance at Two Professional Conferences

Summary of Allegation

The former Director of Regional Planning alleges that First Supervisorial Board District Deputy Nicole Englund overrode his decision not to send certain RPD staff to two conferences and that she arranged for funding for their attendance, independent of the Director, and obtained funding from inappropriate sources: the Department of Public Works budget for one conference and RPD's Community Development Block Grant for the other.

Investigation Objectives

Conduct an investigation into the allegations of interference by Ms. Englund and determine whether the funding sources for the conferences were appropriate.

6) Green Building, Low Impact Development, and Drought Tolerant Landscaping Ordinances

Summary of Allegation

The former Director of Regional Planning alleges that Third Supervisorial Board District Deputy Ben Saltsman and Fifth Supervisorial Board District Board Deputy Paul Novak reviewed proposed ordinances being developed by the Department in the Fall of 2008 and provided conflicting direction to staff to make numerous changes to the ordinances particularly in the areas of exemptions and applicability. Specifically, Mr. Saltsman and Mr. Novak allegedly gave conflicting instructions to staff to change the language for what constituted a completed application. As a result, compromise versions of the ordinances were developed and adopted, with definitions of completed development project applications that are unique to the region and subject to staff interpretation.

Investigation Objectives

Conduct an investigation into the alleged inappropriate influence by Mr. Novak or Mr. Saltsman in the drafting of these ordinances and in creating exemptions for pending projects.

7) Development of the State Legislative Agenda

Summary of Allegation

The former Director of Regional Planning alleges that Fifth Supervisorial District Board Deputy Paul Novak insisted on reviewing and approving reports prepared by the Department pertaining to the availability of water for new subdivisions before the reports were submitted to the Board of Supervisors for legislative priority hearings. He also alleges that the Chief Executive Office (CEO) agreed to this demand.

Investigation Objectives

Conduct an investigation to determine whether Mr. Novak demanded an inappropriate level of control over DRP's reports and recommendations regarding the availability of water for new subdivisions and whether he blocked the issue from being placed on the Board's agenda in October 2008.

8) Deputy Director Promotions

Summary of Allegation

The former Director of Regional Planning alleges that Third District Supervisorial Board Deputy Ben Saltsman, Fourth Supervisorial District Board Deputy Julie Moore, and Fifth Supervisorial District Board Deputy Paul Novak stated that they opposed the Director's promotion of two Department employees to the positions of Deputy Director, and that Mr. Novak informed him that he should have consulted with the Board Deputies before he made his decision.

Investigation Objectives

Conduct an investigation to determine whether the three named Board Deputies attempted to exert inappropriate influence over the appointment of the new Deputy Directors

Investigation Methods

We utilized a variety of methods to conduct our investigation including: (1) a review of OCI documents and recorded interviews; (2) interviews with DRP managers and staff, Board Deputies, and other County staff; (3) review of public, Departmental, and other documents; and (4) review of internal communications.

Review of OCI Documents and Interview Recordings

OCI conducted several electronically recorded interviews, including the interview with Mr. McClendon. We reviewed all eight recordings provided, including interviews with the following individuals:

- (1) Former Director of Regional Planning Bruce McClendon
- (2) Acting Director of Regional Planning Jon Sanabria
- (3) Acting Deputy Director for Advanced Planning Rose Hamilton
- (4) Former Deputy Director for Advanced Planning Ron Hoffman
- (5) Supervising Regional Planner Paul McCarthy
- (6) Administrator for Information and Fiscal Services Ted Elias
- (7) Deputy Director for Land Use Regulation John Calas
- (8) Principal Deputy County Counsel Elaine Lemke

In addition to the electronic recordings, we reviewed the written allegation summaries provided to OCI from Mr. McClendon.

Interviews

We conducted interviews with several current and former County staff members including the following individuals:

Department of Regional Planning

- (1) Acting Director of Regional Planning Jon Sanabria
- (2) Acting Deputy Director for Advanced Planning Rose Hamilton
- (3) Acting Deputy Director for Current Planning Sorin Alexanian
- (4) Administrator for Information and Fiscal Services Ted Elias
- (5) Assistant Deputy Director for Information and Fiscal Services Dennis Slavin
- (6) Supervising Regional Planner Paul McCarthy
- (7) Supervising Regional Planner for Zoning Permits 1 Mark Child
- (8) Supervising Regional Planner for Ordinance Studies Karen Simmons
- (9) Supervising Regional Planner, Community Studies Section 2 Gina Natoli
- (10) Principal Regional Planning Administrator, Community Studies Section 1 Susana Franco-Rogan
- (11) Principal Regional Planning Administrator Kim Szalay
- (12) Budget Services Head Karen Chin
- (13) Accountant III Anna Tran
- (14) Supervising Regional Planner, Zoning Enforcement Section 3 Alex Garcia

Board of Supervisors

- (15) First Supervisorial District Planning Deputy Nicole Englund
- (16) Former Second Supervisorial District Assistant Chief of Staff Mike Bohlke
- (17) Third Supervisorial District Deputy Ben Saltsman
- (18) Fourth Supervisorial District Senior Deputy Julie Moore
- (19) Fifth Supervisorial District Planning Deputy Paul Novak
- (20) Fifth Supervisorial District Chief Deputy Kathryn Barger Leibrich

Chief Executive Office

- (21) Chief Executive Officer William Fujioka
- (22) Deputy Chief Executive Officer Lari Sheehan

County Counsel

- (23) Chief Deputy County Counsel Leela Ann Kapur
- (24) Assistant County Counsel Richard Weiss
- (25) Principal Deputy County Counsel Elaine Lemke

Other Departments

- (26) Acting Director of Personnel Lisa Garrett, Department of Human Resources
- (27) Assistant Director of Human Resources Marian Hall, Department of Human Resources
- (28) Acting Assistant Director of Human Resources Sandra Taylor, Department of Human Resources
- (29) District Engineer Ron Takiguchi, Department of Public Works
- (30) Senior Civil Engineer Bruce Hamamoto, Department of Public Works
- (31) Captain John Todd, Former Forestry Chief, Fire Department
- (32) Director Terry Gonzalez, Community Development Block Grant Division and Intergovernmental Relations, Community Development Commission
- (33) Manager Linda Jenkins-Swift, Community Development Block Grant Division, Community Development Commission

Other

- (34) Environmental Consultant John Peirson, Marine Research Specialists

In addition to interviewing the individuals listed, we attempted to interview former Director of Regional Planning Bruce McClendon by offering a wide range of dates so that he could select one most convenient for him. Though he was no longer living full-time in Los Angeles, he returned regularly and initially agreed to be interviewed, subject to certain conditions being met. When the conditions were met, he informed us that he was not willing to participate in live interviews but would respond to our questions in

writing. We offered to conduct a video phone conference with him to enable us to review documents simultaneously, but he did not agree to this approach. As a result, we submitted questions to him pertaining to each allegation and he provided written responses.

Review of Public and Department Documents

We reviewed several public, Departmental and other documents as part of our investigation, including:

- Board of Supervisors agendas, motions, reports and ordinances;
- The County of Los Angeles Governance Ordinance (Chapter 2.01 of the County Code);
- Los Angeles County Administrative Governance Transition Report, prepared by the Chief Administrative Officer and dated May 15, 2007
- The Los Angeles County Citizens' Economy and Efficiency Commission Report on the Implementation of the New Governance Structure;
- Draft and final versions of official Department documents, work papers, and case files; and,
- Pertinent State, federal and County laws and regulations.

Internal Communications

We reviewed several hundred emails, which were extracted by OCI from the hard drive of Mr. McClendon's County computer. In addition, we reviewed topic specific emails provided to us as part of our information requests from DRP and other County Department staff.

Limitations of Investigation

There were several limitations to our ability to collect and rely on evidence collected in the course of our investigation. First, although we asked most of our interviewees if they had been instructed to do anything but tell us the truth, they were not under oath. Therefore, their testimony may not have been truthful and is not enforceable in a court of law. Second, current County employees may have had an incentive to withhold information about Board Deputy behavior to protect their jobs. Third, documentation provided by County staff, such as emails, may not have given us a complete representation of each event. Finally, many of Mr. McClendon's allegations involve one-on-one conversations over the phone or in person. There were no recordings of these conversations and therefore little or no evidence to support or refute his claims in these instances.

To offset these limitations, we attempted to corroborate all oral attestations with documented evidence and/or consistent oral attestations from multiple sources. If we

could not obtain such corroboration, we determined that the allegation could not be substantiated or refuted.

Governance Ordinance Overview

The Interim Governance Ordinance was approved by the Board of Supervisors on March 27, 2007, took effect legally on April 26, 2007, and became operational July 1, 2007 with the appointment of William Fujioka as Chief Executive Officer. The Governance Ordinance established a new interim system of administrative governance for the County which provided expanded responsibilities for day-to-day administration to the Chief Executive Officer. The Governance Ordinance also included a non-intrusion provision, as quoted at the beginning of this section, which prohibits individual Board Supervisors or any Deputy or Assistant from giving orders or instruction to any County officer or employee.

No additional legislation has been adopted or guidelines produced to interpret and guide County officials and staff on the implementation of the non-intrusion provision. A May 15, 2007 report prepared by the then Chief Administrative Officer and accepted by the Board of Supervisors provided recommended roles and responsibilities of the new Chief Executive Officer, Board Deputies and CEO-appointed department heads. The report describes the role of Board Deputies as follows:

Board Deputies, as representatives of the elected Supervisor, identify issues and provide input regarding Board policy and represent constituent issues and concerns.³

The report proposes that Board Policy Deputies are to participate and provide input in the development of policy and program recommendations, including coordination of district specific policy and program initiatives, working directly with an individual Department, or groups of Departments, and/or engage the appropriate Deputy CEO's assistance. While this provides a framework for the Deputies, it also leaves questions open about how Deputy activities such as "providing input" stops short of becoming ordering or instructing, both of which are prohibited by the non-intrusion provision. There is no additional guidance or instructions on the Governance Ordinance, including the non-intrusion provision, from the Chief Executive Office, County Counsel, or any other County office.

In July 2008 the Los Angeles County Citizens' Economy and Efficiency Commission delivered a report to the Board of Supervisors evaluating implementation of the new governance structure, as directed by the Board. In its report, the Commission found that:

Board offices were uniformly confident that their own offices understand and respect the new boundaries, but they were all skeptical that other offices respect those same boundaries. There was

³ Los Angeles County Administrative Governance Transition Report, prepared by the Chief Administrative Officer, May 15, 2007

also a clear sentiment that this is still a work in progress and that they expect the system to improve with time.⁴

In addition, the Commission found that:

From the DCEO perspective, Board offices are still adjusting to the new system and occasionally testing the boundaries. As stated by one DCEO, “some deputies are pushier and more demanding than others; some ask permission before checking with Departments, but others don’t want to respect the new structure.”⁴

Further, the Commission reported from Department Heads that:

Only rarely have Board offices attempted openly to “instruct” or “direct” Departments to take specific actions. However, several Department Heads noted that, with some frequency, Board offices are “coaxing or cajoling” Departments. Typically, this is done in one-on-one settings outside of formal meetings.⁴

One of the Commission’s recommendations, partially targeted to addressing issues with the non-intrusion ordinance, was to have “the Board consider directing the CEO to establish communication protocols between the CEO’s office and Board deputies; between the DCEOs and Department Heads; and between the Departments and Board offices.” In our interview with Chief Executive Officer William Fujioka, he stated that no such communication protocols have been established to date.

⁴ The Los Angeles County Citizens’ Economy and Efficiency Commission Report on the Implementation of the New Governance Structure, July 2008

1. Baldwin Hills Community Standards District Ordinance

Background

On June 27, 2006 the Board of Supervisors approved an interim urgency ordinance,¹ on motion of former Second District Supervisor Yvonne Burke, to temporarily regulate oil drilling activity at the Inglewood Oil Field in the Baldwin Hills Zoned District in response to residents' concerns triggered by an accidental release of noxious fumes and odors. The ordinance was later extended on August 8, 2006 and again on May 29, 2007. While the urgency ordinance was in effect the Department of Regional Planning (DRP) determined that the most appropriate way to manage the oil drilling activity in the Baldwin Hills Zoned District was through the establishment of a community standards district.²

A Community Standards District was to be created through the County's development review process in order to "establish permanent land use regulations, procedures, and development standards to assure that future oil field operations are compatible with the health and safety of surrounding residential neighborhoods."³ Consistent with California Environmental Quality Act (CEQA) requirements, an environmental impact report (EIR) was required as part of the review of this proposed district. The public draft of the EIR, prepared by an outside consultant, was released on June 20, 2008. The Community Standards District ordinance was prepared by DRP staff in consultation with the same outside consultant team that assisted with the EIR.

The ordinance was prepared with input from Plains Exploration and Production Company (PXP), the operator of the Inglewood Oil Field, as well as from community groups. The Regional Planning Commission held several hearings from June through October of 2008 to solicit input on the EIR and the proposed ordinance. At its October 8, 2008 meeting, the Regional Planning Commission recommended a final draft of the Baldwin Hills Community Standards District Ordinance be considered by the Board of Supervisors for

¹ An interim urgency ordinance is an urgency measure allowed by State law that the legislative body of a county or city may adopt to protect public safety, health, and welfare without following the procedures otherwise required prior to the adoption of a zoning ordinance. Interim urgency ordinances require a four-fifths vote of the legislative body for adoption and can not be in effect for more than 45 days from its date of adoption. The legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. The legislative body may not adopt more than two extensions.

² Community standards districts are established as supplemental districts to provide a means of implementing special development standards contained in adopted neighborhood, community, area, specific and local coastal plans within the unincorporated areas of Los Angeles County, or to provide a means of addressing special problems which are unique to certain geographic areas within the unincorporated areas of Los Angeles County.

³ From minutes of the Board of Supervisors' meeting on May 29, 2007.

final approval. The Board of Supervisors adopted the proposed ordinance, with amendments, on October 28, 2008.

Allegation

Former Regional Planning Director Bruce McClendon alleges that former Second District Assistant Chief of Staff Michael Bohlke instructed him and Principal Deputy County Counsel Elaine Lemke to make two substantial changes to the Baldwin Hills Community Standards District Ordinance on the morning of the day of the last public hearing held by the Board of Supervisors on the ordinance. The changes that Mr. McClendon alleges he and Ms. Lemke were instructed to make concern (1) the number of oil wells that may be drilled or re-drilled in one year under the Director's Review procedure⁴ and (2) the amount of funds necessary to be put in a reserve account by the operator of the oil field in order to defray the expenses involved in the County's monitoring responsibilities.

According to Mr. McClendon, Mr. Bohlke instructed Ms. Lemke and Mr. McClendon to substantially increase the number of oil wells that would be allowed to be drilled by PXP and to significantly reduce the amount of the reserve fund that PXP would be required to set up with the County. Mr. McClendon states in his allegation that Ms. Lemke was disturbed by the changes and that he informed Mr. Bohlke that he would not support the changes as they were contrary to what the Department had previously committed to with the community and PXP. He further states that Mr. Bohlke replied that Mr. McClendon and the Department did not have a choice in the matter.

Mr. McClendon further alleges that, on the morning of the last Board of Supervisors hearing on the Baldwin Hills Community Standards District, he met with Deputy Chief Executive Officer Lari Sheehan to inform her about the interference. He states that he explained to Ms. Sheehan that he and Acting Deputy Director for Advanced Planning Rose Hamilton objected to the change and complained about Mr. Bohlke's last minute interference and intrusion into the process. Mr. McClendon states that Ms. Sheehan asked if Mr. Bohlke and the Supervisor were now satisfied with the ordinance. When he replied in the affirmative, Mr. McClendon alleges that Ms. Sheehan simply stated "fine" and walked away.

⁴ A Director's Review is an administrative process that may include the review of a site plan, the review of other forms and documents as are necessary to determine compliance with the provisions of Title 22 or any conditions that may be specified in granting an approval of the requested use, development or modification, and the review of supplemental information or material as may be necessary, including revised or corrected copies of any site plan or other document previously presented

Investigation Objectives

Conduct an investigation to determine whether Board Deputy Mike Bohlke or any Board member or representative demanded last minute changes to the ordinance that opposed the intent and understanding of DRP management and staff and of concerned citizens who had previously participated in public forums held by the Commission. In addition, determine whether the Commission and Board hearings allowed sufficient time for members of the public to speak.

Methods and Summary of Evidence Supporting or Refuting Allegation

Public and Department Documents Reviewed

We reviewed numerous public and Department documents associated with this allegation including: (1) transcripts of Regional Planning Commission hearings held on the Baldwin Hills Community Standards District; (2) all four draft versions of the Baldwin Hills Community Standards District Ordinance; (3) the associated EIR; (4) video recordings of the October 21 and October 28, 2008 Board hearings; (5) minutes of the October 21 and October 28, 2008 Board meetings; and (6) the October 21, 2008 Board Motion put forward by former Supervisor Yvonne Burke and approved by a four to zero vote with Fourth District Supervisor Don Knabe being absent.

Our review of public and Department documents revealed that changes were made to the annual cap on the drilling of oil wells, but this evidence does not fully support Mr. McClendon's allegation. The timing of Mr. McClendon's claim that on the morning of the last Board hearing Mr. Bohlke demanded that the number of wells under the cap be substantially increased is not supported by public documents. Specifically, the annual cap on oil drilling decreased from 85 wells per year in the third draft version considered by the Regional Planning Commission to 53 wells per year in the fourth and final draft that was considered and recommended for Board approval. The cap on drilling remained consistent (at 53 per year) between the recommended ordinance approved by the Regional Planning Commission and the draft submitted for the Board's agenda on October 21, 2008. This cap was then changed from 53 per year to 600 over 20 years (an average of 30 wells per year, not to exceed 45 new wells and 53 total wells in any one year) on a motion by Supervisor Burke at the October 21, 2008 Board hearing. The final ordinance that was adopted by the Board on October 28, 2008 reflected the changes made by Supervisor Burke's motion at the previous meeting. It is, however, possible that Mr. Bohlke demanded changes to the Department's recommended number of allowed wells prior to the Department finalizing and submitting its recommended ordinance to the Regional Planning Commission and/or Board of Supervisors. This possibility is discussed in the Interview Results section below.

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Public and Department documents reviewed for this investigation do not support the timing of Mr. McClendon's claim that Mr. Bohlke demanded changes to the reserve account the morning of the last Board of Supervisors hearing. The third draft of the ordinance considered by the Regional Planning Commission required an initial deposit of \$500,000. Further, the third draft required the oil field operator to deposit funds to bring the balance up to \$500,000 in every instance where the balance in the account was drawn down to \$250,000. This requirement was reduced in the fourth version considered by the Commission to state that the balance in the account could not drop below \$250,000 in the first year and could not drop below \$50,000 in subsequent years. The reserve account requirements in the final version considered by the Regional Planning Commission are consistent with the ordinance that was adopted by the Board of Supervisors. Again, it is possible that Mr. Bohlke demanded changes in the Department's recommended reserve amounts prior to the Department finalizing and submitting its recommendations to the Regional Planning Commission and/or Board of Supervisors in the process as discussed in the Interview Results section below.

Interview Results

We conducted interviews with numerous DRP staff members, former Assistant Chief of Staff for the Second Supervisorial District Mike Bohlke, Principal Deputy County Counsel Elaine Lemke of the Office of the County Counsel, Deputy Chief Executive Officer Lari Sheehan, and John Peirson, the principal consultant from MRS, the company that prepared the environmental impact report. In addition, we received written responses to questions we had submitted to former Director of Regional Planning Bruce McClendon.

Our interviews with DRP staff did not support or refute Mr. McClendon's allegation, but revealed that Mr. Pierson and Mr. Bohlke were heavily involved in the preparation of the ordinance. These interviews also revealed that the determination of how many wells could be drilled annually was challenging for the Department and publicly contentious between community groups and PXP.

Between the third and final hearings held by the Regional Planning Commission (between October 1, 2008 and October 8, 2008) DRP staff and the outside consultant were working to finalize the appropriate number of recommended drillings that would be allowed annually under the Director's Review procedure (before a more arduous discretionary review process would be required). The drilling proposals under consideration during this time included:

(1) A cap of 85 wells per year based on the maximum number of wells that could be operated in any one year as projected in the EIR⁵;

⁵ The projections in the EIR of future development in the Inglewood Oil Field were based on data submitted from PXP regarding potential development of crude oil, gas, and water over a 20 year period.

