



# California Fair Political Practices Commission

January 11, 1989

Richard M. Sola  
342B Rancheros Drive  
P. O. Box 186  
San Marcos, CA 92069-0081

Re: Your Request for Advice  
Our Advice File No. A-88-421

Dear Mr. Sola:

You have requested advice regarding the duties of the City of Escondido's Growth Oversight Task Force under the conflict of interest provisions of the Political Reform Act<sup>1/</sup>. You are a member of the task force.

## QUESTION

Is the Escondido Growth Oversight Task Force exempt from the conflict of interest and disclosure provisions of the Political Reform Act?

## CONCLUSION

The Escondido Growth Oversight Task Force is exempt from the conflict of interest provisions of the Political Reform Act.

## FACTS

The Escondido Growth Oversight Task Force (GOTF) was formed to receive public input and make recommendations on portions of the draft General Plan. Their main tasks include recommendations on 1) the land use plan, 2) the quality of life standards, 3) growth management policies, and 4) implementation.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Specifically, the GOTF shall be asked to:

1. Review the proposed revised general plan and recommend to the council land use alternatives to achieve a maximum theoretical population buildout of 165,000 and a probable population buildout of 150,000.

2. Review the standards set forth in Section 4 of the Citizens Quality of Life Initiative to determine if they are feasible, cost-effective goals for the community; and if they are not, to recommend alternative feasible cost-effective goals in those ten areas of community concern.

3. To devise a method of regulating/managing the rate of growth until such time as the quality of life standards are met; and a plan to assure that the quality of life standards continue to be met thereafter;

A. To recommend a method to prioritize the allocation of building permits under any growth management plan;

4. To analyze the cost-benefit of campus industrial land use within the city's sphere of influence, and, if beneficial, to formulate an industrial land use plan that is both consistent with the quality of life goals and compatible with surrounding land uses.

The final recommendations on the draft general plan go through the environmental impact report (EIR) process, then go before the planning commission for additional public hearing. Based on public input and the recommendations made by the GOTF, the planning commission makes its recommendations to the city council on the draft general plan.

When the city council receives the draft general plan it, too, conducts a public hearing to receive additional public input on the draft general plan. The city council is not bound by the recommendations of the planning commission or the GOTF. It can reject or accept the recommendations it receives or modify the draft general plan and adopt it as modified.

#### ANALYSIS

Section 87302 provides that conflict of interest codes shall enumerate the designated employees within the agency who make or participate in making decisions which may foreseeably have a material financial effect on any financial interest of the designated employee. Section 82019 defines a designated

Richard M. Sola  
January 11, 1989  
Page -3-

employee as an officer, employee, member or consultant of any agency who possesses decisionmaking authority. The term "designated employee" does not include any unsalaried member of a board or commission which performs a solely advisory function.

A commission possesses decisionmaking authority if:

(A) It may make a final governmental decision;

(B) It may compel a governmental decision; or it may prevent a governmental decision by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or

(C) It makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or governmental agency.

Regulation 18700(a)(1).

The GOTF is not making, compelling or preventing any governmental decision, nor will there be recommendations made over a period of time. The recommendations made by the GOTF will undergo extensive review and modification in the EIR process and by the planning commission before submission to the city council. The city council is not bound by the recommendations of the GOTF. It may reject or modify any recommendation made.

Based on the facts provided, the GMOC is a solely advisory body and is not covered by the conflict of interest provisions of the Political Reform Act.

If I can be of any further assistance, please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

By: Jeanette E. Turvill  
Political Reform Consultant  
Legal Division

DMG:JET:aa:SOLA

LAW OFFICE  
OF  
RICHARD M. SOLA  
A PROFESSIONAL CORPORATION  
342B RANCHEROS DRIVE  
P.O. BOX 186  
SAN MARGOS, CALIFORNIA 92069-0081  
(619) 744-3362

Oct 31 10:55 AM '88  
F P P C

October 28, 1988

Diane Griffith  
General Counsel  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, California 95804-0807

Re: Escondido Growth Oversight Task Force  
Conflict of Interest and Disclosure

Dear Ms. Griffith:

I am an appointed member of the City of Escondido's Growth Oversight Task Force. The task force has been advised by city staff and the city attorney's office that, because we are advisory in nature, we do not come within the conflict of interest or disclosure provisions of state law. According to these same sources, we do come under the Ralph M. Brown Act.

