

Community Maintenance Committee Interim Report

February 20, 2013

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This is another interim report. I have not been able to gather information I need to make a thorough assessment because the former members of the Community Maintenance Committee (CMC) have not provided all of the records of the Committee despite my repeated requests. I suggest that as a matter of principle, the records of the Community Maintenance Committee are the property of the Community Council and not the property of the former members of the Committee and that they should not refuse to relinquish them to the Council.

This process was started when the Council President learned from the director of the City Neighborhood Code Compliance Department (NCCD) that the secrecy the Committee was operating under was improper. The Chair of the Committee agreed to defer further action until the issue was resolved. Thereafter, a business entity contacted the Council about unnecessarily aggressive and disruptive letters the Committee sent after being asked and agreeing to stand down. The Council President then dismissed the members of the Committee. He and I then assumed co-chairmanship of the Committee with the goal of investigating the activities of the Committee to determine how best to move forward.

Requests for feedback on the activities of the Committee were placed in the Tierra Times. The only responses in favor of the Committee and its activities were from former members of the Committee.

In preparation for this report I interviewed two former members. I sent emails offering to meet with two others. One declined to meet with me and one never responded. I wrote several times, starting September 18, 2012 trying to get information about the records of the Committee. Some of my requests went unanswered. Finally, November 4, 2012, one former member sent me an abridged spreadsheet of cases. My subsequent requests for the complete records went unanswered. It isn't clear why the former CMC members are so resistant to providing the Council the records of the Committee's activities.

Since 1988, the spreadsheet showed that the Committee addressed a total of 744 cases. It appears that 355 of those were submitted to Neighborhood Code Compliance. The number varied wildly by year from a maximum of 43 cases in 2003 to a minimum of one in 1995 and 2010. A graph is attached. I saw no evidence of person to person contact. It appears the Committee merely sent anonymous threatening letters and then involved Code Compliance. A large number of the cases concerned boats or jet-skis in driveways.

One of the reasons I wanted the complete records is to see how the CMC is serving the community. Is there a broad spectrum of people requesting assistance? Are there a few making the bulk of repeated complaints? Are the bulk of the complaints initiated by members of the Committee themselves? What is the response of those contacted by the Committee? Without the complete records there is no way of knowing.

I did come across indications that at least one real estate agent used the Committee as a marketing tool and a case where a member of the Committee surreptitiously befriended a person subject to Committee activity for reasons that are unclear. One person I interviewed said the Committee's complaints were baseless and that communication stopped when he told them so and threatened to sue them.

I have interviewed several individuals who were subject to actions by the Committee. The invasiveness and secrecy of the process was a major concern. Some I talked to know little or nothing about the Council and when their sole interaction is an anonymous threatening letter telling them what they can't do on their property, my impression is that it can be counter-productive and tarnishes the image of the Council among those who receive such letters and in the community at large. Rich Thesing, a member of the Council, told me of one problem he resolved by a friendly talk, face-to-face with the homeowners. Once they understood there was a problem, they quickly resolved it. Problem solved. No hard feelings.

I suggest that further activities of the Committee should be transparent and not in secrecy, should be positive in nature, should involve person to person contact, and should be aimed at a cooperative and positive resolution of problems within the community. We shouldn't be doing things we are unwilling to put our names on.

Applicability of Brown Act to Community Maintenance Committee. This issue has been raised by former members in defense of their secrecy. Although I requested the basis for their assertion that the Community Maintenance Committee is not subject to the Brown Act, they have not provided any. I have not exhaustively researched the issue. However, since the Community Maintenance Committee is authorized under the Tierrasanta Community Council Bylaws which appear to incorporate San Diego City Council Policy 600 – 24 by reference, (Page 1, Item B), and that policy incorporates the Brown Act, and since it has taken the sort of advisory role that is normally subject to the Brown Act, I haven't been able to identify any strong arguments that the Community Maintenance Committee is not subject to the Brown Act.

Requirements the Records Be Made Available

Bylaws: The Community Maintenance Committee is authorized as a standing committee under Article VI, Section 6.02 (f).

Article VII, section 7.01, Inspection of Corporate Records provides “the corporate records, the books of account, in the minutes of proceedings of the . . . Committees . . . Shall be open to inspection upon the written demand of any member or director at any reasonable time and for a purpose reasonably related to his interest as a member or as a director of the TCC.

Council Policy 600 – 24, which is incorporated by reference into the Bylaws states in Article VI, Community Planning Group and Planning Group Member Duties, Section 2 (b) Subcommittees (1) Standing Committees, Standing subcommittees In accordance with Brown Act section 54952 (b), all standing subcommittees of a planning group are subject to Brown Act public noticing and meeting requirements. . . .

Subsection (d) (4) Records Retention provides “In accordance with Brown Act 54957.5, planning group records must be retained for public review. . . .