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(2) A cap of 53 wells per year over the next 20 years based on an average of total potential future development as projected in the EIR⁶;

(3) A cap of 35 wells per year based on a historical average of operations at the oil field, but not analyzed in the EIR; and

(4) A cap of 20 wells per year based on information in a flyer that PXP distributed to residents in the surrounding communities regarding probable future drilling.

During the week before the final Regional Planning Commission hearings, according to a staff interview, a meeting was held to discuss numerous unresolved issues including the appropriate cap on drilling that would be recommended in the DRP staff report. According to staff, the attendees at this meeting were Mr. McClendon, the consultant Mr. Peirson, and the two staff members who were heavily involved in the draft ordinance. Further, according to staff, the attendees discussed the proposal of recommending 20 wells per year based on the PXP flyer as well as the proposal of recommending 35 wells per year based on a historical average of drilling at the oil field.

According to one staff member we interviewed, all attendees left the meeting with the understanding that the final draft version of the ordinance to be presented to the Regional Planning Commission would recommend a cap of 35 wells per year before a discretionary review process would be required. Staff stated that they felt this was appropriate because it was based on the status quo whereas allowing 53 wells per year would be beyond the historical average and therefore possibly result in an increase in the amount of drilling.

The next day, according to staff, Mr. Peirson emailed the revised draft ordinance to Department staff with a cap of 53 wells per year rather than the 35 wells per year reportedly agreed to at the staff meeting the day before. Staff stated that Mr. Peirson subsequently called Department staff to explain that he felt the ordinance should include a cap of 53 wells per year because it would be based on an analysis included in the EIR and would therefore have a stronger basis if the ordinance was subject to a legal challenge. Staff further stated that Mr. Peirson explained that he had conversations with Mr. Bohlke about the cap after their meeting with Mr. McClendon the previous day. After learning that Mr. Peirson had included a cap of 53 wells per year, rather than 35 per year, staff briefed Mr. McClendon of the change. Staff stated that Mr. McClendon was upset by this change and stated that he would make phone calls to determine why this cap was chosen over the one agreed upon the previous day. Subsequently, Mr. McClendon informed the staff members involved that, although he didn't agree with this, the Department would recommend a cap of 53 wells per year.

Our interview with County Counsel staff revealed information that refutes Mr. McClendon's allegation. Specifically, Principal Deputy County Counsel Elaine Lemke

⁶ Id

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disputed numerous claims made in Mr. McClendon's allegation. She refuted Mr. McClendon's claim that she met with Mr. Bohlke the day of the last Board of Supervisors hearing as well as the claim that Mr. Bohlke instructed her to substantially increase the number of wells to be allowed under the ordinance. Further, contrary to Mr. McClendon's claims, Ms. Lemke does not recall receiving or being disturbed by any directive from Mr. Bohlke regarding the number of wells allowed under the ordinance or the required deposit for the reserve account.

Ms. Lemke recalled attending a meeting with Mr. McClendon and Mr. Bohlke where the drilling cap was discussed. She stated that Mr. McClendon and Mr. Bohlke strongly disagreed on the number of wells in the meeting, but she did not recall Mr. Bohlke giving Mr. McClendon instruction, either directly or implied, to set the cap at 53 wells per year. Ms. Lemke further stated that she felt a cap of 53 wells per year was appropriate because it was based on an analysis in the EIR and therefore more legally defensible and that she had a conversation with Mr. McClendon where she explained this point of view to him. She also asserted that, at some point in the process, Mr. McClendon accused her of directing him to raise the cap to which she replied that her role was strictly advisory.

Our interview with Deputy Chief Executive Officer Lari Sheehan revealed information that is not supportive of Mr. McClendon's allegation. Specifically, Ms. Sheehan refuted the claim that Mr. McClendon complained to her on the morning of the last Board hearing about Mr. Bohlke's intrusion into the process. Ms. Sheehan stated that she had no direct role in the creation of the Baldwin Hills Community Standards District Ordinance though she knew Mr. Bohlke was concerned with producing an ordinance before Supervisor Burke was scheduled to step down from the Board in late 2008.

Our interview with Mr. Peirson, the outside consultant who worked for the Department on the Baldwin Hills Community Standards District EIR and drafting of the ordinance, revealed information that generally does not support Mr. McClendon's allegations. Mr. Peirson stated that toward the end of the Regional Planning Commission hearings process (a total of six hearings were held by the Commission), Mr. McClendon was advocating for a drilling cap of 35 wells per year, based on a historical average of operations at the oil field but not analyzed in the EIR, and that he thought that Mr. McClendon did not provide a solid legal basis for this number. In fact, Mr. Peirson recalled a heated discussion with Mr. McClendon over whether the cap should be set at 53 wells per year, as projected and analyzed in the EIR, or 35 wells per year. Further, Mr. Peirson recalled separate discussions with Mr. Bohlke and Ms. Lemke where Mr. Peirson asserted that 53 wells would be the most appropriate cap because it was based on analysis in the EIR and he believed there needed to be a nexus between the EIR and the Community Standards District ordinance in order for it to be legally sound.

Mr. Peirson mentioned that he attended a meeting with Mr. McClendon, Mr. Russ Fricano from DRP, and two representatives from a community group. The purpose of this meeting was to try to forge a compromise between the interested parties on the number of wells that could be drilled per year before an environmental review would be required.

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While Mr. Peirson felt that 53 wells per year was the most legally sound number, he realized that the actual cap in the ordinance could be negotiated lower by the Board of Supervisors, particularly if community groups and PXP both agreed not to make legal challenges.

According to Mr. Peirson the community group representatives at this meeting were able to agree on a cap of 35 wells per year assuming that PXP representatives also agreed to this number. Subsequent to this meeting, according to Mr. Peirson, one of the community group representatives contacted Mr. Peirson early the next morning to inform him that his organization could not support the proposed cap of 35 wells per year. Mr. Peirson stated that he attended a subsequent meeting in the office of the Second Supervisorial District with Mr. Bohlke, Mr. McClendon, and, possibly, Ms. Lemke. He described this meeting as a heated discussion between himself and Mr. McClendon over what the proper cap should be for drilling. He stated that Mr. Bohlke never demanded or instructed that a certain number be in the ordinance, but that Mr. Bohlke agreed with Mr. Peirson's argument for setting the recommended cap at 53 wells per year and Mr. Bohlke stated that once the ordinance was finalized the cap could be lowered by the Board of Supervisors.

Our initial interview with Mr. Bohlke provided some support for Mr. McClendon's allegation of improper intrusion. This interview corroborated that over the two year period during which the ordinance was being drafted, Mr. Bohlke was in relatively constant communication with DRP staff and that he believed that using the EIR as the basis for the staff recommended cap in annual oil well drilling was the most legally defensible approach. Further, this interview corroborated Ms. Lemke's claim that Mr. Bohlke did not intimidate or pressure any staff in the Office of County Counsel, including herself, to take any unethical actions.

Through our interview with Mr. Bohlke, we were made aware of his office's position at the time of the Regional Planning Commission hearings that the ordinance should include a cap that was based on the EIR analysis to give the Board of Supervisors flexibility in negotiating alternative caps at their hearings on the ordinance. Our interview with Mr. Bohlke also corroborated that this position, and the need for the DRP staff report to include a higher number of allowable wells than the 35 that Mr. McClendon supported, was communicated to the Director of Regional Planning one or more times by at least Mr. Bohlke and possibly other staff members from the Second Supervisorial Board District office who were involved in the Baldwin Hills Community Standards District matter.

According to Mr. Bohlke, recommending a cap of 35 wells per year would have been considered insubordination and politically naive. While Mr. Bohlke agreed that such instruction was given to Mr. McClendon, he did not believe that the non-intrusion provision of the Governance Ordinance applied to this situation as it was a Board legislative matter. Further, he believed that Supervisor Burke needed room to negotiate in

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this legislative process. The non-intrusion provision of the Governance Ordinance does not make an exception for legislative matters

In a subsequent interview with Mr. Bohlke after his review of our preliminary findings of this investigation, he stated that he did not mean in his original interview that he had instructed or ordered Mr. McClendon or other DRP staff to lower the recommended number of allowable wells in their proposed version of the ordinance, but that he was “advocating” for a different approach to the Department’s recommendations. In the same interview, Mr. Bohlke further reiterated his position that the Governance Ordinance is aimed at redirecting control of administrative matters from the Board of Supervisors to the County Executive Office but, in his opinion, does not apply to legislative matters such as the subject ordinance. In our review of the non-intrusion provision of the Governance Ordinance and related documents, we found no language exempting legislative or any other matters from the prohibition on members of the Board of Supervisors or their staffs giving orders or instructing County officers or employees. Further, the delegation of authority for administration of the County to the County Executive Officer and the non-intrusion provision are two separate components of the Governance Ordinance. The ordinance does not link the non-intrusion provision to the functions transferred to the County Executive Officer.

In our correspondence with Mr. McClendon he alleges that when Mr. Bohlke directed Ms. Lemke to make the changes to the Planning Department’s final draft ordinance he expected her to make the changes without informing him (Mr. McClendon). He states that Ms. Lemke had enough courage and character to insist that he be told about what Mr. Bohlke was instructing her to do. Ms. Lemke refuted this additional claim stating that she never had the impression that Mr. Bohlke wanted her to make changes without notifying Mr. McClendon.

Internal Communications

A review of internal communications, primarily emails extracted from Mr. McClendon’s computer at DRP, has shown that Mr. Bohlke was intimately involved in the process of producing the Baldwin Hills Community Standards District Ordinance and that he and Mr. McClendon appeared to have, at times, a collegial working relationship.

Some emails, particularly toward the end of the Regional Planning Commission hearings in September and October, were very assertive in nature and could be interpreted as violations of the non-intrusion provision of the Governance Ordinance. One email that Mr. Bohlke sent to Mr. McClendon, Ms. Lemke, Mr. Peirson, and several DRP staff members in response to a proposal by Mr. McClendon to include other community members in stakeholder meetings, he stated in capital letters and a large font size that, “Enough is Enough !!!!!...We have a stabilized CSD...Keuchle [a community group representative] is not the author or arbiter of the County CSD...” Several other emails convey Mr. Bohlke’s position clearly that he was against the inclusion of certain community representatives in the production of the ordinance. The tenor of the emails

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was generally that time was limited and that Department management and staff should not get bogged down in endless discussions with community groups. Another email from Mr. Bohlke to Mr. McClendon and a Department staff member implies that the Second Supervisorial District office had made some changes to the ordinance, specifically to the Landscaping Plan, and would provide them to Ms. Lemke to incorporate into the ordinance.

Other emails, particularly after the first Board of Supervisors hearing on October 21, 2008, show a collegial relationship between Mr. Bohlke and Department management and staff. One email in particular from Mr. McClendon to Mr. Bohlke regarding a *Los Angeles Times* article on the first Board hearing stated, “truth be said, a lot of people were great performers but you were the key to the whole thing. Thanks again.”

Conclusion

Investigation Objectives Restated: Conduct an investigation to determine whether Board Deputy Mike Bohlke or any Board member or representative demanded last minute changes to the ordinance that opposed the intent and understanding of DRP management and staff and of concerned citizens who had previously participated in public forums held by the Commission. In addition, determine whether the Commission and Board hearings allowed sufficient time for the members of the public to speak.

Summary: We conclude that the allegation is not substantiated, but with qualifications. The qualifications are due to statements by Mr. Bohlke in our initial interview that he had ordered or instructed the former DRP Director to increase the Department’s recommended number of wells in which drilling would be allowed in the staff report to the Regional Planning Commission, and due to some of his communications to DRP staff in emails cited above.

After Mr. Bohlke’s review of this investigation’s preliminary findings, he re-characterized his communications with the former DRP Director pertaining to the number of recommended wells to be advocacy rather than instructing or giving orders. Since Mr. Bohlke’s initial statements, subsequently restated, were the strongest corroboration of the allegation, our final conclusion is that the allegation is not substantiated, but with qualifications due to Mr. Bohlke’s preliminary statements, which we confirmed with him after our initial interview. We also concluded that many aspects of Mr. McClendon’s allegation were not supported by the evidence reviewed.

In his interviews, Mr. Bohlke stated that he believed the non-intrusion provision of the Governance Ordinance did not, and should not, apply in instances of ordinance development.

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We believe that our original interviews with Mr. Bohlke and our review of internal communications initially provided sufficient evidence to show that he violated the non-intrusion provision of the Governance Ordinance. However, after his review of the preliminary findings of this investigation, Mr. Bohlke re-characterized his communications with staff and the former Director of DRP as advocacy rather than giving instructions or ordering. He also reiterated his opinion that the non-intrusion provision of the Governance Ordinance does not apply to legislation being developed by the Board of Supervisors. We do not concur with that assessment as we found no exemptions to the non-intrusion provision in the Governance Ordinance or other County documents. Mr. Bohlke's interpretation demonstrates the absence of a clear, widely shared interpretation of the non-intrusion provision in the County.

Our review of the evidence refutes many of the elements of Mr. McClendon's allegation. Specifically, public documents as well as an interview with Ms. Lemke refute his claim that "the morning of the day that the Board of Supervisors was to hold the last public hearing on the proposed Baldwin Hills Community Standards District ordinance, Planning Deputy Mike Bohlke met with Elaine Lemke...and he instructed her to make substantive changes to the ordinance. The changes substantially increased the number of oil wells that could be drilled by PXP and significantly reduced the amount of the reserve fund that PXP would be required to maintain with the County prior to obtaining any new drilling permits." Our document review showed that the only changes made to the ordinance on the day of the last Board hearing were those put forward by Supervisor Burke in a motion.

Another element of Mr. McClendon's allegation that is refuted by the evidence is the claim that "Elaine was disturbed by this directive because it would change the ordinance from what had been drafted by the planning staff and be a serious departure from what had been presented at previous public hearings." In our interview with Ms. Lemke she refuted that she was directed by Mr. Bohlke to make substantive changes to the amount of oil drilling or to the reserve account. Further, no public version of the ordinance ever included a recommended cap of less than 53 wells per year until Supervisor Burke introduced her motion at the October 21, 2008 Board hearing though various numbers of allowable wells per year that could be drilled had been discussed in community meetings.

A third element of Mr. McClendon's allegation that is refuted by our fieldwork is his claim that he met with Deputy Chief Executive Officer Lari Sheehan on the morning of the last Board hearing to complain about Mr. Bohlke's last minute interference. In our interview with Ms. Sheehan she refuted that such a meeting ever took place. In fact, she insisted that Mr. McClendon never complained to her about Board intrusion from any of the Board District offices.

Finally, it should be noted that Mr. McClendon himself has refuted any claim that there was insufficient time given to the public to speak at Commission or Board hearings. In correspondence with Mr. McClendon he stated that "the public had ample opportunity to

speak.” DRP staff reports that the Regional Planning Commission used the standard allotted time of three minutes for each testifier.

Timeline

- June 27, 2006: The Board of Supervisors approves an interim urgency ordinance, on motion of former Second District Supervisor Burke, to temporarily regulate oil drilling activity at the Inglewood Oil Field. The interim urgency ordinance is later extended on August 8, 2006 and May 29, 2007.
- August 2, 2008: The Regional Planning Commission holds first hearing on the Baldwin Hills Community Standards District ordinance in Culver City.
- August 14, 2008: The Regional Planning Commission holds a second hearing on the Baldwin Hills Community Standards District in Los Angeles at the Consolidated Board of Realtists.
- August 27, 2008: The Regional Planning Commission holds a third hearing on the Baldwin Hills Community Standards District in Los Angeles at the Kenneth Hahn Hall of Administration.
- September 10, 2008: The Regional Planning Commission holds a fourth hearing on the Baldwin Hills Community Standards District in Los Angeles at the Kenneth Hahn Hall of Administration.
- October 1, 2008: The Regional Planning Commission holds a fifth hearing on the Baldwin Hills Community Standards District Ordinance in Los Angeles at the Hall of Records. The Commission considered the third draft of the ordinance. This version of the ordinance included a recommended cap of 85 wells per year to be allowed under the Director’s Review process. It also included a reserve account that required an initial deposit of \$500,000 and a requirement that the balance be brought back to \$500,000 in each instance where the balance dropped to \$250,000.
- October 8, 2008: The Regional Planning Commission holds a sixth and final hearing on the Baldwin Hills Community Standards District Ordinance at the Los Angeles County Hall of Records. The Commission considered the fourth draft of the ordinance. This version of the ordinance included a cap of 53 wells per year to be allowed under the Director’s Review process. It also included a reserve account that required an initial deposit of \$500,000 in the first year and that the operator deposit \$50,000 if the balance drops below \$250,000. After the first year, the operator shall deposit \$50,000 each time the balance drops to \$50,000.

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- October 21, 2008: The Board of Supervisors holds a hearing on the Baldwin Hills Community Standards District Ordinance. At this meeting Supervisor Burke put forth a motion to instruct County Counsel and DRP to make certain changes to the ordinance. Among the changes were a limit to the number of new wells that could be drilled during the first year to 24, to cap the total number of newly drilled wells over the next 20 years to 600 wells for an average of 30 wells per year, and to revise the provision on the maximum number of wells that may be drilled or redrilled in one year that would be allowed under the Director's Review procedure to 53 wells. A maximum of 45 drillings per year may be for new wells with the remaining annual allotment limited to redrilling existing wells. No changes were made to the reserve account requirements. Supervisor Burke's motion was passed by the Board.

- October 28, 2008: The Board of Supervisors approves the final version of the Baldwin Hills Community Standards District that incorporates the changes that were directed by Supervisor Burke's motion.

2. Mitigation Monitoring Program

Background

California State law requires that local agencies with authority to approve development projects review them to identify any harmful environmental impacts and then take actions so that such impacts are avoided or mitigated through conditions of project approval. Further, the State requires that such public agencies adopt a reporting or monitoring program for changes made to development projects or conditions of project approval in order to avoid significant effects on the environment. The reporting or monitoring program must be designed to ensure compliance during project implementation.¹

In Los Angeles County, the Department of Regional Planning (DRP) is the lead agency responsible for reviewing proposed development projects in the unincorporated areas for their consistency with zoning and planning laws and for assessing their environmental impacts. The Department is also responsible for monitoring applicant compliance with any mitigation measures required as conditions of project approval.

DRP's mitigation monitoring function is located in the Department's Impact Analysis section of the Current Planning Division. It is not staffed by a complement of full-time employees; rather, its duties are performed as needed by staff members who also perform other functions, primarily oversight of the production of environmental impact reports.

Allegation

The former Director of Regional Planning stated that during his tenure he found the Department's existing complaint-driven mitigation monitoring program inadequate and planned a number of actions to enhance the program and make it proactive, including adding a Senior Biologist position to his staff for the program. His plan was to cover the costs of the proposed enhancements using already collected mitigation monitoring and developer impact fees. The former Director alleges that Third Supervisorial District Board Deputy Ben Saltsman opposed the program enhancement and additional position and communicated this to him and the Chief Executive's Office. As a result, he claims his proposed program enhancement was never presented to the Board of Supervisors.

¹ See California Public Resources Code §21080 - 21081.6 for environmental review and mitigation monitoring requirements.

Investigation Objectives

Determine if Board Deputy Saltsman or any Board representative inappropriately interfered with the former Director's plan to implement an enhanced mitigation monitoring program, including hiring a Senior Biologist.

Methods and Summary of Evidence Supporting or Refuting Allegation

Public and Department Documents Reviewed

Key public and Department documents reviewed were: (1) the Board of Supervisors October 7, 2008 motion instructing the Chief Executive Office and Department of Regional Planning to prepare a report on the County's mitigation monitoring program; (2) draft and final versions of the report back to the Board of Supervisors; and, (3) State law governing local government environmental review and mitigation monitoring programs.

The documents reviewed corroborate Mr. McClendon's statements that he had identified and was preparing a report to the Board of Supervisors identifying problems with the mitigation monitoring program and his plans for improving the program. Documents reviewed do not corroborate or refute his allegation that Third Supervisorial District Board Planning Deputy Ben Saltsman prevented his proposal from being sent to the Board of Supervisors.

