



MEMORANDUM

DATE: January 24, 2006

TO: Eliseo Garza, Director
Department of Neighborhood Resources

FROM: Mike Rankin *MR*
City Attorney
x 4221

SUBJECT: Political Activities – Neighborhood Association Meeting Notices

One of the first issues that you are likely to encounter once you begin your new assignment is the propriety of using DNR resources to distribute neighborhood association newsletters and/or meeting notices that announce or advertise meetings that will involve discussion of ballot issues or political candidates.

One of the missions of the Department of Neighborhood Resources (DNR) is to support neighborhood associations in advancing community discussion about important issues. In this capacity, DNR currently mails newsletters and/or meeting notices, and sometimes arranges for meeting room space, for more than 100 registered neighborhood associations. As part of its role in providing this support, the City has a responsibility to define the limits to this support function to ensure compliance with applicable laws and policies related to the expenditure of public resources.

The City's primary responsibility is a statutory one. Under A.R.S. § 9-500.14(A), the City has a legal obligation to avoid the use of its resources "for the purpose of influencing the outcome of elections." This law prohibits the use of City resources to produce or disseminate messages or materials that either expressly advocate a particular position with respect to a ballot issue or candidate, or urge a person to vote in a particular manner. Per its statutory obligations, DNR cannot and does not expend its resources, either by mailing newsletters or by subsidizing meeting space, where the purpose of the newsletter or meeting is political advocacy.

At the same time, the City imposes no restrictions on neighborhood associations, either in the context of mailings or meetings, where the activity doesn't involve any City resources. In other words, if the association pays for its own meeting notices and mailings, and secures its meeting space without City subsidy, the City imposes no restrictions on political expression.

Additionally, DNR has a responsibility to comply with the policies of the Mayor and Council and the City's Administrative Directives ("A.D."). A.D. 1.06-22(V)(F)(1)(a), adopted at the direction of the Mayor and Council in 1991, precludes DNR from mailing any materials related to any ballot issues, regardless of whether the materials seem to be content-neutral or whether they advocate a particular position. Until just recently, based on earlier direction from the legislative body, this A.D. was applied in such a way that DNR could not use its resources to mail notices of

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neighborhood meetings that might be used as a "town hall" or other similar political forum where candidates are invited to speak or debate.

However, on December 13, 2005, the Mayor and Council modified this policy. As described in the Administrative Action Report, attached, DNR may now use its resources (i.e., distribute meeting notices or newsletters) to allow an association to inform the community about a political forum the association is hosting, as long as the forum or the communication does not endorse an issue or a candidate. In other words, DNR can distribute newsletters or meeting notices that announce such a forum, so long as all candidates, or all persons/groups interested in a ballot issue, will be given equal opportunity to speak and present their position.

If you have any questions about the Council's action in December, or anything else related to this matter, don't hesitate to call me.

mr/dc

Att.

c: The Honorable Mayor and Council Members
Liz Miller, Assistant City Manager
Andrea Ibanez, Deputy Director, DNR
Mike Anderson, Principal Asst. City Attorney