



CITY OF NEWPORT BEACH

OFFICE OF THE CITY ATTORNEY

Aaron C. Harp, City Attorney

March 7, 2012

Zachery P. Morazzini, General Counsel
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, California 95814-2329

RE: Petition to Amend Regulation Section 18705.5

Dear Mr. Morazzini:

I am the City Attorney for the City of Newport Beach. Please find enclosed a copy of Resolution No. 2012-22 adopted by the Newport Beach City Council on February 28, 2012 in support of the above-referenced petition filed by Ash Pirayou of the law firm Rutan & Tucker. In addition, I concur with the points made by the Orange City Attorney, Dave DeBerry, in his letter of support.

Sincerely,

CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

ACH:emg

cc: Ash Pirayou, Esq.

Enclosure: Resolution 2012-22

[A11-01242]-

RESOLUTION NO. 2012-22

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF NEWPORT BEACH, CALIFORNIA SUPPORTING THE PETITION
BEFORE THE FPPC TO AMEND REGULATION SECTION 18705.5 RELATING TO
COUNCIL MEMBER APPOINTMENTS

WHEREAS, the staff of the Fair Political Practices Commission ("FPPC") recently issued a new interpretation of Regulation Section 18705.5, which interpretation prohibits council members throughout the State of California from participating in decisions regarding their appointment to governmental boards, committees, and commissions that pay \$250 or more in a 12-month period; and

WHEREAS, the FPPC's Regulation and staff interpretation is inconsistent with state statutory law that specifically excludes from the definition of income any salary, reimbursement, or other benefits received from a local, state, or federal governmental agency; and

WHEREAS, the FPPC's Regulation and staff interpretation is contrary to sound public policy and good government principles relating to multi-jurisdictional governmental bodies; and

WHEREAS, the City of Newport Beach ("City") along with the cities of Anaheim, Dana Point, Irvine, La Palma, San Clemente, Villa Park and Yorba Linda retained outside counsel to submit a Petition to the FPPC asking for an amendment to Regulation Section 18705.5; and

WHEREAS, the cities' Petition is scheduled to be considered by the FPPC at its March 15, 2012 meeting; and

WHEREAS, the City desires to express its support for the Petition through the adoption of this resolution.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:


Section 1: The City of Newport Beach supports the Petition before the FPPC, and encourages the FPPC, to amend Regulation Section 18705.5 to be consistent with California Government Code Section 82030(b)(2).

Section 2: The City Council finds this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378)

of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

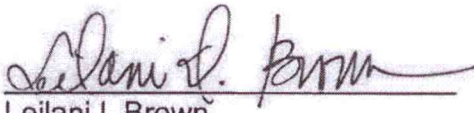
Section 3: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 28th day of February, 2012.



Nancy Gardner, Mayor

ATTEST:



Leilani I. Brown,
City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

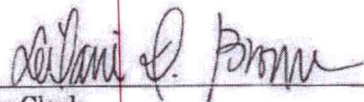
I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2012-22 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 28th day of February, 2012, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Hill, Rosansky, Curry, Selich, Henn, Daigle, Mayor Gardner

Noes: None

Absent: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of February, 2012.



City Clerk
Newport Beach, California

(Seal)