The motion introduced by Third District Supervisor Zev Yaroslavsky on October 7, 2008 (item 94-F), and carried unanimously by the entire Board of Supervisors, instructed the Chief Executive Office, in cooperation with the Director of Regional Planning, to report back within 30 days regarding:

- (1) The adequacy of the Department of Regional Planning's existing mitigation monitoring program compliance checks and enforcement of conditional use permit conditions;
- (2) The amount of available funding that the Department had dedicated to this effort, the amount of money that the Department has been collecting, and the amount that it has been expending over the past two fiscal years, and the amount that it expects to collect in future fiscal years;
- (3) A staffing plan to ensure that this function is adequately and consistently performed, and that this function is fully off-set by departmental revenues; and,

- (4) A recommended mechanism for ensuring that fees are consistently collected, inspections are performed as required, and mitigation monitoring programs are fully complied with.

Draft and final versions of the Department report to the Board of Supervisors produced between November 2008 and April 2009 in response to the motion were reviewed. The draft versions reviewed, dated November 3, December 3, and December 16, 2008 were prepared by Director of Regional Planning Bruce McClendon and submitted to Deputy Chief Executive Officer Lari Sheehan for review; the final version, dated April 8, 2009 was prepared and submitted to the Board of Supervisors by Acting Director of Regional Planning Jon Sanabria after Mr. McClendon was released from employment.

The draft reports stated that the Department's mitigation monitoring program at the time was not proactive and was largely complaint-driven. The Director of Regional Planning reported that the Department's Impact Analysis Section did not have adequate staff to implement a proactive program, which he believed should be the approach used. He proposed enhancing the program to mirror the Department's approach to conditions of approval for Conditional Use Permits. He reported that for projects issued such permits, the Department's Zoning Enforcement staff regularly performs checks on all conditions of approval, with these inspections paid for by applicant fees.

The Director of Regional Planning stated in the draft reports that he was adding a Senior Biologist position to the Department's staff that would be exclusively responsible for a proactive mitigation monitoring program.

The draft reports stated that the mitigation monitoring fee account had a balance of \$352,682 as of September 2008, that the Department estimated recovering \$40,000 - \$45,000 per year in future years and that \$63,538 and \$52,320 was recovered in fees in Fiscal Years 2006-07 and 2007-08, respectively. On this basis, the Director of Regional Planning argued that the costs of a Senior Biologist would be revenue offset (the costs were estimated in his draft report to be \$106,000 per year in salary and \$5,000 in service and supply costs, or more than the estimated annual revenue, with the difference assumedly being covered by the mitigation monitoring fee fund balance).

Though at least three draft versions were produced and reviewed by Deputy Chief Executive Officer Lari Sheehan, the report by Mr. McClendon was apparently never finalized for submission to the Board of Supervisors. Ms. Sheehan indicated in her report edits and in email communications to Mr. McClendon that she had numerous issues with the report that needed clarification including the costs and need for a full-time Senior Biologist. She requested changes to the report and indicated that the fourth version would be sent to Mr. Saltsman and all other Board Deputies for their review. A response to Ms. Sheehan's comments on Mr. McClendon's December 16, 2008 version was not provided to the investigation team by DRP or Ms. Sheehan for review and, assumedly, was never produced by Mr. McClendon.

As mentioned above, the final report in response to the Board motion was submitted April 8, 2009 by Acting Director of Planning Jon Sanabria. The final report makes many of the same points about the program as found in Mr. McClendon's drafts: the program is reactive rather than proactive, substantial fee revenue is available because much more had been collected than spent to date, and the current and future revenue could cover the costs of a new position for seven years. However, the report recommends adding a Regional Planning Assistant II rather than a Senior Biologist, adding that contractors could be used when biologist expertise is needed for certain projects and technical mitigations.

The fact that Mr. Sanabria's report was submitted to the Board of Supervisors with so much of the same information as in Mr. McClendon's reports appears to indicate that the CEO's Office and Board Deputy Saltsman did not wish to stop the program or hide information about it from the public, but that Ms. Sheehan was not satisfied with Mr. McClendon's draft reports. However, Mr. Sanabria's report does recommend a position other than Senior Biologist so this could confirm Mr. McClendon's allegations that Ms. Sheehan and Mr. Saltsman would not allow the report to go forward with that recommended position. However, even with the lower cost position, program staffing was still not fiscally sustainable so Mr. Saltsman's concerns in that regard did not stop the report from being submitted to the Board of Supervisors.

Interview Results

Interviews were conducted with Acting Deputy Director for Current Planning Sorin Alexanian, Senior Regional Planner and head of the Impact Analysis Section Paul McCarthy, Information and Fiscal Services Administrator Ted Elias, Information and Fiscal Services Assistant Deputy Director Dennis Slavin, Second Supervisorial District Board Deputy Ben Saltsman, Deputy Chief Executive Officer Lari Sheehan, Acting Director of Human Resources Lisa Garrett, Assistant Director of Human Resources Marian Hall, and Acting Assistant Director of Human Resources Sandra Taylor. In addition, we received written responses to questions we had submitted to former Director of Regional Planning Bruce McClendon.

Third Supervisorial District Board Deputy Ben Saltsman stated in his interview that, rather than trying to stop the program, he and Supervisor Yaroslavsky were concerned about the effectiveness of the Department's mitigation monitoring program. He recalled that, starting with discussions for the Fiscal Year (FY) 2008-09 budget there was a proposal to reduce mitigation monitoring fees since the fees that had been collected to date were more than needed because the Department's mitigation monitoring program was not very active. Mr. Saltsman reported that he disagreed with this proposal and thought that instead of reducing the fees, the Department should begin performing the mitigation monitoring program for which the fees were being collected.

He stated that although the issue was not resolved during the FY 2008-09 budget deliberations there was some type of agreement with Deputy Chief Executive Officer

Section 2: Mitigation Monitoring Program

Lari Sheehan and Mr. McClendon to look in to this matter further. Though he did not state this, it seems as though this agreement was not formalized through a Board directive or motion.

Mr. Saltsman reported that he heard nothing back on the matter and brought it to Ms. Sheehan's attention some time in September or October 2008. Ms. Sheehan reportedly then started coordinating discussions with Mr. McClendon and Mr. Saltsman on this topic. Around the same time, Supervisor Yaroslavsky prepared and made a motion, adopted by the Board of Supervisors October 7, 2008 and discussed above, to ensure that the issue was addressed and that the Board of Supervisors received a formal report on the topic.

Mr. Saltsman reports that Ms. Sheehan provided him with draft versions of the report prepared by the Director of Regional Planning in response to the Board motion. As discussed in the previous section, the draft reports proposed adding a Senior Biologist to Department of Regional Planning staff to enable the program to expand. Mr. Saltsman stated in his interview that he believed the proposed approach was not fiscally sustainable.

In a meeting in Ms. Sheehan's office that Mr. McClendon attended, Mr. Saltsman reports he did express these concerns but denied ever ordering or instructing Ms. Sheehan or Mr. McClendon not to present the Department's proposed approach to the Board of Supervisors or issuing any orders or instructions to hold up enhancement of the program. On the contrary, Mr. Saltsman stated that his concern was for the mitigation monitoring program to become more active in a sustainable way and his questions were intended to resolve those issues.

In our interview with Ms. Sheehan, she reported that she did conduct meetings with Mr. McClendon, Mr. Saltsman and other DRP staff on this matter and that she had questions about the proposed Senior Biologist staffing herself as she was not convinced that this level of staffing was needed for mitigation monitoring. Her recollection was that Mr. Saltsman had concerns about the efficacy of having all mitigation monitoring performed by one Senior Biologist position.

Ms. Sheehan reported that she sent Mr. McClendon's draft versions of the report back to him for various changes including a request that he provide staffing options for the Board of Supervisors rather than only proposing the addition of a Senior Biologist position as the only way to enhance the program. She reported that a final version of the report was never produced by Mr. McClendon to submit to the Board of Supervisors prior to his being released from employment January 16, 2009.

DRP staff interviewed about this allegation knew of no instructions or orders about the mitigation monitoring program or proposed staffing by Board Deputies or Deputy Chief Executive Officer Lari Sheehan, though instructions or orders to Mr. McClendon from Ms. Sheehan on this matter would have been within her purview as Deputy Chief

Executive Officer under the County's governance structure that became effective July 1, 2007. DRP staff interviewed did report being aware of Mr. Saltsman's concerns and questions about the program, particularly why the program was not functioning at the level it should have been.

In written responses to investigation questions, Mr. McClendon claimed that Ms. Sheehan prevented the Department from initiating a process with the Department of Human Resources to obtain the new Senior Biologist position. Other DRP staff reported that Mr. McClendon did not understand he needed to initiate such a process. Mr. McClendon also stated in his written responses that Ms. Sheehan did not want the Board of Supervisors and the public to see how poorly the mitigation monitoring program was operating, details of which he was planning to include in his report to the Board of Supervisors in response the Board motion. However, in Ms. Sheehan's comments on the draft versions of the report, she does not ask him to remove the information in the document about how little had been spent on the program compared to the fees collected from project applicants and developers for the program or to hide the fact that the program was reactive rather than proactive.

Mr. McClendon also stated in his written responses that funding for his proposed Senior Biologist position was not an issue as developers are required to provide additional funding to the County if the inspections cost more than had been anticipated when the development was approved. That information was not communicated in the draft version of the report to the Board of Supervisors or in emails to Mr. Saltsman to address his concerns about the fiscal sustainability of the program.

Internal Communications

Email communications reviewed on this matter showed that the DRP Director and staff and Third Supervisorial District Board Deputy Ben Saltsman were discussing the mitigation monitoring program in September 2008, prior to the motion being introduced by Supervisor Yarolavsky and adopted by the Board of Supervisors on October 7, 2008. Emails reviewed showed that Mr. Saltsman made inquiries and requests for information concerning the amount of funds available in the mitigation monitoring account and the Department's proposal to enhance the existing program with a new Senior Biologist. Such information requests by a Board Deputy are allowed by the non-intrusion provision of the Governance Ordinance.

In emails dated after the Board motion was adopted October 7, 2008, Mr. Saltsman communicated to DRP staff the same concerns he recounted in his personal interview: staffing at the level of Senior Biologist may be more than needed for the mitigation monitoring function and did not appear to him to be fiscally sustainable. He does not order or give instructions on this issue in his email, but does request information from staff, as allowed by the non-intrusion provision of the Governance Ordinance, asking for justification for the need for a Senior Biologist position for the program.

Section 2: Mitigation Monitoring Program

After the Board motion was adopted October 7, 2008, emails between Ms. Sheehan and Mr. McClendon show that Ms. Sheehan reviewed and requested revisions to the report back to the Board of Supervisors that Mr. McClendon was drafting. The emails indicate that she wanted to make sure the report addressed Mr. Saltsman's concerns.

According to emails reviewed, Ms. Sheehan recommended on November 22, 2008 that Mr. McClendon schedule a meeting with Mr. Saltsman to review his draft response to the Board motion. Mr. McClendon agreed to do so and acknowledged Mr. Saltsman's concerns about program staffing. The emails reviewed show that such a meeting was scheduled for December 4, 2008, that Mr. Saltsman requested a copy of the draft report the day before the meeting, and that Ms. Sheehan questioned the feasibility of Mr. McClendon's proposed approach to program staffing of overhiring a Senior Biologist against a lower paid vacant position in Fiscal Year 2008-09 as a temporary measure and requesting a full-time permanent Senior Biologist position for the program in FY 2009-10. While they expressed concerns in their emails about the staffing approach prior to the December 4, 2008 meeting, at no point in emails reviewed did Ms. Sheehan or Mr. Saltsman instruct or order Mr. McClendon not to propose the Senior Biologist position in his report.

Emails after December 4, 2008, the date of Mr. McClendon's scheduled meeting with Mr. Saltsman, through at least December 19, 2008 indicate that Ms. Sheehan continued sending Mr. McClendon edits to his draft report. Her edits never suggested removing the proposal to hire a Senior Biologist or not to discuss problems with the current program. In a December 19, 2008 email, Ms. Sheehan suggested to Mr. McClendon that he provide his report, after he revised it, to Mr. Saltsman and all other Board Deputies for review. There is no record that this ever occurred.

Finally, in an email dated April 3, 2009 from Ms. Sheehan to the Acting Director of Regional Planning, Jon Sanabria, Ms. Sheehan requests completion of the report that was never finalized while Mr. McClendon was Director of Regional Planning. She states in her email that the report to the Board of Supervisors is delinquent and indicates that nothing had happened on this assignment since December 2008 when she received a revised version of the report from Mr. McClendon. She does not request that he omit discussion of problems with the program or propose a specific approach to staffing the program.

Conclusion

Investigation Objectives restated: Determine if Board Deputy Saltsman or any Board representative inappropriately interfered with the former Director's plan to implement an enhanced mitigation monitoring program, including hiring a Senior Biologist.

Summary: Available evidence does not support Mr. McClendon's allegation.

No evidence has been found to corroborate Mr. McClendon's allegation that Third Supervisorial District Board Deputy Ben Saltsman or any Board representative inappropriately interfered with the former Director's plan to implement an enhanced mitigation monitoring program, including hiring a Senior Biologist. On the contrary, the evidence suggests that Mr. Saltsman and the Third Supervisorial District Office were interested in enhancing the Department of Regional Planning's program though Mr. Saltsman expressed concern to Mr. McClendon and to Deputy Chief Executive Officer Lari Sheehan about Mr. McClendon's proposed approach to this matter.

Mr. Saltsman's concerns pertained to adding a new Senior Biologist for the program, particularly since, according to DRP's own estimates, using previously collected but unspent mitigation monitoring fees would only last so long, at which point the ongoing annual cost of the new position would exceed expected annual mitigation monitoring fee revenues. However, the Director of Regional Planning continued to work on a report to the Board of Supervisors through December 2008 that still contained his plan for an enhanced program and the addition of a Senior Biologist position even though Mr. Saltsman and Ms. Sheehan had both communicated their concerns about Mr. McClendon's proposed position and program finances.

It is possible that Ms. Sheehan never intended to submit the report to the Board of Supervisors until the request for the Senior Biologist was removed and Mr. Saltsman's concerns were allayed. However, she would have been within her purview as Deputy Chief Executive Officer to simply direct Mr. McClendon, for whatever reason, to come up with an alternative plan for staffing the program before his report was going to be sent to the Board of Supervisors. While she had many suggested changes in her edits of Mr. McClendon's apparently last draft version of report, dated December 16, 2008, she made no request or suggestion to remove the proposed Senior Biologist position.

The final report that Ms. Sheehan did approve, and was submitted to the Board of Supervisors on April 9, 2009 by the Acting Director of Regional Planning, included many of the same points as Mr. McClendon's draft reports, though it recommended staffing the program with a full-time lower cost Regional Planning Assistant II rather than a Senior Biologist. Like the Senior Biologist, this position would not be fiscally sustainable either, so the final report only partially eliminated the concerns and reasons for blocking the report attributed to Mr. Saltsman by Mr. McClendon.

Timeline

- October 7, 2008: Board of Supervisors motion is adopted directing Chief Executive Office and Director of Regional Planning to prepare a report on the Department of Regional Planning's mitigation monitoring program, including its funding and a staffing plan to ensure program effectiveness.
- November 3, 2008: Director of Regional Planning Bruce McClendon prepares a draft version of the report and submits it to Deputy Chief Executive Officer Lari Sheehan for review. Report proposes using unspent program fees collected over several previous years plus ongoing annual fees to fund a full-time Senior Biologist. Ms. Sheehan returns the document to him with significant edits and questions, though does not request removal of his staffing proposal.
- December 3, 2008: Director of Regional Planning Bruce McClendon prepares a second version of the report and submits it to Ms. Sheehan and Third Supervisorial District Board Deputy Ben Saltsman for review. Report continues to propose using program fees collected over several years but unspent plus ongoing annual fees to fund a full-time Senior Biologist.
- December 4, 2008: In a meeting Ms. Sheehan and Mr. Saltsman question Mr. McClendon about the fiscal sustainability about his planned approach to staffing needed to enhance the mitigation monitoring program.
- December 16, 2008: Director of Regional Planning Bruce McClendon prepares a third version of the report and submits it to Ms. Sheehan for review. Report continues to propose using program fees collected over several but unspent plus ongoing annual fees to fund a full-time Senior Biologist. Ms. Sheehan provides him with a response to his document with significant edits and questions though does not request removal of his staffing proposal.
- April 9, 2009: Acting Director of Regional Planning Jon Sanabria submits a report on the mitigation monitoring program to the Board of Supervisors in response to the October 7, 2008 Board motion. Report is very similar to draft report prepared by Mr. McClendon except he proposes hiring a Regional Planning Assistant II, at lower cost, to staff the program rather than a Senior Biologist.

3. Hope Gardens Homeless Project

Background

In September 2006 the Union Rescue Mission, a 501(c)(3) non-profit organization dedicated to serving the poor and homeless, submitted a zoning and subdivision application to establish a Family Center on a 71-acre site in Lopez Canyon, an unincorporated area in the Fifth Supervisorial District just southwest of the Angeles National Forest. The Family Center, to be called Hope Gardens, would use buildings previously operated as a senior retirement community to house indigent senior women and formerly homeless women and their children. The Hope Gardens application drew a great deal of concern from residents in Kagel Canyon, the nearest residential community to the project site about one mile away. In December 2006 the Department of Regional Planning (DRP) made a determination that Union Rescue Mission's application for the Hope Gardens project was categorically exempt from environmental review requirements of the California Environmental Quality Act (CEQA). The County's Regional Planning Commission held a hearing on the Hope Gardens application on May 23, 2007. The application was approved at this meeting by a vote of four to zero with one commissioner absent.¹

Allegation

Former Director of Regional Planning Bruce McClendon alleges that Fifth Supervisorial District Board Planning Deputy Paul Novak contacted him and former Deputy Director for Current Planning Frank Meneses for the purpose of directly intervening in the permit evaluation and approval process. Mr. McClendon claims that Mr. Novak stated that Supervisor Antonovich was opposed to the project and that he (Mr. Novak) expected the Department to do everything it could to delay and to deny the application. Mr. McClendon further alleges that Mr. Novak demanded that the Department not schedule the public hearing before the Regional Planning Commission until he agreed to it. Additionally, he claims that Mr. Novak demanded to see the staff report and the staff recommendations before they were finalized and released to the public.

Mr. McClendon states in his allegation that he and Mr. Meneses declined to accommodate Mr. Novak's demand to delay the processing of the application and instead scheduled the necessary public hearing and refused to allow him to see and approve the staff report before it was released. Mr. McClendon alleges that in a conference call with

¹ As noted in the Executive Summary, the Governance Ordinance was passed by the Board of Supervisors on March 27, 2007 and became operational July 1, 2007. Therefore, of the eight months that it took the Department and Regional Planning Commission to complete its review and decision making process, the first six months were prior to the passage of the ordinance. The Regional Planning Commission reached its decision to approve the Hope Gardens application approximately five weeks before the non-intrusion provision of the Governance Ordinance became operational.

Mr. Novak and Mr. Meneses, Mr. Novak angrily derided them for not following his directions allegedly stating that they “would be sorry for ignoring his demands.”

Investigation Objectives

Conduct an investigation to determine whether Mr. Novak or any Board member or representative attempted to obstruct the approval of the Hope Gardens permit. Determine also whether Mr. Novak or any Board member or representative exerted inappropriate influence over day-to-day Departmental operations, including making recommendations and issuing reports.

Methods and Summary of Evidence Supporting or Refuting Allegation

Public and Department Documents Reviewed

We reviewed several public and Department documents including: (1) the Hope Gardens case file (Project Number R2006-02292-(5)); (2) the minutes from the May 23, 2007 Regional Planning Commission meeting; and (3) a Department flow chart depicting the steps required to approve a zoning permit under County Code Section 22.56.

