

Charter section 907 reads in its entirety:

"The Regulations shall establish procedures for receiving input from **neighborhood councils prior to decisions by the City Council, City Council Committees and boards and commissions**. The procedures shall include, but need not be limited to, **notice to neighborhood councils as soon as practical, and a reasonable opportunity to provide input before decisions are made**.

Notices to be provided include matters to be considered by the City Council, City Council Committees, and City boards or commissions."

Section 907 of course does not specifically refer to the Mayor or the Director of Planning because as the Charter makes clear, neither the Mayor nor the Director had any authority over planning or land use, all of which legislative authority was reserved to Council under Charter sections 240-254. In assigning a host of decisions to the authority of the Mayor under sections 13.1.2(D) (none of which the Mayor currently has except to the extent submitted for signature by Council and always subject to Council's ability to override) and to the Director under Section 13.1.6(D) (none of which the Director currently has without the right to appeal to Council or one of its committees, boards or commissions), **the proposed ordinance raises the specter that someone, the Planning Department, the Mayor or someone else, will take the position that no advance notice to or input from the Neighborhood Councils is required under Charter section 907 for the long list of decisions so delegated to the Mayor or the Director under the proposed new ordinance.** Of course that is wrong and illegal. **Even if Council were to delegate legislative authority under an ordinance, all of these planning decisions now placed under the "specific authority" of the Mayor or the Director are still decisions by Council exercised by delegated legislative authority and cannot be used to end run the explicit Charter processes and procedures guaranteed to neighborhood councils.** A slew of lawsuits would surely ensue.

That also means that delegated authority from Council has to comply with the Brown Act and Charter requirements that apply to Council including Charter Section 242; you can't just take the decisions off into private sessions by delegating authority to the Director without a Charter amendment. And you cannot simply wipe away the right to the due process built into the Charter -- notice, a public hearing and a right to appeal.

Under current law no director determination is a final decision for the City because of course the Director is appointed and not elected and one of key

points of our Charter was to be sure that the responsibility to make final decisions and determination for the City as a whole **rested with publicly elected officials accountable to the voters. That Charter principle is reflected throughout the Municipal Code, see, for example, LAMC sections 11.5.3, 11.5.7.C(4)(b),**

11.5.7.C(1), 11.5.7.C(6), 11.5.7.D(3), 11.5.7.E, etc. This ordinance is a substantive ordinance to the extent it gets rid of the right of aggrieved parties to appeal the decisions of the director.

But since DCP said it was not their intent to change anything substantive, at DCP's request, the working group provided the suggestions below to fix the charter amendment problems above.

III. Suggested modifications to the Ordinance:

When meeting with DCP, the working group recommended that DCP **delete their section 13.1 in its entirety** (which is the operative delegation of Council's power) and replace it with something along the following lines:

"This Division recognizes and organizes in one place the agencies involved in administering the Los Angeles Zoning Code and the manner in which an applicant or stakeholder may appeal from any determination by those agencies. The Division also describes how the agencies are composed, and their powers and duties, but is not intended to and does not add to or detract from, increase or diminish, those powers or duties and is not intended to and **does not limit or detract from any existing rights (including rights to notice and appeal) of the certified Neighborhood Councils or any of the legislative authority or powers of the City Council.** Specifically without limiting the generality of the foregoing, the certified Neighborhood Councils will continue to receive the advance notice, the early warning system and the mailed notices set forth in existing law, including Charter section 907 and the Los Angeles Municipal Code section 12.22.A.25(g)(2)(i)(d), all of which are expressly preserved by this reference for all determinations and decisions made under the original or delegated authority under this Division, including any decisions by the Director or the Mayor exercising delegated authority from Council. If the agency is established under the city charter or other ordinance, cross-references to those laws are provided."

DCP said “no” and refuses to change the Policies & Procedures Amendment to reflect the SPECIFIC authority granted to Neighborhood Councils, and their elected members, to weigh in on land use matters and get community feedback.