Our review of the Hope Gardens case file revealed no evidence that the zoning application was processed contrary to the Department’s standard processes and procedures. The case file shows that the zoning application was approved approximately nine months after it was initially submitted. Further, the case files shows that despite pressure from residents in the Kagel Canyon community the Department determined that the project was categorically exempt from environmental review requirements under CEQA on December 16, 2006. Therefore, the applicants were not required to commission an environmental impact report (EIR), a process which would have significantly extended the time and expense required for approval. The case file includes a letter dated February 13, 2007 to Mr. McClendon from the Kagel Canyon Preservation Committee requesting that he reconsider the Department’s determination that the project was categorically exempt from CEQA’s environmental review requirements. Despite this request, on April 16, 2007 DRP scheduled a hearing with the Regional Planning Commission to be held on May 23, 2007.

The case file also shows that the Union Rescue Mission went to great lengths to listen to and accommodate Kagel Canyon residents’ concerns about the proposed project. Specifically, Union Rescue Mission staff attended numerous community meetings and hosted open houses and tours at the property between September 1, 2005 and March 26, 2007. The conditional use permit included 28 conditions, some with additional sub-conditions. The case file included a list of 16 changes, incorporated in the conditional use

permit, that Union Rescue Mission made to the Hope Gardens Family Center to accommodate concerns of Kagel Canyon residents. These changes included eliminating men from their program, increased security, limited vehicle trips, restricted smoking, and restricted children's access to open space, among others. A review of the remainder of the public and Department documents did not reveal evidence to support or refute Mr. McClendon's allegation.

Interview Results

We interviewed several staff members at DRP who participated in processing this application, Fifth Supervisorial District Planning Deputy Paul Novak, Chief Executive Officer William Fujioka, and Deputy Chief Executive Officer Lari Sheehan. In addition, we received written responses to questions we had submitted to former Director of Regional Planning Bruce McClendon.

Our interviews with DRP staff revealed no evidence to support or refute Mr. McClendon's claims that Mr. Novak conveyed an expectation that DRP do everything it could to delay and to deny the application for the Hope Gardens Project. The interviews also did not reveal evidence to support or refute Mr. McClendon's claim that Mr. Novak demanded that the staff report and recommendations be provided to him before they were finalized and released to the public. None of the DRP staff we interviewed stated that they had been told there was pressure from a Board office to process the application slower than normal or to try to find a reason to deny the application. Staff members also stated that considering how long some project applications could take, the Hope Gardens project application was processed and approved relatively quickly. One staff member stated that he/she was not contacted directly by the Fifth District Board Office, but had heard from other Department staff that Mr. Novak was telling residents in the Kagel Canyon community that the project needed an EIR. Another staff member stated that there was never inappropriate pressure from Board offices directed at staff planners, though the staff member had heard second hand from other Department staff that there might have been.

Our interviews with Ms. Sheehan and Mr. Fujioka from the Chief Executive Office revealed no evidence to support or refute Mr. McClendon's allegation.

Our interview with Mr. Novak revealed no information to support Mr. McClendon's allegation. Mr. Novak denied that he had ever conveyed to Mr. McClendon or Mr. Meneses Supervisor Antonovich's opposition to the project or any insistence that DRP do everything it could to delay or deny the application. However, Mr. Novak mentioned that there are normal bureaucratic hurdles that would be necessary to approve the project. He did not deny that he had contacted the Department to ensure that all applicable issues were reviewed for the Hope Gardens project.

Mr. Novak denied that he demanded that DRP not schedule the public hearing before the Regional Planning Commission until he agreed to it. However, he stated that it is not

unusual for DRP to consult with Board offices about scheduling public hearings on land use applications, but that this is only to accommodate logistical challenges for residents in outlying communities of the Fifth Supervisorial District or for commissioners who have busy schedules. Mr. Novak denied demanding to see and approve the staff report and staff recommendations before they were finalized and released to the public. He stated that he had received a copy before it was released to the public, but that the report had already been finalized and he was simply given a courtesy copy to be prepared for the inevitable constituent calls once the report had been released to the public.

Internal Communications

We reviewed several email communications regarding this allegation that had been extracted from Mr. McClendon's computer. None of the internal communications we reviewed provided evidence to support Mr. McClendon's allegation. On the contrary, we reviewed three email chains originating from Mr. Novak that were inquisitive in nature. All three emails from Mr. Novak were sent after the Regional Planning Commission had approved the application and with the purpose of seeking information or assistance. One of these emails asked if Jeff Lemieux, a DRP staff member, could be the Department's contact person on the Hope Gardens conditional use permit. The email was sent to Mr. Meneses with a Cc to Mr. McClendon and two other DRP staff members after the Regional Planning Commission had approved the Hope Gardens application. Assistant Administrator for Current Planning Sorin Alexanian responded the next business day stating that the contact person on the conditional use permit would be a different staff member. A second email chain was reviewed that originated from Mr. Novak's inquiry as to when the appeal period would end for the Regional Planning Commission approved Hope Gardens application. A third email chain that was reviewed originated from an inquiry from Mr. Novak as to whether a live audio-cast of the Regional Planning Commission hearing could be made available.

Conclusion

Investigation Objectives restated: Conduct an investigation to determine whether Mr. Novak or any Board member or representative attempted to obstruct the approval of the Hope Gardens permit. Determine also whether Mr. Novak or any Board member or representative exerted inappropriate influence over day-to-day Departmental operations, including making recommendations and issuing reports.

Summary: Available evidence does not support Mr. McClendon's allegation.

Based on a review and analysis of the evidence we do not believe that there is sufficient evidence to support Mr. McClendon's allegation that Mr. Novak violated the non-intrusion provision of the Governance Ordinance in this instance. Mr. Novak has denied

that he ever conveyed an expectation that DRP do everything it could to delay and deny the application. Further, Mr. Novak denies that he demanded to see the staff report and staff recommendation before it was finalized and released to the public. In addition, Mr. Novak denies having a conference call with Mr. McClendon and Mr. Meneses to castigate or threaten them for not following his directions.

Mr. McClendon's allegations are not supported by public and departmental documents. Rather, these documents show that the case was processed according to the established process for conditional use permits. There is no indication that he used his position as a Board Deputy to inappropriately instruct or give orders in violation of the Governance Ordinance. Further, no evidence emerged from our interviews with County staff or from a review of internal communications to support Mr. McClendon's allegations.

Timeline

- September 27, 2006: Union Rescue Mission submits its zoning and subdivision application.
- December 16, 2006: DRP declares the Hope Gardens Family Center to be categorically exempt from CEQA environmental review requirements. This determination eliminates the need for Union Rescue Mission to produce an EIR, a costly and time-consuming process.
- February 13, 2007: Letter sent from Kagel Canyon Preservation Committee to Mr. McClendon requesting that DRP reconsider the determination that an EIR is not required for the Hope Gardens Family Center.
- March 29, 2007: The Department of Public Works issues a letter noting that the Hope Gardens Family Center would not generate enough vehicle trips to exceed County significance thresholds. Therefore, no additional study of the issue is necessary.
- April 16, 2007: The Regional Planning Commission issues a letter to notify Union Rescue Mission and the public that a public Commission hearing is scheduled for May 23, 2007.
- May 23, 2007: The Regional Planning Commission approves a conditional use permit and an oak tree permit for the Hope Gardens Family Center.

4. Wildfire Study Proposal

Background

In October 2007, wildfires broke out destroying tens of thousands of acres of land and numerous structures in Malibu Canyon, the northern areas of Los Angeles County and areas near the Los Angeles-Ventura County border. While the causes of the fires varied, the Malibu fires were believed to have been caused, at least in part, by downed power lines.

On October 30, 2007, Supervisors Yaroslavsky and Antonovich jointly introduced a motion (Agenda Item 49-A), unanimously carried, that the CEO, Director of Public Works, Fire Chief, County Counsel, and Director of Regional Planning convene appropriate staff including departmental representatives who had served on the County's Wildfire Safety Panel to take the following actions:

- 1) Work with Southern California Edison to:
 - investigate the cause of downed power lines and/or power poles that were suspected of causing the Malibu fire and to report back to the Board of Supervisors within 90 days with recommendations for measures that can be taken to strengthen those power lines and poles that are most susceptible to failure due to high winds and which are located in very high fire hazard severity zones; and
 - identify possible remedies that will allow the combination of different funding sources to advance the undergrounding of utility lines in high fire hazard areas.
- 2) Examine the causes of structures lost in the 2007 fires to determine the effectiveness of the County's Wildfire Safety regulations and report back to the Board within 90 days on whether any improvements should be adopted to further enhance the County's ability to prevent and withstand the spread of wildfires.

Allegation

The former Director of Regional Planning alleges that he proactively contacted and made arrangements with the American Planning Association's Hazards Planning Research Center to conduct a study of the County's wildfire hazard regulations and programs and to assist the County in identifying actions that could be taken to reduce the risk of damage from wildfires.

In his allegation, Mr. McClendon claims he informed Deputy Chief Executive Officer Lari Sheehan of this plan prior to the Board motion of October 30, 2007 and that she was supportive of his efforts. He proceeded to solicit a \$15,000 proposal from the American

Planning Association that he shared with Ms. Sheehan and the County Fire and Public Works departments.

After sharing the American Planning Association proposal, Mr. McClendon alleges that Fifth Supervisorial District Board Deputy Paul Novak called him and told him he did not support the proposed study because it could reflect poorly on the County and could lead to restrictions on development in his district. Mr. Novak allegedly told Mr. McClendon to drop the proposal and leave such planning efforts to the County Fire Department.

Mr. McClendon reports he contacted Lari Sheehan, told her about Mr. Novak's comments, and asked her if he should continue to pursue the proposal with the American Planning Association. Ms. Sheehan allegedly told him to drop the proposal. When he asked why, she reportedly said it would only make him mad.

Investigation Objectives

Determine if Fifth Supervisorial District Board Deputy Paul Novak and Deputy Chief Executive Officer Sheehan directed Mr. McClendon to drop the proposed study or otherwise created obstructions to placing it on the Board agenda.

Methods and Summary of Evidence Supporting or Refuting Allegation

Public and Department Documents Reviewed

Documents reviewed included: (1) the October 30, 2007 Board of Supervisors motion, detailed in the Background section above; (2) the February 4, 2008 report back to the Board of Supervisors in response to the Board motion, prepared by the Chief Executive Office, the Director of Regional Planning Bruce McClendon, the Fire Chief and the Director of Public Works; (3) the American Planning Association proposal to provide consulting services on wildfire hazards; and, (4) DRP budget documents for Fiscal Years 2007-08 and 2008-09. None of these documents alone either corroborated or refuted Mr. McClendon's allegation but they provided information to help analyze the facts of the situation.

One fact in Mr. McClendon's allegation that was found inconsistent with the documents reviewed is that the American Planning Association proposal was not for a study of the County's wildfire hazard regulations and program, as Mr. McClendon characterized it, but for two days of consulting services with experts and practitioners in the field of planning and hazard mitigation. Mr. McClendon's allegation that Mr. Novak opposed the study because he believed its findings would reflect poorly on the County is not consistent with the nature of the consulting work. The proposed consultation would have consisted of discussions between County staff and the consultant team but would not

have resulted in a written report documenting any deficiencies in the County's regulations and programs.

The proposal prepared by the American Planning Association, and submitted to Mr. McClendon via an email dated November 12, 2007, was obtained and reviewed. The document references a discussion between the American Planning Association (APA) representative and Mr. McClendon from the prior week in which it appears that Mr. McClendon had inquired about possible services from the Association regarding fire hazard planning and mitigation. Though the conversation between Mr. McClendon and APA representatives and submittal of the proposal itself took place after the Board motion was adopted, there are no specific references to Mr. McClendon's request for the proposal being tied to the October 30, 2007 Board motion either in the proposal itself or in any related communications.

The APA proposal was for a two day consultation and briefing for the County to be provided by the Association's Hazards Planning Research Center. Referred to as a "Phase One Reconnaissance" on wildfire hazards planning, the proposed purpose of the two day session was to, "explore actions that should be taken by the County to take advantage of the current public and press focus on the fire hazard due to recent events and to inform and get feedback from the public on this topic."

The proposal called for assembling a panel of approximately six experts who would conduct an all-day meeting with Department of Regional Planning (DRP) and other County staff to provide assistance to the County to develop a six month action plan to address the issues raised during the panel session. An evening public forum and a post-forum morning session for the second of the two day session was also proposed. \$15,000 in fees were proposed for the two day session, as follows:

Hazards Planning Research Center staff costs	\$6,000
Travel for six	\$4,000
Honoraria for five	<u>\$5,000</u>
Total	\$15,000

The tentatively proposed panelists included the Manager of APA's Hazards Planning Research Center and five planning practitioners, consultants, and academics with expertise in the field of planning for hazards.

A possible separate second phase of APA services, based on the results of Phase One and assumedly for additional fees, is discussed in the proposal but details of that phase are not presented.

The February 4, 2008 report to the Board of Supervisors, in response to the Board's October 30, 2007 motion and entitled, "*Report regarding strengthening electrical power lines and poles susceptible to failure due to high winds and the effectiveness of current wildfire safety regulations to prevent and withstand the spread of wildland fires*", was

reviewed. The report was prepared and signed by Chief Executive Officer William T. Fujioka, Fire Chief P. Michael Freeman, Director of Regional Planning Bruce McClendon, and Director of Public Works Don Wolfe. The report does not address the APA proposal or services and does not recommend making use of that organization or any other consultant organization for follow up on the report.

The report presented the status of the 39 recommendations made in 1994 by the County Wildfire Safety Panel, which was convened after fires in 1993, and provided other updates on changes in planning and building codes affecting wildfire hazard risks. The report included several recommendations for new actions to be taken, including some pertaining to areas under the purview of the Department of Regional Planning such as: (1) requiring road improvements as part of development project approvals; (2) investigating the feasibility of creating an overlay district which would include all land in the Very High Fire Hazard Severity Zone; and, related matters.

Department of Regional Planning budget records pertaining to the proposed expenditure for the American Planning Association study were requested to determine if the Department had budgeted for the APA study or if it had been previously approved by the CEO but was then not pursued, possibly due to Board Deputy intrusion. However, no documentation was provided by the Department indicating that funds were allocated for wildfire study consultant services in FY 2007-08 during the period of Mr. McClendon's allegation. However, staff interviewed believe that the \$15,000 that the APA was asking for could have easily been allocated for this purpose from the existing Department budget at that time.

Internal FY 2008-09 Department budget documents show that the Department was interested in seeking funds from the Board of Supervisors for consultants to assist in creation of an overlay zoning district for land in areas with high wildfire risk. This topic was one of the recommendations to the Board of Supervisors in the February 4, 2008 report provided in response to the Board motion but appears to be separate from the November 2007 \$15,000 APA proposal.

Interview Results

Interviews were conducted with Fifth Supervisorial District Board Deputy Paul Novak, Chief Executive Officer William Fujioka, Deputy Chief Executive Officer Lari Sheehan, Former Fire Department Forestry Chief John Todd of the Los Angeles County Fire Department, former Director of Regional Planning Bruce McClendon (through written questions and answers) and other DRP staff involved in this matter.

None of the individuals interviewed corroborated Mr. McClendon's allegations. Mr. Novak stated that he had no recollection of the study or of the conversation Mr. McClendon alleges he had with Mr. Novak on the topic.

Deputy Chief Executive Officer Lari Sheehan presented a different interpretation of events surrounding the APA proposal. She stated that Mr. McClendon presented the idea of the APA consultation to her after the Board motion was introduced on October 30, 2007 and that she did not support the idea from the first time it was presented to her. She said she thought it was not a good idea to bring in outsiders given Los Angeles County's unique geographic and climatic conditions and she directed the Department of Public Works to take the lead on responding to the Board motion.

Subsequent to her interview, Ms. Sheehan informed us that she remembered that she did receive an email from Mr. McClendon on October 25, 2008, or in advance of the October 30, 2008 Board motion being introduced and adopted, in which he stated that he planned to contact the County Fire Department and solicit their support in assessing County wildfire hazard regulations and hiring a consultant to study the issue. She reported that she thanked him for his proactive efforts, said she would be the CEO contact on any such efforts, and inquired about the price for the consultants. She stated that Mr. McClendon then also contacted the Department of Public Works to engage that department in his proposed efforts. At this point, a proposal from consultants had not been received by Mr. McClendon or provided to Ms. Sheehan, the Department of Public Works or the Fire Department.

Interviewed DRP staff that worked on the response to the Board motion reported that Mr. McClendon had shared the idea with staff of using the APA to assist in creation of the wildfire hazard overlay zoning district, one of the recommendations in the February 4, 2008 wildfire hazards report to the Board of Supervisors. Though this proposed consulting contract would be with the APA, the scope of the project was different than that in the APA's November 2007 proposal that Mr. McClendon alleges Board Deputy Novak stopped. That November 2007 proposal was for a two day panel discussion and broad-based assessment of wildfire hazards and County regulations. Interviewed staff reported that they were not aware of any Board Deputies directing Mr. McClendon to discontinue his attempts to engage the APA for either the first or second consulting contracts.

County Fire Department staff involved in preparing the response to the Board motion also indicated familiarity with the November 2007 APA proposal but were not aware of any direction from Board Deputies one way or the other relative to the proposal.

In written responses to our questions, Mr. McClendon reiterated that Lari Sheehan initially supported the APA proposal, then changed her mind after Paul Novak informed her he did not support it. An email from Ms. Sheehan, discussed in more detail in the next section, did thank Mr. McClendon for his proactive efforts but never expressed unqualified support for the consultant study. She did ask what he thought such a study would cost.

In summary, there was no corroboration from interviews conducted that the APA study was not pursued by the Director of Regional Planning or that it was not presented to the

Board of Supervisors due to direction by Board Deputy Novak. Ms. Sheehan reported that she did not support pursuing the consultant study because she did not think it was the best way to address the issue.

Internal Communications

Email and other written communications between Ms. Sheehan and Mr. McClendon were reviewed. These documents did not corroborate Mr. McClendon's allegations.

Mr. McClendon's October 25, 2007 email to Ms. Sheehan, as reported in his allegation, contains his proposal to contact the County Fire Department to solicit their support for analyzing the impacts of various wildfire safety regulatory requirements and to hire a consultant to assist in this effort. As mentioned above, Ms. Sheehan thanked Mr. McClendon via an email for his proactive efforts, indicated that she would be the CEO contact person on such an initiative, and inquired about the likely cost of the consultant study.

In his email response to Ms. Sheehan, Mr. McClendon indicated that he thought the consultant fees would be approximately \$50,000 and indicated his interest in engaging the Department of Public Works in this effort as he believed that such a study could result in identifying changes needed in the County's building code. Mr. McClendon also suggested that he might contact the American Planning Association and see about bringing their staff expert in hazard mitigation to Los Angeles to get his input on the issue.

In an email response to Mr. McClendon after receiving Mr. McClendon's proposal to initiate a review of current County wildfire safety regulations and programs, including hiring a consultant, the Director of Public Works suggests reconvening the County's Wildfire Safety Panel that had first been assembled after the 1993 fires. The Director of Public Works did not express an opinion on the consultant study or services in his email.

Email records show that the APA proposal, dated November 12, 2007, was forwarded to Ms. Sheehan by Mr. McClendon on November 20, 2007. Two days later, on November 22, 2007, in an email to Mr. McClendon, Ms. Sheehan thanked him for his initiative and creativity in obtaining the APA proposal, but indicated that she did not support pursuing the APA proposal. She indicated that she wanted to follow the suggestion made by the Department of Public Works and reconvene the Wildfire Safety Panel, as also required by the October 30, 2007 Board motion. If Mr. McClendon's allegation is true, this would have been the likely point in time where Ms. Sheehan would have received input from Mr. Novak that caused her to change her mind. She makes no reference to receiving input from any Board Deputies on this topic that affected her decision though this is something she may not have disclosed if it occurred.

On November 24, 2007, Mr. McClendon responded by email to Ms. Sheehan's decision not to support the proposal and attempted to persuade her to reconsider her decision, arguing that the APA services would be a very valuable component of County staff's

response to the Board motion. No reference is made in his email to Board member intrusion.

Conclusion

Investigation Objectives restated: Determine if Fifth Supervisorial District Board Deputy Paul Novak and Deputy Chief Executive Officer Sheehan directed Mr. McClendon to drop the proposed study or otherwise created obstructions to placing it on the Board agenda.

Summary: Available evidence does not support Mr. McClendon's allegation..

Ms. Sheehan definitely directed Mr. McClendon to drop the proposed study, as corroborated by her email to him dated November 22, 2007 and in her interview with the investigation team. No corroborating evidence was found to indicate that Mr. Novak directed or ordered Mr. McClendon to drop the APA study. Mr. Novak claims no recollection of this matter at all and no documented records of his instructing or ordering Mr. McClendon on this matter have been obtained through this investigation. Ms. Sheehan reported that she did not get such feedback from Mr. Novak.

Ms. Sheehan's lack of support for the APA consulting service did result in the proposal not being presented to the Board of Supervisors but this does not appear to constitute intrusion or to be inappropriate for the CEO's Office since that office must regularly decide what information and department initiatives it will present to the Board of Supervisors. In fact, the Board of Supervisors had no reason to review the APA proposal itself, unless it was part of the CEO/departmental response to the Board's October 30, 2007 motion requesting review of the County's wildfire safety regulations, and/or to approve the \$15,000 contract if the CEO's Office had supported DRP entering in to such an arrangement with the APA.

No evidence has been obtained to corroborate Mr. McClendon's allegation that inappropriate Board Deputy intrusion took place. If Mr. Novak told Mr. McClendon by telephone that he didn't support the APA study and to drop it, there is no record of such a conversation or written communication corroborating its occurrence by Board Deputy Novak. Mr. Novak calling to tell Mr. McClendon he did not support the study does not alone constitute instructing or ordering. Directing him to drop the study, as Mr. McClendon alleges, would constitute instructing or ordering, particularly if such instruction were not also presented to the CEO's Office by the Board Deputy.

In Ms. Sheehan's email, dated November 22, 2007, she indicates that she was not supportive of the APA proposal received by Mr. McClendon. She does not indicate that her decision is based on Board Deputy input. However, even if Ms. Sheehan was not supportive of the proposal due to feedback from one or more Board Deputies, this does not appear to be a violation of the County's non-intrusion provision of the Governance

Ordinance. The CEO's Office reports directly to the Board of Supervisors and one could expect that a Deputy CEO would provide proposed department initiatives to Board Deputies for feedback prior to presenting them to the Board of Supervisors. If Ms. Sheehan only asked Mr. Novak, one of five Board deputies, for his feedback on the proposal and did not consult with the others, it may not constitute a good CEO staff practice, but does not appear to constitute Board Deputy intrusion.

Timeline

- October 2007: Wildfires break out in Malibu Canyon, the northern areas of the County and near the Los Angeles-Ventura County border, causing extensive damage.
- October 25, 2007: Director of Regional Planning Bruce McClendon sends an email to Deputy Chief Executive Officer Lari Sheehan informing her that he is contacting the County Fire Department to solicit their support and participation in analyzing County regulations and development practices to determine if they are contributing to the County's fire safety problems. He also suggests hiring a consultant to conduct an analysis and make recommendations for improvement in this area.
- October 26, 2007: Ms. Sheehan responds to Mr. McClendon by thanking him for his proactive efforts and inquiring as to the possible cost of the consultant study.
- October 26, 2007: Mr. McClendon shares his idea with Don Wolfe of the Department of Public Works.
- October 30, 2007: Board of Supervisors adopts a motion directing Director of Regional Planning and other County staff, including departmental representatives who had served on the County's Wildfire Safety Panel, to convene to assess causes of the wildfires and possible remedies.
- November 12, 2007: Mr. McClendon receives a \$15,000 proposal from the American Planning Association for two days of consulting by hazard experts and planning practitioners. The proposal does not provide for a detailed analysis of the County's regulations or development of recommendations for improvement.
- November 20, 2007: Mr. McClendon sends a copy of the American Planning Association proposal for a two day consultation on hazard management to Ms. Sheehan.
- November 22, 2007: Ms. Sheehan sends an email to Mr. McClendon telling him she does not support retaining the American Planning Association for the proposed consultation but prefers to reconvene the Wildfire Safety Panel to

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assess opportunities for improving County regulations and efforts to improve wildfire safety.

- February 4, 2008: A report back to the Board of Supervisors in response to October 30, 2007 motion is submitted, updating previous recommendations by County's Wildfire Safety Panel and making recommendations for other actions to be taken. Using a consultant to study the issue is not recommended.

5. Staff Attendance at Two Professional Conferences

Background

In April 2008 the national annual conference of the American Planning Association (APA) was held in Las Vegas, Nevada. The former Director of Regional Planning Bruce McClendon approved departmental funding for 21 staff members and four Regional Planning Commissioners to attend the conference with partial or full reimbursement. The staff members were chosen based on a set of qualifying criteria that he and division managers had developed. Eleven additional staff members attended the conference using funds obtained for this purpose with the assistance of First Supervisorial District Senior Transportation and Planning Deputy Nicole Englund.

The annual Rail-Volution conference, focusing on transit-oriented land use practices, was held in San Francisco in October 2008. Ten staff members from the Department of Regional Planning (DRP) attended the conference using County funds that were arranged for by Ms. Englund.

Allegation

APA Conference

Mr. McClendon alleges that Ms. Englund sent the Department a list of ten APA conference attendees that did not meet the qualifying criteria to attend the conference and stated that she wanted them to go. He further alleges that Ms. Englund had arranged for them to be funded from the Community Development Block Grant (CDBG) Program. Mr. McClendon claims that he argued that this was an improper funding source since none of these planners were involved with the CDBG program. He states that his concerns were overridden by Ms. Englund and that he was directed to send these employees to the conference. Further, he claims that he and his budget staff were concerned that a future CDBG audit could result in this expenditure being disallowed, requiring the County to refund the expenditures. Mr. McClendon states that Ms. Englund's response to him was if that were to occur she would take care of it at that time. He claims that she was upset with his attitude and accused him of being antagonistic to her.

Rail-Volution Conference

Mr. McClendon alleges that in the fall of 2008 he received a preliminary travel request from ten planning and code enforcement staff members that wanted to attend the transit-oriented Rail-Volution conference in San Francisco. He claims that he had previously placed a hold on all non-essential travel and training and that he rejected this specific

Section 5: Staff Attendance at Two Professional Conferences

travel request out of hand primarily for budget reasons. He further claims that the request was brought back to him with the explanation that Ms. Englund wanted the staff members to go to the conference, she would be responsible for arranging the funding, and that she stated there would be no cost to the Planning Department's budget. Mr. McClendon states that when the final travel request was presented to him he learned that the funding was to come from a Park and Recreation Department grant account. He states that he denied the travel requests because he felt he could not support this funding source.

Mr. McClendon further alleges that after he initially denied the travel requests, Ms. Englund arranged for the funding to come from a transit grant account. He claims that when he received the revised request he concluded that it was inappropriate to send staff from code enforcement and permitting sections to a transit conference. He states that it looked like a junket, not a legitimate training expenditure. Mr. McClendon claims that he believed that the training requests were approved by Regional Planning Chief Deputy Jon Sanabria and that all ten planners attended the conference at a cost of \$2,000 per person. He states that to the best of his recollection he did not learn about the approval until after the travel request had been signed and processed. Mr. McClendon states that he then instructed his Administrative Assistant to make sure that only he could sign any future requests for travel and training.

Investigation Objectives

Conduct an investigation into the allegations of interference by Ms. Englund and determine whether the funding sources for the conferences were appropriate.

Methods and Summary of Evidence Supporting or Refuting Allegation: APA Conference

Public and Department Documents Reviewed: APA Conference

We reviewed numerous public and Department documents for the allegation claims relating to the APA conference held in Las Vegas in April 2008. These documents included: (1) DRP policies and procedures for conferences, meetings, and training; (2) the Los Angeles County Travel Policy (Chapter 13 from the County Fiscal Manual); (3) Chapter 5.40 - Travel and Other Expenses from the 2008 County Personnel Administration Handbook; (4) staff training and travel request forms for the 2008 APA Conference; (5) a January 24, 2008 memorandum from Mr. McClendon to DRP Planners announcing the staff members who qualified for Department funds to defray some of the costs of attending the conference; (6) a breakdown of the Department's approved budget and actual amount used for travel and training; (7) the Interagency Memorandum of Understanding (MOU) between the Los Angeles County Community Development Commission (CDC) and DRP for the use of CDBG funds; (8) registration forms for the conference; (9) copies of employee expense claim forms and reimbursement checks; (10)

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a summary of DRP expenses billed to CDBG for Fiscal Years 2006-07, 2007-08, and 2008-09; (11) training and briefing materials provided to CDBG recipients including Board offices; and (12) section 570.202 of the Code of Federal Regulations entitled “Eligible Rehabilitation and Preservation Activities.”

A January 24, 2008 memorandum from Mr. McClendon to DRP staff presents a set of criteria to determine which staff members would receive partial or full Department reimbursement for attendance at the APA conference and the list of approved attendees. The attendees consisted of four Regional Planning Commissioners and 21 DRP staff members who were primarily senior and supervisor-level staff. The memo contains a statement that effectively provided approval for other staff to attend the conference. It states, “For those of you who still wish to attend the conference at your own expense, I am prepared to authorize County time if your supervisor approves.” This statement contradicts Mr. McClendon’s implication in his allegation that Ms. Englund wanted to send staff members to the conference who did not meet a set of “qualifying criteria” to attend the conference. Rather, these individuals simply did not meet the qualifying criteria for reimbursement of conference registration fees and travel expenses.

A review of the Department’s CDBG expenditures from the most recent three fiscal years supports Mr. McClendon’s claim that CDBG funds were used to send 11 additional staff to the APA conference¹, but also supports Ms. Englund’s claim, as discussed in the Interview Results section, that a precedent was in place for using CDBG funds for this purpose as they had been used to pay for staff attendance at an APA conference once before while Mr. McClendon was Director.

The documents show that \$20,307.62 in Non-Personnel funds from DRP’s CDBG grant were used to send staff members to the 2008 APA Conference. This amount is almost identical to what is reflected in the travel expense claim forms and represents 92.5 percent of the CDBG funds used by the Department under the Non-Personnel Cost category in Fiscal Year 2007-08. The Department’s CDBG expenditure records also show that \$7,438.16 was used for travel expenses for the APA conference in Philadelphia in 2007.

A review of the training request forms and travel request forms (these are separate documents) for the 11 additional staff members who attended the conference shows that Mr. McClendon approved 10 of the 11 training requests and nine of the 11 travel requests. The request forms for all but one of the 11 staff members are dated between January 15 and January 18, 2008. The forms therefore appear to have been filled out after Mr. McClendon’s January 14, 2008 email had been sent to DRP staff listing the qualifying criteria for reimbursement of expenses, but before Mr. McClendon’s January 28, 2008 memo to staff indicating which staff members were selected for reimbursement. It is not clear from the forms when Mr. McClendon received and signed the requests as

¹ Mr. McClendon’s allegation claimed that 10 staff members applied for and attended the APA conference, though the records show that 11 staff members applied and attended the APA conference, paid for by the Department’s CDBG grant.

Section 5: Staff Attendance at Two Professional Conferences

he did not place a date next to his signatures. Mr. Sanabria approved one of the travel requests. One training request and one travel request (for separate individuals) did not include an approval signature. All 11 training request forms included CDBG funds as the proposed source of funding.

A review of applicable Federal regulations on eligible expenses for CDBG funds found that there is not an explicit allowance for travel or training expenses, but that they could be reasonably assumed to fall under “salaries and related expenses of code enforcement inspectors.” A literal reading of the CDBG MOU between CDC and DRP, however, could lead to the conclusion that travel and training are ineligible expenses as there is no explicit provision allowing travel or training. The Use of Funds section of the CDBG MOU states, “All funds approved under this MOU shall be used solely for costs approved in the project budget(s) under this MOU.” Further, the Project Description and Activity Budget lists the following activities as part of the comprehensive code enforcement program in deteriorated areas of the First Supervisorial District:

1. Conducting surveys to note code discrepancies;
2. Receiving and reviewing complaints;
3. Providing written notification to property owners;
4. Providing information to property owners on the need to comply and the benefits;
5. Providing follow-up inspections;
6. Providing reports to the District Attorney, if necessary; and
7. Attending courtroom hearings, if necessary.

Subsequently, the section states that “CDBG funds will be used to pay for Personnel, Non-Personnel and Administrative Costs.” The funds used for the APA conference were expended from the Non-Personnel Cost category.

Interview Results: APA Conference

We interviewed Chief Deputy Director of Regional Planning Jon Sanabria, Administrator for Information and Fiscal Services Ted Elias, Assistant Deputy Director for Information and Fiscal Services Dennis Slavin, several DRP staff members, First Supervisorial District Board Deputy Nicole Englund, Chief Executive Officer William Fujioka, Deputy Chief Executive Officer Lari Sheehan, two CDC staff members, and former Regional Planning Director Bruce McClendon (through written questions and answers).

Our interviews with DRP staff revealed that the use of CDBG funds for staff travel and training, and the APA conference in particular, has been a recurring practice. The interviewees were all under the impression that travel and training are eligible expenses for CDBG funds. DRP Budget staff stated that they had received emails from the First Supervisorial District Board office, after Mr. McClendon’s January 24, 2008 memo announcing the staff approved to attend the conference had been distributed, indicating that additional staff would attend using CDBG funds. Budget Staff also stated that Board staff traditionally tells DRP staff how the Department’s CDBG funds will be spent on a

Section 5: Staff Attendance at Two Professional Conferences

detailed basis. None of the staff that we interviewed, including DRP budget staff, remembered being concerned about the use of CDBG funds for the conference.

In our interview with Deputy Chief Executive Officer Sheehan she stated that she wasn't closely involved in planning for the APA conference, but recalled that an unusually large number of DRP staff members had attended. She further stated that Mr. McClendon never complained to her about Ms. Englund's involvement in determining which staff members would attend the APA conference.

CDC staff stated in interviews that, to their knowledge, Board staff has not been involved in reviewing and approving billing statements or specific invoices for expenditures after funds had been awarded to a County department or agency. However, they added that there might be a role for Board staff such as ensuring that allocated funds benefit their respective districts or *suggesting* certain training opportunities. On the issue of whether CDBG funds could be used for travel and training expenses, CDC staff indicated that while federal regulations don't explicitly allow it, CDBG funds are often used for these types of expenses and are likely covered under the regulation's description of "related expenses of code enforcement inspectors."

In our interview with Mr. Fujioka he had a vague recollection of hearing about an issue with staff attending a conference. He only remembered that his main concern was that there was sufficient funding.

Our interview with Ms. Englund revealed evidence that supports Mr. McClendon's allegation and evidence that refutes it. Ms. Englund acknowledged that she had arranged for 11 additional DRP staff members to attend the APA conference by using CDBG funding around the same time that DRP management communicated to staff that, even if they were not going to be provided funding from the Department to attend the conference, they could attend the conference if they arranged for their own funding. She stated that 2008 was the second year that CDBG funds were used to send staff to the APA conference while Mr. McClendon was Director of Regional Planning. Ms. Englund further stated that it is her understanding, reportedly confirmed by CDC staff, that the First District Supervisorial Board office has discretion over 100 percent of the CDBG funding allocated to the First District.

Ms. Englund explained that all of the DRP staff that she had chosen or approved to attend the APA conference worked on code enforcement in the First District. Further, she stated it is her understanding, confirmed by CDC staff, that the CDBG funds were discretionary as long as they were used for First District code enforcement purposes. Ms. Englund stated that a high priority for the First Supervisorial District Office was to update the community plan for East Los Angeles, the largest unincorporated area in the First District. In order to update the plan she asserted that she had put together a workgroup in 2006 consisting of staff in various departments, including DRP, whose work was related to planning and land use in the area.

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Ms. Englund stated that she supported giving as much training as possible to individuals who would potentially be working on the plan so that it could be updated and implemented effectively. Further, she asserted that she had a conversation with Mr. McClendon shortly after he was hired where he stated that expanding training opportunities for DRP staff was a priority for him. She stated that she was not informed at any time that Mr. McClendon had any concern about sending these individuals to the conference.

In correspondence with Mr. McClendon he states that he refused to sign and approve the initial travel request for the additional 11 staff planners to attend the APA conference; however, we have found no documents that show Mr. McClendon specifically disapproving attendance. Mr. McClendon also states that he felt Ms. Englund's initiative was inequitable and unfair because the Department was sending people "on merit" and the additional 11 staff members "attended because of their friendship with Nicole." He further states that the additional staff members were in positions that "were not funded entirely by the CDBG program." Mr. McClendon is correct that those positions were generally not funded by the CDBG program, but at least some of their time spent on code enforcement in the First District was expensed back to the Department's CDBG fund.

Internal Communications: APA Conference

We reviewed several emails that were sent in February 2008 concerning the APA conference. This review found that Ms. Englund had a direct role in determining which DRP staff members would attend the APA conference using CDBG funds. One email from Ms. Englund to Mr. Sanabria simply states "We will pay with CDBG and cover all expenses including food, registration, plane, and hotel." Ms. Englund indicated in an interview subsequent to her review of the preliminary findings of this investigation that she provided her approval in response to a request for approval from the Department. Department staff indicated that they would not expend the funds without Ms. Englund's direction or approval. The review also confirmed that Ms. Englund made her determinations based on whether staff members worked on code enforcement cases in the First District, as she stated in her interview. One of the emails, sent from Senior Management Secretary Jackie Chavez to DRP management and budget staff stated, "Per Nicole Englund (First District) the following employees will be reimbursed from the CDBG Code Enforcement First District account." This was followed by the list of employees approved by Ms. Englund. We did not find emails in our review of internal communications to confirm that Mr. McClendon did not approve of the use of CDBG funds or that he felt the 11 additional staff members should not have attended the conference.

Methods and Summary of Evidence Supporting or Refuting Allegation: Rail-Volution Conference

Public and Department Documents Reviewed: Rail-Volution Conference

We reviewed numerous public and Department documents for the allegation claims relating to the Rail-Volution conference held in San Francisco in October 2008. These documents included: (1) DRP policies and procedures for conferences, meetings, and training; (2) the Los Angeles County Travel Policy (Chapter 13 from the County Fiscal Manual); (3) Chapter 5.40 - Travel and Other Expenses from the 2008 County Personnel Administration Handbook; (4) staff training and travel request forms for the 2008 Rail-Volution Conference; (5) a breakdown of the Department's approved budget and actual amount used for travel and training; (6) training and travel request forms from 10 DRP staff members; (7) Department Service Orders² between DRP and the Department of Public Works (DPW); and (8) copies of expense claim forms and reimbursement checks for each attendee.

Our review of public and Department documents revealed evidence that supports some of Mr. McClendon's claims and refutes others. A review of training and travel request forms and expense claim forms show that ten planners attended the Rail-Volution conference and that they used Proposition A transportation funds to pay for their travel expenses at a total cost of \$18,244.50, as Mr. McClendon alleged. However, these forms refute Mr. McClendon's claim that, to the best of his recollection, Mr. Sanabria signed off on the requests; rather, our review found that Mr. McClendon signed and approved all ten training request forms and all ten travel request forms. We found no evidence to suggest that Mr. McClendon rejected any travel requests for the Rail-Volution Conference. At the end of his allegation Mr. McClendon states that "the request was signed in order to placate Nicole Englund and to protect our relationship with the planning deputies."

Interview Results: Rail-Volution Conference

We interviewed Chief Deputy Director of Regional Planning Jon Sanabria, Administrator for Information and Fiscal Services Ted Elias, Assistant Deputy Director for Information and Fiscal Services Dennis Slavin, several DRP staff members, First Supervisorial District Board Deputy Nicole Englund, Chief Executive Officer William Fujioka, and

² A Departmental Service Order (DSO) is an obligation to provide services to another County department. All DSOs, except for mileage, are agreements between the requesting organization and the servicing organization and must be approved by both parties before being processed by the Auditor-Controller. Based on actual and anticipated expenditures, County departments will submit DSOs at the beginning of each fiscal year for these costs.

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Deputy Chief Executive Officer Lari Sheehan. We also interviewed former Director of Regional Planning Bruce McClendon (through written questions and answers).

Our interviews with DRP staff revealed evidence to support Mr. McClendon's claims that Ms. Englund had arranged for funding to the Rail-Volution Conference for staff members that she individually chose.

In her interview, Deputy Chief Executive Officer Sheehan asserted that she never heard from Mr. McClendon or any other County employee that there was a difference of opinion between Mr. McClendon and Ms. Englund on the appropriateness of the conference. Ms. Sheehan also asserted that she has been aware that Ms. Englund has been working on efforts to update the community plan for East Los Angeles, particularly with the extension of the MTA rail line (Gold Line) into the area.

In our interview with Mr. Fujioka he had a vague recollection of hearing about an issue with staff attending a conference, but only recalled that his main concern was whether there was sufficient funding.

Our interview with Ms. Englund revealed evidence that supports some of Mr. McClendon's claims and provided some contextual information. Ms. Englund stated that she suggested that certain DRP staff members whose work involved planning and land use issues in the First Supervisorial District attend the Rail-Volution conference in San Francisco. She also stated that she determined, in consultation with Department of Public Works staff, that the First District's Proposition A transportation funds would be appropriate to pay for travel expenses. Ms. Englund further stated that, in addition to the staff from DRP, she was arranging funding for staff from County Counsel, DPW, CDC, and the Chief Executive Office to attend the conference. She stated that she was putting together a workgroup of staff who work on planning and land use in the First District in order to update the community plan for East Los Angeles.

In correspondence with Mr. McClendon he states that he rejected a preliminary travel request that probably came to his attention on a formal travel request form. In our review of public and Department documents we were not able to find any documentation showing that Mr. McClendon had rejected a preliminary request.

Internal Communications: Rail-Volution Conference

We reviewed several emails that were sent in October 2008 relating to the Rail-Volution conference. These emails support some of Mr. McClendon's claims and refute others. Specifically, the emails show that Ms. Englund personally chose or approved individuals who would be supported with First District Proposition A transportation funding to attend the conference. One email from Ms. Englund dated September 9, 2008 with the subject line "Railvolution conf list of people going" lists 10 individuals from DRP who were scheduled to attend in addition to staff from other departments. A response to this email back to Ms. Englund from a staff member of DPW states "We will prepare an estimate of the cost to send all of these people to the conference for your approval."

A separate chain of emails, originating from an inquiry from Mr. McClendon on October 8, 2008, shows that he was under the mistaken impression that Ms. Englund intended to use Park and Recreation funding. An email from a County employee to a DRP staff member provided information on Proposition A, but mistakenly attached a link to the Park and Recreation Proposition A (circa 1996) rather than the Transportation Proposition A (circa 1980). Within a half hour DRP staff became aware of their mistake and a few hours later notified Mr. McClendon that Ms. Englund was using transportation funds to pay for staff attendance at the conference.

Conclusion

Investigation Objectives Restated: Conduct an investigation into the allegations of interference by Ms. Englund and determine whether the funding sources for the conferences were appropriate.

Summary: The evidence available does not substantiate Mr. McClendon's allegations though it does suggest that Ms. Englund technically violated the non-intrusion provision of the Governance Ordinance, though perhaps inadvertently, as she was following a standard practice in which DRP requests and the First District Board Office approves DRP's proposed non-personnel expenditures from the Department's Community Development Block Grant funds. Since the Community Development Block Grant funds are awarded to the Department of Regional Planning, and not the First Supervisorial District Office, the practice of the First District Office approving or directing Department grant expenditures results in a conflict with the non-intrusion provision of the Governance Ordinance. However, given the information available to her at the time, Ms. Englund did not believe that she was providing improper instruction. Numerous elements of Mr. McClendon's allegation are not supported by the evidence.

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We believe that a review and analysis of the evidence does not substantiate Mr. McClendon's allegations, but does suggest that Ms. Englund, in the course of fulfilling her job responsibilities, technically violated the non-intrusion provision of the County's Governance Ordinance. However, with the information available to her at the time, Ms. Englund did not believe she was providing instruction or ordering anything contrary to the Director's wishes. In fact, she reportedly believed she was helping facilitate the Director's goal of sending more staff to training. In addition, it has been the custom in the County, going back to before the Governance Ordinance was in effect, for Board offices to determine how certain discretionary funds are allocated, even after funds were allocated to a department. Therefore, due to these circumstances we believe that it was not her intent to give orders or to instruct Mr. McClendon regarding DRP staff training.

We believe that our interview with Ms. Englund and our review of internal communications provides partial substantiation that she violated the non-intrusion provision, perhaps inadvertently, if it is read and interpreted literally. However, a review of the evidence refutes many of the elements of Mr. McClendon's allegations. Specifically, Mr. McClendon's claim that Ms. Englund wanted to send staff members who didn't meet qualifying criteria to attend the APA conference in Las Vegas is refuted by his January 24, 2008 memorandum to staff as well as internal communications that allowed for staff to attend provided their supervisors approved their time off and they paid their own expenses. The internal communications and the memorandum state that management had come up with criteria for providing reimbursement funds to certain attendees, not to determine which staff members were eligible to attend regardless of funding availability. Ms. Englund was reportedly not provided with this information or any of Mr. McClendon's concerns about the subject staff members attending the conference and therefore did not know that she was undermining Director of Regional Planning directives by arranging for funding. The last sentence from Mr. McClendon's January 24, 2008 memorandum provides an implicit approval for staff members who were not eligible for reimbursement to attend the conference.

Mr. McClendon also claims that he argued that CDBG funds were an improper funding source for attendance at the APA conference since none of the planners were involved with the CDBG program. In fact, Ms. Englund chose or approved these individuals because they worked on code enforcement cases in the First District, an activity funded at least in part by the Department's Community Development Block Grant. Additionally, DRP budget staff stated in interviews that they were not concerned about using the CDBG funds for attendance at the APA conference as they had been used for this purpose in previous years.

Mr. McClendon claims that he rejected a preliminary travel request from 10 planners for attendance at the Rail-Volution Conference in San Francisco. None of the documentation that we reviewed supported this claim. Additionally, Mr. McClendon's claim that Ms. Englund initially arranged for funding to come from a Proposition A Park and Recreation grant, but later arranged for funding to come from a Proposition A Transportation grant, is refuted by the evidence. Ms. Englund had always intended on funding attendance at the

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Rail-Volution Conference through a transportation grant. Mr. McClendon had simply been mistakenly told that funding was coming from a different Proposition A after he had approved the requests.

Mr. McClendon states in his allegation that he thought it was inappropriate to send planners from the Department's code enforcement and permitting sections to a transit conference. He further states that "it looked like a junket, not a legitimate training expenditure." Mr. McClendon could have felt this way, but he reportedly never expressed these concerns to the CEO, Deputy CEO Sheehan, or Ms. Englund. Further, despite stating that he believed that he did not approve the actual travel requests, request forms for all 10 DRP attendees show his signature and approval.

Timeline- APA Conference

- January 7, 2008: Email is sent to DRP staff soliciting interest in attending the national APA conference in Las Vegas.
- January 14, 2008: Email is sent to DRP staff informing them of the high level of interest in attending the APA conference and that management will make a determination regarding providing funding for 25 staff members to attend based on a set of criteria.
- January 15-18 & 28, 2008: Travel requests for the 11 additional staff members are filled out. It is unclear when Mr. McClendon and Mr. Sanabria signed and approved the requests as they did not place dates next to their signatures.
- January 24, 2008: Mr. McClendon sends a memorandum to DRP staff indicating which staff had been chosen to attend the APA conference with funding support from the Department. The last sentence of the memorandum states, "For those of you who still wish to attend the conference at your own expense, I am prepared to authorize County time if your supervisor approves."
- January 24, 2008: Emails between Ms. Englund and DRP staff indicate that the First District Board office is willing to authorize reimbursement of travel expenses from the Department's Community Development Block Grant funds for individuals who work on code enforcement cases in the district. Specific individuals are approved by Ms. Englund.
- April 27- May 1, 2008: The national APA conference is held in Las Vegas with 36 DRP staff members in attendance, eleven of whose attendance was funded by the Department's CDBG funds, as approved by Ms. Englund.

Timeline- Rail-Volution Conference

- September 2-10, 2008: Travel and training request forms for the Rail-Volution Conference are submitted by 10 employees to Mr. McClendon for his approval. Mr. McClendon eventually signs and approves the requests for all 10 attendees.
- October 8, 2008: Mr. McClendon is mistakenly told that Park and Recreation Proposition A funds will be used for the travel expenses for ten attendees as arranged by First Supervisorial District Board Deputy Nicole Englund. Mr. McClendon is displeased with this information and informs Assistant Deputy Director Dennis Slavin in an email that “This does not look good. We may need a Plan B. Please have someone start to check about the cost consequences of canceling the registrations.” Later in the day he is told that Transportation Proposition A funds, not Park and Recreation Proposition A funds will be used for the travel expenses.
- October 27-29, 2008: Rail-Volution 2008 is held in San Francisco with 10 DRP staff members in attendance.
- March 11, 2009: DRP submits a Department Service Order to DPW for reimbursement of \$18,244.50 in travel expenses related to the 2008 Rail-Volution Conference.

6. Green Building, Low Impact Development and Drought Tolerant Landscaping Ordinances

Background

In January 2007, the Board of Supervisors adopted a motion, sponsored by Supervisor Yaroslavsky, directing the Directors of Regional Planning and Public Works to investigate and report back to the Board on opportunities to incorporate green building principles into the County's building standards and to develop an implementation plan for corresponding modifications to the County's building and zoning codes.

A report back to the Board of Supervisors in response to this motion was submitted October 23, 2007. As a result of the report, according to the Department of Regional Planning¹, the Board adopted 15 motions pertaining to various aspects of analyzing and implementing green building principles in Los Angeles County and complying with A.B. 32, State legislation that established a number of environmental measures to deal with climate change. The motions were directed toward the Internal Services Department, the Chief Executive Office and the Departments of Public Works and Regional Planning. The motions included requirements to: (1) prepare ordinances to incorporate green building, drought-tolerant landscaping, and low-impact development principles into the County's building and development regulations; (2) prepare cost-benefit analyses of the ordinances; (3) conduct outreach with stakeholders such as property owners, homeowners, building industry representatives, environmental groups, and others; and, (4) to hold public hearings on these topics before the Regional Planning Commission.

Each member of the Board of Supervisors made two or more motions each. The motions to create the ordinances were sponsored by Supervisor Molina of the First Supervisorial District and Supervisor Yaroslavsky of the Third Supervisorial District. Motions to evaluate the economic impacts of these ordinances on small, discretionary projects and to prepare a cost-benefit analysis of the proposed development standards were made by Supervisor Antonovich of the Fifth Supervisorial District and Supervisor Knabe of the Fourth Supervisorial District. Supervisor Burke of the Second Supervisorial District made motions pertaining to developing methods for quantifying savings and effectiveness of the proposed policies, developing strategies for ensuring that the guidelines were "living documents", a request for a report on exempting single-family residences from the standards, and related matters.

¹ In its September 23, 2008 report to the Board of Supervisors, the Department of Regional Planning reported that 15 motions were adopted by the Board on October 23, 2007 directing staff to prepare the subject ordinances and related analyses. A review of the Board of Supervisors meeting transcript from that day references 14 of the 15 reported motions; the fifteenth may have been previously adopted or a matter of discussion and not a formal motion.

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Staff developed an inter-departmental Task Force comprised of staff from the Department of Regional Planning (DRP), the Department of Public Works (DPW), Los Angeles County Fire Department, the Department of Parks and Recreation, County Counsel and the Chief Executive's Office to develop the ordinances, prepare the various cost-benefit analyses required and conduct public outreach. The motions directed staff to prepare the ordinances and reports for the Regional Planning Commission within 90 days, or by January 23, 2008.

Reports on the progress of the Task Force, the proposed ordinances and the requested analyses were presented to the Regional Planning Commission at public hearings on January 23, 2008, and continued at additional hearings on May 7, 2008, June 25, 2008 and August 13, 2008. The hearings were continued to provide time for the Task Force to continue to work through various ordinance implementation issues identified by staff, the Commissioners, stakeholders and members of the public testifying at the Commission hearings, and to conduct more public outreach.

The draft ordinances approved by the Regional Planning Commission on August 13, 2008 were first submitted to the Board of Supervisors September 23, 2008 with additional hearings on October 7, 2008 and November 18, 2008, when they were adopted, with amendments, with variable effective dates between January 1 and April 1, 2009.

Allegation

The former Director of Regional Planning alleges that Third Supervisorial District Board Deputy Ben Saltsman and Fifth Supervisorial District Board Deputy Paul Novak disagreed with exemption and applicability requirements of the draft versions of the green development, low-impact development and drought tolerant landscaping ordinances prepared by DRP and that the Board Deputies, provided conflicting direction to staff, resulting in compromise versions of the ordinances that were ultimately adopted by the Board of Supervisors. The final versions, according to the former Director, provided less clear regulations and a new definition of application completeness that were inconsistent with staff preferences and that required staff interpretation of project applications rather than providing a uniform, consistent approach to determining application completeness.

Investigation Objectives

Conduct an investigation into the alleged inappropriate influence by Mr. Novak or Mr. Saltsman in the drafting of these ordinances and in creating exemptions for pending projects.

Methods and Summary of Evidence Supporting or Refuting Allegation

Public and Department Documents Reviewed

Public and Department documents reviewed for this investigation included: (1) the January 2007 and October 2007 requests and motions adopted by the Board of Supervisors directing staff to prepare reports on the topic of green building and the three subject ordinances; (2) the proposed draft ordinances and related reports submitted to the Regional Planning Commission and Board of Supervisors; (3) reports to the Board of Supervisors on the status of the ordinances, their cost impacts and related matters; (4) stakeholder and constituent input on the proposed ordinances, primarily in the form of written comments to the Regional Planning Commission and/or Board of Supervisors; and (5) the May 15, 2007 Los Angeles County Administrative Governance Transition Report prepared by the Chief Administrative Officer regarding the new governance structure pursuant to adoption of the Governance Ordinance by the Board of Supervisors in March 2007.

Comparison of the first set of ordinances submitted to the Regional Planning Commission for its January 23, 2008 hearing with those submitted to the Board of Supervisors on September 23, 2008 and the final versions approved on November 18, 2008 show that numerous changes were made particularly in the area of applicability of the ordinances and exemptions to the new requirements. For example, the original ordinances submitted to the Regional Planning Commission did not provide exemptions for projects “in the pipeline”, or for which an application had been submitted but had not yet received approval. The ordinances adopted by the Board of Supervisors all included provisions for exemptions for such projects, with varying definitions in the three ordinances. Exemptions to the new regulations were also added for smaller projects such as construction of single family residences and small subdivisions of four lots or fewer.

Written stakeholder input included in the submissions to the Regional Planning Commission and the Board of Supervisors was reviewed as were summaries of comments made in public testimony at the Commission hearings. Many of the comments and concerns expressed appear to have been incorporated by staff in changes to the ordinances that occurred between the first versions submitted to the Regional Planning Commission and the final versions adopted by the Board of Supervisors.

A summary of key changes in the ordinances between the first versions presented to the Regional Planning Commission at its January 23, 2008 hearing and the Board of Supervisors at its September 23, 2008 hearing are presented in Appendix 6.1 at the end of this section. As can be seen in Appendix 6.1, there were numerous changes in all three

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ordinances between their initial introduction, the first versions submitted to the Board of Supervisors and the final versions adopted by the Board of Supervisors, particularly in exemptions to and applicability of the new regulations.

To summarize the changes from the first set of ordinances to those finally adopted, more exemptions from the regulations were added, primarily aimed at smaller scale development projects and in response to advocacy by groups such as NAIOP, (Commercial Real Estate Development Association), who requested exemptions for certain industrial buildings, the Building Industry Association and Heal the Bay, an environmental advocacy group. The changes between the first and final adopted versions also included exemptions for projects with applications already submitted to DRP or the Department of Public Works, but not yet approved. In interviews, DRP staff indicated that these changes were the result of input from and interaction with Board Deputies, the Department of Public Works, other County departments and external stakeholders and advocates. Board Deputies reportedly brought up issues to staff for consideration in the ordinances that they identified as being concerns and interests of their constituents.

Interview Results

Interviews were conducted with Acting Deputy Director for Advanced Planning Rose Hamilton, DRP staff who worked on development of the ordinances and related reports, Third Supervisorial District Planning Deputy Ben Saltsman, Fourth Supervisorial District Planning Deputy Julie Moore, Fifth Supervisorial District Planning Deputy Paul Novak, Deputy Chief Executive Officer Lari Sheehan, and Department of Public Works staff who served on the inter-departmental Task Force to develop the ordinances. In addition, we interviewed former Director of Regional Planning Bruce McClendon (who provided answers to written questions in writing).

Third Supervisorial District Planning Deputy Ben Saltsman described his role in the development of these ordinances as a facilitator since the Department of Regional Planning and the Department of Public Works were having difficulties communicating and meeting deadlines to respond to the Board motions and requests. Mr. Saltsman explained that he wanted to jump start the process and ensure that there was follow-up to the policy direction articulated by his Supervisor in his January 2007 motion requesting incorporation of Leadership in Energy and Environmental Design (LEED) principles into County building and zoning requirements and again in the October 2007 motions requesting development of ordinances to incorporate green building principles into County regulations.

Mr. Saltsman described his role in the development of the ordinances as providing policy input representing his Supervisor and his Supervisor's constituents. He stated that he did not review every proposed change to the ordinances nor did he instruct or order staff to make specific changes. After the first Board of Supervisors hearing on the ordinances, he said he was very involved in working with the inter-departmental Task Force to resolve

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the question of which projects would be subject to the new Low Impact Development ordinance requirements since this was not adequately defined in the ordinance as originally presented to the Board of Supervisors. He stated that DRP staff expressed gratitude to him at the end of the process for taking on the role of facilitator.

Mr. Saltsman raised the point that the May 15, 2007 Los Angeles County Administrative Governance Transition Report to the Board of Supervisors described the roles of Board Deputies as participating and providing input in the development of policy and program recommendations. He believes his activities and behavior pertaining to the development of the subject ordinances were consistent with the roles described in this document.

In our interview, we asked Mr. Saltsman to review and explain his language in some of the emails he sent and received. His responses are discussed below in the Internal Communications section of this report.

In his interview, Fifth Supervisorial District Board Deputy Paul Novak described his role in the development of the three ordinances and working with DRP, DPW and other County staff as primarily occurring after the Green Building ordinances had been adopted by the Board of Supervisors but before they took effect in 2009. He reported that his involvement was mostly due to problems in defining what projects were going to be subject to the new requirements, particularly those of the Low Impact Development ordinance since the definition of a complete application was not clear in that ordinance and DRP and the Department of Public Works did not have a clear, consistent working definition either. He said he wanted to be proactive in solving this problem before the ordinance went into effect and became a problem for his Supervisor's constituents.

Mr. Novak reported that he was also involved in suggesting changes requested by industry representative constituents, notably the Building Industry Association and the development company Newhall Land and Farming as well as generally representing smaller scale applicants such as those attempting to build single family homes.

Mr. Novak described his communications with DRP and other County staff over the several weeks after Board of Supervisors adoption of the Green Building ordinances as collaborative and an "open dialog." He stated that Deputy Chief Executive Officer Lari Sheehan coordinated a number of meetings with DRP and other staff on this topic.

In our interview, we asked Mr. Novak to review and explain his language in some of the emails he sent and received. His responses are discussed below in the Internal Communications section of this report.

DRP and DPW staff interviewed who participated on the Task Force that developed the ordinances all indicated that Board Planning Deputies Saltsman and Novak were very interested and involved in the process. Though the Deputies were not official members of the Task Force, many of the ideas developed by Task Force members for inclusion in the

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ordinances were regularly submitted to the Deputies for their review and feedback. At least one formal briefing on development of the ordinances reportedly took place with the Board Planning Deputies at their regular monthly meeting prior to submission of the ordinances to the Board of Supervisors.

DRP and DPW Task Force members stated that they did not believe they were ever ordered or instructed by the two Deputies or put in a situation where they had no choice but to make the changes in the ordinances that the Deputies wanted. Instead, staff we interviewed described the process with the Deputies as generally collaborative, with the Deputies frequently making suggestions for changes or requests that staff consider the viewpoints or obtain input from certain stakeholders. As one staff planner put it, the Board Deputies provided input and suggestions like all stakeholders in the process and their suggestions were included if they had merit. The Deputies' involvement did not erode the basic principles of the ordinances, according to staff we interviewed. DRP staff reported that they were unaware if Director of Regional Planning McClendon received any instructions or orders privately from Board Deputies regarding the ordinances.

DRP staff stated that they were pleased with the end product of the three ordinances and, though there were many changes in the regulations compared to what they started with, they felt the ordinances represented landmark legislation and that the changes, such as the exemptions to the new regulations, were appropriate. Rather than Board Deputies controlling exemptions, DRP staff reported that many of the changes from the original versions of the ordinances were due to input from the Department of Public Works. For example, DRP staff reports that to control potential backlogs in the permit process, it was the Department of Public Works that suggested that first time tenant improvements with gross floor areas of less than 10,000 square feet be exempt from the Green Building ordinance. This exemption was put into the draft ordinance and approved by the Board of Supervisors.

Changes were also made to minimize the impact and cost of the new regulations on smaller development project applicants, a perspective Fifth Supervisorial District Board Deputy Novak identified as one of his areas of concern throughout the process. As an indication that Board Deputy suggestions were not always taken, DRP staff reported that at one point in the development of the ordinances, Mr. Novak suggested a case-by-case approach to determining if development project applications were going to be subject to the Low Impact Development Ordinance. This idea was determined to be infeasible by DRP and DPW staff and was not incorporated in the ordinance. Mr. Novak's proposed approach was also found in some of his email communications reviewed as part of this investigation.

Though not initially an investigation objective for this allegation, an interview was conducted with Fourth Supervisorial District Board Deputy Julie Moore regarding her role in requesting that DRP staff consider the viewpoint of Marina Del Rey property owners regarding exempting those with project approvals underway from the

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requirements of the green building ordinances. Ms. Moore described her role as requesting that DRP staff meet with representatives of these property owners to understand their unique situation because the County requires their development project applications to go through the normal County process plus a design control board for their area. The owners were concerned that proposed projects for which a building permit had not been filed because they were still under review by the design control board may have been subject to the new requirements, even though they had already begun the project approval process under a different set of rules. The Green Building ordinance included a provision to exempt such properties.

Internal Communications

The email internal communications we reviewed were primarily between DRP and Department of Public Works staff and the Board Planning Deputies from the Third and Fifth Supervisorial Districts, Ben Saltsman and Paul Novak, respectively. The communications we reviewed revealed a robust inter-departmental process with extensive dialog on key issues needing resolution before the proposed ordinances were submitted to the Board of Supervisors and continuing after Board adoption of the ordinances on November 18, 2008. Most, but not all, of the email communications from the Board Deputies to staff appear to be consistent with the non-intrusion provision of the Governance Ordinance in that the Deputies made suggestions, provided recommendations, coordinated activities or requested information, but did not directly order or instruct staff.

A few instances were found in the emails reviewed, however, where the Board Deputy language is more directive and could be interpreted as violating the non-intrusion provision of the Governance Ordinance by providing instruction or orders. These generally were in discussions about exemptions to ordinance requirements.

In staff email discussions regarding the definition of when development project applications submitted to DRP are deemed “complete” to determine whether they were subject to the new regulations, the following Board Deputy statement was found:

“There was apparently a meeting last week at which changes to the LID ordinance was discussed. This is what their letter refers to.

However, I want to make it clear that except for the changes expressly ordered by the Board of Supervisors at the hearing on October 7, no further changes to the ordinance should be made. Please make sure that this point is made clear to everyone at that meeting so there is no confusion down the road. Thank you for your prompt attention to this issue and let me know if you have any other questions in the meantime.” (*B. Saltsman to DRP and DPW staff, re: revisions to the LID Ordinance and LID manual, 10/21/08*)

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In a discussion of changes to the Drought Tolerant Landscaping Ordinance suggested by the Building Industry Association (BIA), the following statement was communicated to staff:

“The BIA’s comments should be considered/addressed...” (*P. Novak to DRP and DPW staff, re: Landscaping Ordinance, 9/29/08*)

Regarding changes in ordinance wording pertaining to exempting recreation lawns and athletic fields from the Drought Tolerant Landscaping Ordinance, as proposed by Newhall Land and Farming (NLF), a development company, the following statement was communicated to staff:

“Please add in NLF’s language on Item 3...” (*P. Novak to DRP and DPW staff, B. Saltsman and constituent, re: BIA language per your request to Corey, 10/6/08*)

There could be some debate as to the extent to which these quotes are directive, particularly the first two that use the term “should.” The instances of directive statements from the Board Deputies above, however, was greatly outnumbered by communications from them to DRP and DPW staff of a more collaborative, suggestive, or inquiring nature.

Another potential indication of Board Deputy instructing or ordering staff does not come from them, but comes from staff emails making reference to the Board Deputies, as demonstrated by:

“...some of the language in the Green Building ordinance, everything on the October 7 memos, were added word for word at Ben’s (Saltsman) request.” (*DRP staff email, 11/10/08*)

“Should I leave [the modified text] as I have written above, or modify further?” (*to Mr. Novak and Mr. Saltsman from DRP staff member regarding language changes in one of the ordinances, 11/6/08*)

“I know you said Ben [Saltsman] gave you direction to modify the ordinance.” (*to DPW staff member from DRP staff member, regarding changes to Low Impact Development ordinance, 9/30/08*)

“The planning deputies directed DRP to implement the second options.” (*email to DRP and DPW staff from DRP staff member regarding complete application filing, 12/15/08*)

While it must be emphasized that this is language that was used by other staff about the Board Deputies, and not by the Board Deputies themselves, it appears, at minimum, to reflect a deference by some staff to the Board Deputies with an assumption that they are

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in control or directing aspects of the process. Any statement by the Deputies, even inadvertent, that is directive in nature would only serve to enhance this perception.

Mr. Saltsman was asked to review some of the emails identified above by the investigation team that included language that could be interpreted as ordering or instructing department staff. In some instances, the emails were written by others but made reference to Mr. Saltsman being in a directive role (e.g., “The planning deputies directed DRP to implement the second option”, “this was something Ben wanted put in”, and “should I add that exemption?” [question to Mr. Saltsman]). Mr. Saltsman stated that he could not control the language used by others but, when he responded to them, he stated that he did not respond by issuing orders or instruction and that staff working with him knew they could challenge him if they disagreed with his ideas. This characterization was generally consistent with language found in his emails that we reviewed. Further, Mr. Saltsman pointed out that language that sounds directive in an email may not be capturing nuances and understandings in communications between the parties involved.

Mr. Novak was also asked to review some of the emails identified above by the investigation team that included language that could be interpreted as ordering or instructing department staff. In some instances, the emails were written by others but made reference to Mr. Novak being in a directive role. Mr. Novak said that, in spite of such language in the emails, the process was collaborative and that he did not direct or order staff. He said that all Board offices were also concerned and involved in the process of finalizing and improving the ordinances. He emphasized that the Board of Supervisors was ultimately responsible for the ordinances, regardless of staff input.

Email communications between Fourth Supervisorial District Board Deputy Julie Moore and DRP staff were reviewed regarding her request for staff to meet with and consider the impact of the proposed ordinances on Marina Del Rey property owners. As mentioned above, these property owners have a unique situation in the County because their proposed development projects must be approved by an area design control board in addition to normal County approvals. The property owners believed any projects submitted to their design control board but not yet approved should be exempt from new regulations since they were already “in the pipeline”. None of her communications or communications directed to her by staff, indicated that she was ordering or instructing staff on this matter. An exemption for the Marina Del Rey property owners was allowed in the final Low Impact Development ordinance.

Conclusion

<p>Investigation Objectives Restated: Conduct an investigation into the alleged inappropriate influence by Mr. Novak or Mr. Saltsman in the drafting of these ordinances and in creating exemptions for pending projects.</p>
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Summary: While the evidence does not support the overall allegation of improper intrusion by Mr. Saltsman and Mr. Novak, in some instances each of them used language that could be interpreted as violating the non-intrusion provision of the Governance Ordinance. In their other written communications reviewed, their language did not appear to violate the non-intrusion provision of the Governance Ordinance. DPW and DRP staff made references in several emails to receiving or requesting instruction and direction from Board Deputies.

The evidence reviewed does not support the overall allegation that Mr. Novak and Mr. Saltsman inappropriately influenced the drafting of these ordinances and in creating exemptions for pending projects. The two Board Deputies were definitely very involved and influential in the drafting of the ordinances, particularly shortly before and immediately after the ordinances were submitted to the Board of Supervisors. Evidence reviewed shows that in a few instances, each of them may have used language that could be interpreted as violating the non-intrusion provision of the Governance Ordinance by giving instruction or orders to staff. Such instances, however, were greatly outnumbered by communications with staff that can be characterized as suggestive or collaborative.

Many exemptions to the provisions of the ordinances as originally drafted were definitely added between submission of the ordinances to the Regional Planning Commission and their adoption by the Board of Supervisors. Evidence reviewed and staff interviews conducted show that the Board Deputies played key roles in this process by making suggestions and requesting that staff obtain input from certain external stakeholders and/or constituents. However, not all suggestions made by Board Deputies or their constituents were included in the final ordinances and some of the exemptions were staff ideas identified as they continued to review the draft ordinances.

DRP and DPW staff interviewed who were involved in development of the ordinances all stated that they welcomed Board Deputy input, gave it high priority, but never believed they had no choice but to accept the Board Deputies suggestions or requests.

In emails prepared by staff, numerous references were found to seeking and receiving approval and/or direction from the Board Deputies in development of the ordinances. Such cross references could be attributable to oral communications or staff conferring certain authority on the Deputies rather than the Deputies' actual behavior since the Deputies' language reviewed, with a few exceptions, was mostly suggestive or collaborative.

No staff members we interviewed were aware of former Director of Regional Planning Bruce McClendon being directed to make changes to the ordinances based on Board Deputy instructions or ordering.

Timeline

- January 16, 2007: Board of Supervisors adopts motion requiring reports and recommended changes to County building and development regulations to reduce the County's negative environmental impacts associated with present building and design practices and to reduce the County's contribution to global warming.
- October 23, 2007: Board of Supervisors makes and adopts 15 motions and requests requiring development of ordinances in the areas of improved green building practices, drought tolerant landscaping and low-impact development, along with reports and analyses on the costs and benefits of such requirements and related information and analyses. Materials are to be presented within 90 days.
- January 10, 2008: Ordinances and reports required by October 23, 2007 motion are submitted to the Regional Planning Commission for a first public hearing.
- May 7, 2008, June 25, 2008: Additional Regional Planning Commission hearings are conducted on the proposed ordinances and related analyses.
- August 13, 2008: Final Regional Planning Commission hearing on ordinances, recommending that the Board of Supervisors conduct a hearing on and adopt the proposed ordinances.
- September 23, 2008: First Board of Supervisors hearing on the proposed green building ordinances.
- October 7, 2008: Board of Supervisors approves a motion instructing County Counsel to prepare final ordinances for Board's consideration.
- November 18, 2008: Board of Supervisors adopts green building, drought-tolerant landscaping and low-impact development ordinances.

APPENDIX 6.1: Changes in Applicability and Exemptions, Green Building Ordinances

Green Building Ordinance			
	Submitted to RPC January 23, 2008	Submitted to BOS September 23, 2008	Adopted November 18, 2008
A P P L I C A B I L I T Y	<ul style="list-style-type: none"> ▪ All projects with building permit application submitted between 2008 – 2011, with level of requirements increasing each year 	<ul style="list-style-type: none"> ▪ Projects with building permit application dates between January 1, 2009 and January 1, 2010 and all applications after January 1, 2010, with increased requirements. 	<ul style="list-style-type: none"> ▪ All projects except those identified below
E X E M P T I O N S	<ol style="list-style-type: none"> 1. Temporary projects, subject to Director of Planning determination 2. Projects for which building permit applications have been accepted by DPW prior to effective date of ordinance 	<ol style="list-style-type: none"> 1. Agricultural accessory sites 2. Registered historic sites 3. Warehouse/distribution facilities 4. Refrigerated warehouses 5. Manufacturing buildings 6. Projects with complete building permit applications filed with DPW prior to effective date of ordinance 7. Projects with complete building permit applications filed with DPW prior to effective date of ordinance, where the Building Official determines that issuance of a final building permit was delayed due to third-party litigation against the County 8. Single family projects of less than five units where a complete application for a building permit was accepted by DPW within 90 days after the effective date of this ordinance 	<ol style="list-style-type: none"> 1. Agricultural accessory sites 2. Registered historic sites 3. Warehouse/distribution facilities 4. Refrigerated warehouses 5. Manufacturing buildings 6. First-time tenant improvements with gross floor area of less than 10,000 square feet 7. Projects with complete building permit applications filed before January 1, 2009 8. Any project where a building permit was obtained prior to January 1, 2009 and expired prior to its use, where DPW determines the delay was due to 3rd party litigation 9. Any project involving construction of single family residences on lots created by a parcel map which created four or fewer residential lots, or construction of a single family residence, in both cases with a complete building permit application filed with DPW prior to April 1, 2009

APPENDIX 6.1: Changes in Applicability and Exemptions, Green Building Ordinances

Drought Tolerant Landscaping Ordinance			
	January 23, 2008 Version	September 23, 2008 Version	Adopted November 18, 2008
A P P L I C A B I L I T Y	<ol style="list-style-type: none"> 1. On-site landscaping for all new construction 2. Expansion of or additions to existing buildings of 2,500 square feet or more 	<ul style="list-style-type: none"> ▪ On-site landscaping for all new construction 	<ol style="list-style-type: none"> 1. All projects within unincorporated area 2.
E X E M P T I O N S	<ol style="list-style-type: none"> 1. Registered historic sites 2. Manufactured cut or fill slope exceeding a gradient of 3:1 may be exempted when deemed necessary by Building Official 	<ol style="list-style-type: none"> 1. Registered historic sites and recreational lawns may be exempted by Director of Regional Planning 2. New and renovation park projects 3. Manufactured cut or fill slope exceeding a gradient of 3:1 <i>may</i> be exempted when deemed necessary by Building Official 4. Orchards and vegetable gardens 5. Projects with complete building permit applications accepted by DPW prior to effective date of ordinance 6. Single family projects less than 5 units for which a building permit application was accepted by DPW as complete within 90 days of effective date of ordinance 	<ol style="list-style-type: none"> 1. Registered historic sites 2. Recreational lawns 3. New and renovation park projects 4. Orchards and vegetable gardens 5. Manufactured cut or fill slope exceeding a gradient of 3:1 <i>may</i> be exempted when deemed necessary by Building Official 6. Water related projects such as detention ponds or basins <i>may</i> be exempted. 7. Any project with building permit applications filed with DPW prior to 1/1/09 8. Any project involving construction of single family residence on lots created by parcel map which created four or fewer lots, or any project involving a building permit for construction of one single family residence on a legal lot, in both cases with complete building permit application filed w/ DPW prior to April 1, 2009.

APPENDIX 6.1: Changes in Applicability and Exemptions, Green Building Ordinances

Low Impact Development Ordinance			
	January 23, 2008 Version	September 23, 2008 Version	November 18, 2008 Version
A P P L I C A B I L I T Y	<ol style="list-style-type: none"> 1. All private property new parking lots, nonresidential projects, mixed use projects, multi-family projects of 5 or more units, and residential subdivisions of 5 or more units 2. Projects resulting in alteration to 50% or more of impervious surfaces of previously existing developments must comply with new standards for entire projects; projects resulting in alteration to less than 50 percent of impervious surfaces of previously existing developments must comply with new standards for altered area only 	<ol style="list-style-type: none"> 1. All development except for exemptions listed below 2. Projects resulting in alteration to 50% or more of impervious surfaces of previously existing developments must comply with new standards for entire projects; projects resulting in alteration to less than 50 percent of impervious surfaces of previously existing developments must comply with new standards for altered area only, except for exemption below 	<ul style="list-style-type: none"> ▪ All development except for exemptions listed below
	<ul style="list-style-type: none"> ▪ Applicants may submit a proposal to deviate from new standards due to technical feasibility 	<ol style="list-style-type: none"> 1. Road and flood infrastructure projects 2. Projects resulting in alteration to less than 50 percent of impervious surfaces of previously existing residential 	<ol style="list-style-type: none"> 1. Any development where a complete discretionary or non-discretionary permit was filed with DRP, DPW or any County-controlled designed control board prior to January 1, 2009

APPENDIX 6.1: Changes in Applicability and Exemptions, Green Building Ordinances

<p align="center">E X E M P T I O N S</p>		<p>developments of four units of less</p> <p>3. Projects accepted for review by DRP prior to January 1, 2009</p> <p>4. Any project that has filed a complete application prior to effective date of ordinance with DRP or other County-controlled design control board</p>	<p>2. Any development involving emergency construction activities</p> <p>3. Road and flood infrastructure projects</p> <p>4. Projects resulting in alteration to less than 50 percent of impervious surfaces of previously existing residential developments of four units of less</p> <p>5. Projects accepted for review by DRP prior to January 1, 2009</p> <p>6. Any project that has filed a complete application prior to effective date of ordinance with DRP or other County-controlled design control board</p>
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7. Development of the State Legislative Agenda

Background

In the fall of each year the Board of Supervisors considers and approves a Legislative Agenda for the County for the following year's State Legislative Session. According to the Chief Executive Officer, the State Legislative Agenda "is a critical policy document and the basis for the development and advocacy of legislative positions that enhance, protect, and provide flexibility for County programs, services, and resources."

On August 4, 2008 the Chief Executive Officer sent a memorandum to all department heads providing instructions on developing and submitting recommendations to changes from the prior year's legislative agenda. The memorandum requested that department heads provide their proposed additions or changes to the Chief Executive Office or indicate that they had none by September 10, 2008. At its meeting on November 18, 2008, the Board of Supervisors considered and approved, with some modifications, the Chief Executive Officer's recommendations for changes to the County's State Legislative Agenda.

Allegation

Former Director of Regional Planning Bruce McClendon alleges that in October 2008 at the Board of Supervisors meeting to consider the State Legislative Agenda he was publically and personally excoriated by Fifth Supervisorial District Planning Deputy Paul Novak. He claims that Mr. Novak complained in a loud and angry voice that an item relating to expanding the requirement for determining the adequacy and availability of water for new developments before approval should not have been placed on the Board's agenda without his personal review and approval. Mr. McClendon alleges that during the Board meeting this item was pulled from the agenda and the policy pertaining to the need to make a legislative finding as to the adequacy and the availability of water for new developments before they can be approved was continued to a future date.

Mr. McClendon alleges that he immediately spoke with Deputy Chief Executive Officer Lari Sheehan and was told that he had followed the correct procedure for submitting recommendations for the Board of Supervisors' State Legislative Agenda. He states that he then attempted to speak with Chief Executive Officer William Fujioka to explain what happened, but was brushed off. Further, he states he was subsequently notified by Ms. Sheehan that in the future, he or his staff would need to personally meet with each of the Board Planning Deputies and get their review and approval before the Department of Regional Planning could submit its recommended legislative priorities to the Chief Executive Office for their review and only then would it be scheduled for Board approval.

Investigation Objectives

Conduct an investigation to determine whether Mr. Novak demanded an inappropriate level of control over the Department of Regional Planning's reports and recommendations regarding water availability and safety and whether he blocked the issue from being placed on the Board's agenda in October 2008.

Methods and Summary of Evidence Supporting or Refuting Allegation

Public and Department Documents Reviewed

We reviewed public and Department of Regional Planning documents including: (1) an August 4, 2008 memorandum from the Chief Executive Officer to all department heads providing instructions on the development of the State Legislative Agenda; (2) the County's State Legislative Agenda for Fiscal Year (FY) 2007-08; (3) the recommendations for the FY 2008-09 State Legislative Agenda as submitted by the Department of Regional Planning to the Chief Executive Office; (4) minutes from the November 18, 2008 Board of Supervisors meeting; and, (5) transcript and video recording from the November 18, 2008 Board of Supervisors meeting.

The August 4, 2008 memorandum from the Chief Executive Officer to all department heads is a two page document that provides instructions on how and when to submit changes and additions to the previous year State Legislative Agenda. Department heads are instructed to submit their recommendations to the Chief Executive Office and the memorandum implies that Board offices will review the recommendations after consultation between departments and the Chief Executive Office. The process, as laid out in the memorandum, is consistent with the understanding that, in his allegation, Mr. McClendon states that he had at the time. This process is consistent with the County's new governance structure because the Chief Executive Office acts as the intermediary between the initial department submission and Board office review.

A review of the Department of Regional Planning submission for the FY 2008-09 State Legislative Agenda corroborates Mr. McClendon's assertion that the Department of Regional Planning submitted a new item calling for expanded requirements for water supply availability assessments for new subdivisions. Specifically, the item stated,

Support legislation that amends the State Subdivision Map Act to reduce the threshold for larger subdivision projects to provide a water supply availability assessment and/or proof of water source prior to tentative map approval.

Justification: Water supply is a significant statewide concern, and more subdivision projects should be required to provide further analysis to ensure that adequate water supply will be available. It is in the public interest to evaluate more information before a

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decision-making body determines whether a land division is appropriate and reasonable expectation of development can occur. Approval of projects with no guarantee of construction not only slows down the process for more feasible projects, but is a strain on public resources in staff processing time, etc.¹

A review of the minutes, transcript, and video recording from the November 18, 2008 Board of Supervisors meeting corroborates Mr. McClendon's claim that the item relating to expanding water availability determinations for new subdivisions was pulled from the State Legislative Agenda. In the meeting the Chief Executive Officer requested that the item be referred back to the Chief Executive Office. The Board approved the State Legislative Agenda (Agenda Item 23) unanimously as amended (without the item on expanded water availability assessments). Before the unanimous approval, Supervisor Yaroslavsky made a request that the Chief Executive Officer return to the Board with a report on the issue in January 2009.

Department and public documents show that an item calling for expanded water availability analyses was placed on the State Legislative Agenda as recommended by the Department of Regional Planning and that it was pulled from the approved Agenda at the Board of Supervisors meeting in November 2008. The video recording does not capture any conversations between Mr. Novak and Mr. McClendon nor does it capture Mr. McClendon speaking with Ms. Sheehan or attempting to speak with Mr. Fujioka.

Interview Results

We conducted interviews with Department of Regional Planning staff, Fifth Supervisorial District Planning Deputy Paul Novak, Chief Executive Officer William Fujioka, Deputy Chief Executive Officer Lari Sheehan, and the former Director of Regional Planning Bruce McClendon (through written questions and answers).

Our interview with Department of Regional Planning staff corroborated two claims and refuted a third claim of Mr. McClendon's allegation. Department staff corroborated Mr. McClendon's claim that they followed the process, as instructed by the Chief Executive Office, for submitting recommended changes to the State Legislative Agenda. Staff also corroborated Mr. McClendon's claim that he was approached and castigated by Mr. Novak in the Board hearing room on the day of the meeting for not sharing the Department's recommendations. Department staff refuted Mr. McClendon's claim that Mr. Novak insisted that the item should not have been placed on the Board's agenda without his approval. Staff stated that Mr. Novak was upset because he wasn't given time to review the recommendations so that he could brief Supervisor Antonovich.

Our interview with Deputy Chief Executive Officer Lari Sheehan corroborates some of Mr. McClendon's claims and revealed that there was opposition to Mr. McClendon's recommendation from the Acting Director of the Department of Public Works. Ms.

¹ September 10, 2008 memo from Karen Simmons to Legislation Analyst Eddie Washington and November 18, 2008 Minutes of the Board of Supervisors of the County of Los Angeles.

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Sheehan was at the November 18, 2008 Board meeting, but did not witness Mr. Novak excoriating Mr. McClendon. Ms. Sheehan stated that her first recollection of being involved with the issue was when she was approached by the Acting Director of the Department of Public Works, as she entered the Board meeting, who told her that it was inappropriate at that time to lower the threshold for requiring a water availability assessment from subdivisions with 500 or more units. He explained that water availability assessments were a very expensive process and that the item had not been cleared by the Department of Public Works. Ms. Sheehan then stated that she confirmed with the Intergovernmental Affairs Director (a staff member of the Chief Executive Office) that the Department of Public Works had not been briefed on this matter by the Department of Regional Planning or the Chief Executive Office. Ms. Sheehan further stated that she and the Intergovernmental Affairs Director then decided to pull the item from the agenda so that they could have an opportunity to sit down and review the issues with both departments and County Counsel and bring the item back to the Board at a later date. It is possible that Board Deputy Novak and the Director of Public Works communicated about the issue prior to it coming to her attention.

Our interview with Chief Executive Officer Fujioka provided information that does not support Mr. McClendon's allegation. Mr. Fujioka stated that he had no recollection of witnessing Mr. Novak approaching Mr. McClendon in the Board room or being approached by Mr. McClendon that day. Mr. Fujioka further stated that he had told department heads that they didn't have to acquiesce, but there should be no surprises for the Board offices. Mr. Fujioka also stated that if Mr. Novak had stated that the item required his prior approval that would be wrong, but there would be nothing wrong with Mr. Novak stating that he should be given an advance copy.

Our interview with Mr. Novak revealed information that supports some aspects of Mr. McClendon's allegation, but refutes other claims. Mr. Novak corroborated Mr. McClendon's claim that he publically excoriated the Director in the Board hearing room. He stated that he did so because Mr. McClendon "did not follow the process." Mr. Novak stated that when he first saw the Land Use Planning recommendations he went to Ms. Sheehan to tell her that he had not been briefed by the Department of Regional Planning. He further stated that Ms. Sheehan and another Chief Executive Office staff member told him that she had instructed Mr. McClendon to brief all of the Board Planning Deputies on all changes to the State Legislative Agenda.

Mr. Novak stated that he then approached Mr. McClendon to complain about not being briefed by him prior to the meeting and told him that in the future he should follow the instructions of the Chief Executive Office. Mr. Novak explained that his concern with Mr. McClendon over the State Legislative Agenda was that he and other Board deputies needed to be briefed ahead of time of any changes to the Legislative Agenda so that they could inform their Supervisors of the issues before the Board meeting, not to give their personal stamp of approval. Additionally, Mr. Novak stated that it was his personal experience from previous years that department directors were responsible for notifying Board offices of any changes or additions to the State or Federal Legislative Agendas.

Internal Communications

We reviewed a small collection of email communications regarding this allegation. The emails we reviewed were sent after the Board of Supervisors meeting on November 18, 2008 and were related to following up on Supervisor Yaroslavky's request that the Chief Executive Office report back to the Board regarding the expansion of water analysis for new subdivisions in January 2009. The internal communications we reviewed did not support or refute Mr. McClendon's allegation.

Conclusion

Investigation Objectives Restated: Conduct an investigation to determine whether Mr. Novak demanded an inappropriate level of control over the Department of Regional Planning's reports and recommendations regarding water availability and safety and whether he blocked the issue from being placed on the Board's agenda in October 2008.

Summary: Available evidence does not support Mr. McClendon's allegation.

Based on a review and analysis of the evidence we believe that there is insufficient evidence to support Mr. McClendon's allegation that Fifth Supervisorial District Planning Deputy Paul Novak violated the non-intrusion provision of the County's Governance Ordinance in this instance. Mr. Novak denies that he ever insisted that he should have the right to personally approve or deny the State Legislative Agenda recommendations of the Department of Regional Planning. This denial is corroborated by Department of Regional Planning staff that stated Mr. Novak simply complained to Mr. McClendon that he should have been briefed about the recommendations so that he could prepare Supervisor Antonovich for the meeting. Further, the item in question was removed from the State Legislative Agenda at the request of the Chief Executive Officer, not Mr. Novak or any of the Supervisors, as Mr. McClendon alleged.

Timeline

- August 4, 2008: Chief Executive Officer William Fujioka sends a memorandum to all County departments regarding the FY 2008-09 State Legislative Agenda. The memorandum instructs department heads to submit changes to the FY 2007-08 State Legislative Agenda by September 10, 2008.
- September 10, 2008: DRP sends a memorandum to CEO Legislation Analyst Eddie Washington with updates to the FY 2007-08 State Legislative Agenda. The

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- updates include a recommendation to support expanding the requirements for water availability analyses for new subdivisions.
- November 18, 2008: The Board of Supervisors reviews and approves the State Legislative Agenda as presented by the CEO with some modifications. These modifications include referring the DRP recommendation on expanding water availability analyses back to the CEO.

8. Deputy Director Promotions

Background

In the spring of 2008, the Department of Regional Planning's Deputy Directors of the Current and Advanced Planning divisions both retired. At that time, two Department managers, Rose Hamilton and Sorin Alexanian, were appointed Acting Deputy Directors for Advanced Planning and Current Planning, respectively. Following a recruitment process open to Department of Regional Planning staff only and administered by the Department of Human Resources for the two position openings, Director of Regional Planning Bruce McClendon selected the two Acting Deputy Directors as his recommended choices for the positions and, on December 17, 2008, submitted their names and a proposed increase in salary for each of them to the Chief Executive Officer for approval.

The request was not approved prior to Mr. McClendon's termination in January 2009 and the two employees remain Acting Deputy Directors. The Chief Executive Office reports that it is their policy to defer such promotions until permanent directors are in place.

Allegation

Former Director of Regional Planning Bruce McClendon alleges that after presenting his recommendation for the promotion of the two Acting Deputy Directors to the two vacant Deputy Director positions at a monthly Board Planning Deputies meeting, and receiving positive feedback on his choices, three of the Deputies, Ben Saltsman, Julie Moore, and Paul Novak, of the Third, Fourth and Fifth Supervisorial Districts, respectively, contacted him and told him they opposed the promotion of the two employees. He further alleges that one of those Board Deputies, Mr. Novak, told him he should have consulted with him and the other Deputies prior to making his decision and that this was the "last straw." Mr. McClendon believes the Board Deputies opposed these promotions because both of the employees had resisted Board Deputy intrusion into their day-to-day assignments in the past.

Mr. McClendon reports that his requested promotions, which would normally be subject to routine approval by the Chief Executive's Office, were held up without explanation for the next two months. At the time he was terminated (January 16, 2009), he reports that the appointments still had not been made.

Investigation Objectives

Determine whether the three named Board Deputies attempted to exert undue influence over the appointment of new Deputy Directors.

Methods and Summary of Evidence Supporting or Refuting Allegation

Public and Department Documents Reviewed

Documents reviewed included: (1) DRP requests to and responses from the Department of Human Resources regarding their preparation of a Vacancy Notice for the Deputy Director positions; (2) the documented results of the recruitment process; and (3) two December 2008 memos from Mr. McClendon to the Chief Executive's Office requesting approval of increases in salaries and appointment of Mr. McClendon's two choices for the vacant Deputy Director positions. Documents were also reviewed pertaining to the reclassification of former DRP Administrator positions to the subject Deputy Director positions, which took place between 2007 and 2008.

Documents pertaining to the recruitment and proposed promotions of the two Department of Regional Planning (DRP) employees were obtained from the Department of Human Resources and the Department of Regional Planning for review. These documents corroborated Mr. McClendon's claim that a formal recruitment process took place in November 2008 for the two vacant Deputy Director positions, that Mr. McClendon requested CEO approval of two of the applicants in December 2008, and that the Chief Executive Officer did not and has not approved these requests. No documents were produced or reviewed that corroborate Mr. McClendon's allegations that three Board Deputies contacted him to express their lack of support for his recommended promotions after expressing support for them at a monthly Board Planning Deputies meeting.

Department records show that the Deputy Directors for both Current Planning and Advanced Planning retired in or about April 2008. Upon their retirement, two DRP managers, Sorin Alexanian and Rose Hamilton, were appointed to their positions in an acting capacity.

Our document review showed that on August 27, 2008, DRP submitted an Executive Recruitment Requisition to the Department of Human Resources (DHR) for a Department Promotional Recruitment for the two vacant Deputy Director positions. The final job announcement and recruitment brochure prepared and approved by the Department of Human Resources for the positions was posted November 17, 2008 and the filing period for submitting applications was November 18, 2008 – November 24, 2008. Applicants were instructed in the brochure to submit their resumes and qualifications documents to a Department of Human Resources Recruitment Analyst.

The Department of Human Resources submitted the results of their review of applicants to Mr. McClendon on December 11, 2008 in a confidential letter made available for this investigation. The letter stated that six applicants had submitted their resumes and

qualifications to the Department of Human Resources, of which four were determined to meet the minimum requirements for the positions and could then be interviewed by Mr. McClendon.

On December 17, 2008, Mr. McClendon submitted two memorandum to Chief Executive Officer William T. Fujioka requesting Management Appraisal and Performance Plan appointment (MAPP appointment)¹ and salary approval for two of the applicants that the Department of Human Resources approved for the Director of Regional Planning's consideration: Sorin Alexanian for Deputy Director of the Current Planning Division and Rose Hamilton for Deputy Director of the Advanced Planning Division.

In his memorandum to the CEO, Mr. McClendon proposed a 16 percent salary increase for both positions though he pointed out that both were currently receiving Manpower Shortage Range Adjustments and Out-of-Class bonuses of 5.5 percent each so that the proposed increase would amount to only a five percent increase for both candidates. Nonetheless, in accordance with MAPP program regulations, CEO approval was required since the proposed increase from their base salary exceeded 5.5 percent.

A formal response from the Chief Executive Office to Mr. McClendon's written requests regarding the two promotions was apparently never produced and was not provided to us by DRP or the Chief Executive Office. Individuals interviewed indicated that filling the vacant Deputy Director positions was deferred by the Chief Executive Officer after Mr. McClendon's January 2009 departure, pending appointment of a new permanent Director of Regional Planning.

No record was produced of the Board Planning Deputy meetings when Mr. McClendon reported he presented his recommended candidates for the Deputy Director positions. In interviews, some Board Deputies recalled a discussion of this matter at one of their meetings but were not able to provide details about the date or discussion.

Interview Results

Interviews were conducted with Acting Deputy Director for Advanced Planning Rose Hamilton, Acting Deputy Director for Current Planning Sorin Alexanian, Acting Director of Human Resources Lisa Garrett, Assistant Director of Human Resources Marian Hall, Acting Assistant Director of Human Resources Sandra Taylor, Third Supervisorial District Board Deputy Ben Saltsman, Fourth Supervisorial District Board Deputy Julie Moore, Fifth Supervisorial District Board Deputy Paul Novak, Chief Executive Officer William Fujioka and Deputy Chief Executive Officer Lari Sheehan. In addition, we received written responses to questions we had submitted to former Director of Regional Planning Bruce McClendon.

¹ MAPP appointment by the Chief Executive Officer is required for promotional appointments for employees who are participants in the County Management Appraisal and Performance Plan program, such as DRP's Deputy Directors, when the proposed salary increase exceeds 5.5 percent.

None of the interviews conducted corroborated Mr. McClendon's core allegation of Board Deputy intrusion into the promotions process though they confirmed the recruitment process that took place for the positions and that the Chief Executive Office did not and has not approved his requested promotions.

Department of Human Resources representatives explained County procedures for filling unclassified positions such as the two Deputy Director positions. They explained that such positions are not subject to Civil Service regulations, meaning an examination is not required. DHR's recommended process for filling unclassified positions is for the recruiting department to collect resumes and to have them certified by DHR, meaning that DHR has determined which applicants meet the minimum requirements for the position.

Interviews with the three Board Deputies named in Mr. McClendon's allegation did not corroborate his claim that they had contacted him after he presented his recommended candidates at a Board Planning Deputies meeting. Each Deputy individually stated that they had not contacted Mr. McClendon to communicate their lack of support for the candidates. One of the three Board Deputies indicated he or she did believe at the time that DRP should have also been looking outside the Department for candidates but indicated that he or she did not communicate this to Mr. McClendon. Mr. McClendon reported that none of his telephone conversations with the Board Deputies were recorded so he has no documentation that these conversations occurred.

Deputy County Executive Officer Lari Sheehan reported that Mr. McClendon's December 17, 2008 requests to the Chief Executive Officer for approval of his proposed promotions were subject to review by the Compensation/Classification unit of the Chief Executive's Office before they could be approved and that this review process took longer than it should have. Before those reviews were done, however, Mr. McClendon was terminated in January 2009. Ms. Sheehan reported that upon Mr. McClendon's departure, his proposed Deputy Director promotions were put on hold by the Chief Executive Officer, consistent with the Office's policy not to make promotions in a department without a permanent director.

Internal Communications

A review of emails between DRP and Department of Human Resources staff pertaining to the promotion of two DRP employees to the vacant Deputy Director positions confirm that the Department contacted the Department of Human Resources and requested that they conduct a departmental recruitment process for the two positions. They also confirm the Chief Executive Office's intention not to fill the Deputy Director positions between the time of Mr. McClendon's termination and before a new permanent Director of Regional Planning was hired.

An email from Deputy Chief Executive Officer Lari Sheehan to Third District Board Deputy Ben Saltsman dated February 23, 2009 responds to a discussion at the Board

Planning Deputies meeting on February 11, 2009, after Mr. McClendon's termination, regarding the status of the Deputy Director promotions. Ms. Sheehan informs Mr. Saltsman in her email that the Chief Executive Officer would not be approving new Deputy Directors while the search is underway for a new Director of Regional Planning.

Mr. Saltsman had apparently inquired as to why the CEO had authority in approving the appointments. Ms. Sheehan explains in her email that because the requested salary increases for the recommended appointees exceeded 5.5 percent, CEO approval is required, according to MAPP program policies. This email exchange possibly indicates that Mr. Saltsman was concerned about delays in filling the position, contrary to Mr. McClendon's claims that he was trying to delay these appointments.

An email exchange between Scott Orr of the Chief Executive Office's Compensation and Classification unit and George Parker, Chief Executive Office Budget Analyst for the Department of Regional Planning, dated February 17, 2009 indicates that Mr. McClendon's two candidates were recommended for approval by the unit which cleared the way for approval by the Chief Executive Officer. Though the Chief Executive Officer still has not approved the requests as of the writing of this report, the review by the CEO Classification and Compensation Unit indicates that CEO staff does not appear to have been directed to hold up processing Mr. McClendon's recommendations.

Conclusion

Restated Investigation Objectives: Determine whether the three named Board Deputies attempted to exert undue influence over the appointment of new Deputy Directors.

Summary: Available evidence does not support Mr. McClendon's allegation.

The evidence reviewed does not support or refute Mr. McClendon's allegation that three Board Deputies communicated their concern about the proposed promotions of Sorin Alexanian and Rose Hamilton to the two vacant Deputy Director positions in the Department. However, the alleged communications were individual conversations by telephone, according to Mr. McClendon, and they were not recorded. Each of the three Board Deputies stated in interviews that they did not call Mr. McClendon and communicate this information.

Public and Department documents, internal correspondence and interviews conducted indicate that the recruitment process followed a standard course for an internal promotional opportunity. Though this was not found in any documentation reviewed or interviews conducted, the absence of a response from the Chief Executive Office to Mr. McClendon's request for approval of the promotions on December 17, 2008 could be due to the fact that, at that time, the Office was planning to terminate the Director and did not want to approve promotions until a new Director was in place.

Timeline

- April 2008: Deputy Directors Ron Hoffman and Frank Meneses of DRP's Advanced and Current Planning Divisions, respectively, retire.
- August 27, 2008: DRP submits a requisition to the Department of Human Resources to conduct an Executive Recruitment within DRP for the two vacant Deputy Director positions.
- November 17, 2008: The Department of Human Resources posts an announcement inviting resumes from Department of Regional Planning staff for the Deputy Director positions. The filing period is November 18 – 24, 2008.
- December 11, 2008: The Department of Human Resources transmits to Mr. McClendon the results of their recruitment process, including identification of qualified candidates who he may interview.
- December 17, 2008: Mr. McClendon submits requests to the Chief Executive Officer for appointment and salary approval for Sorin Alexanian and Rose Hamilton to the Deputy Director positions.
- January 16, 2009: Mr. McClendon is terminated as Director of Regional Planning.
- January, 2009 (date not known): Deputy Chief Executive Officer Lari Sheehan holds a meeting at DRP and announces to staff that the Chief Executive Officer's policy is to not fill the Deputy Director positions until a new permanent Director of Regional Planning is hired.
- February 17, 2009: The Chief Executive Office's Compensation and Classification Unit completes its review of Mr. McClendon's requests and recommends approval of his requests.