I am asking that you provide me with a written formal opinion as to the extent to which the City of Escondido's Growth Oversight Task Force is exempt from the conflict of interest and disclosure provisions of the Political Reform Act or any other applicable state law.

The task force was appointed by the city council, its work is funded solely by the city, it works in conjunction with the city staff, and it is responsible only to the city council.

I have enclosed an October 10, 1988, City of Escondido memorandum from Sid Hollins, Chairman of the Committee. Attached to that memo are exhibits which better describe the functions which the task force is to perform. Specifically, on page two of Exhibit B is a detailed description of the four particular functions of the task force.

As way of background, there was a previous general plan task

force which, over an eighteen month period ending in June, 1988, worked on the development of a new proposed general plan for the City of Escondido. The previous task force was appointed by the city council. After a new city council majority was elected in June, 1988, a new, smaller task force was appointed by the new city council. The work done by the previous task force is to be fine-tuned and altered by the new task force to fit the criteria set forth in the October 11 memo.

I had also served on the previous task force and raised the disclosure and conflict of interest questions at that time. In response, the task force was provided with the enclosed memo dated April 8, 1987. Attached to that memo is the city attorney's opinion on the applicability of the Political Reform Act to the city's Downtown Revitalization Committee which the city attorney said was analogous to the task force review group. That same reasoning is being applied to the current task force.

After sitting on the previous task force, I fail to see the similarity between the Revitalization Committee and the General Plan Task Force. And, in retrospect, it appears that the criteria that are outlined in the city attorney's memo under the Siegel and Leach opinions may well apply to the task force.

The general plan, when completed by the task force, will be going through the E.I.R. process and then through the city's planning commission and the city council. The city council will have the final word on the plan and could modify the plan.

If you need any further information to help in your rendering an opinion, please do not hesitate to contact me at your convenience.

Sincerely,



Richard M. Sola

RMS:vs

enclosures

88-421

Oct 31 10 55 AM '88  
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Sincerely,



Richard M. Sola

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enclosures

**CITY OF ESCONDIDO****memorandum**

October 10, 1988

TO: Members, Growth Management Oversight Committee

FROM: Sid Hollins, Chairman

In accordance with the schedule of meetings adopted by the City Council on 10/5/88, the first meeting of the Growth Management Oversight Committee will be held on Monday, October 10 at 6:00 P.M. in the Training Room adjacent to the City Council Chambers. Dinner will be provided for the committee members and staff in the Council closed session room starting at 5:15 (see attached diagram).

Please find attached:

1. Agenda for Monday's meeting
2. City Council Report - General Plan Revision Schedule, including:
  - a. Schedule of subsequent meetings.
  - b. List of your fellow committee members.
  - c. Four statements outlining the specific charge to the committee.
  - d. Copy of Ordinance #88-44 and Ordinance #88-52.
3. Draft General Plans

I am extremely pleased to have the privilege of serving with you on this committee and look forward to our first meeting on Monday evening.

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AGENDA

GROWTH MANAGEMENT OVERSIGHT COMMITTEE (GMOC)  
MEETING #1  
ESCONDIDO CITY HALL

Training Rooms #1 and #2  
Monday, October 10, 1988  
6:00 P.M.

- I. Flag Salute
- II. Introduction
- III. Council Expectations of the GMOC
- IV. Overview of Schedule
  - A. Times/Dates
  - B. Adjustments, if necessary
  - C. Additional Meetings/Field Trips, if necessary
- V. Rules and Procedures
  - A. Time Limits
  - B. Actions/Motions
  - C. Public Participation
  - D. Staff Role
  - E. Record of Meetings
  - F. Other
- VI. Presentation of Task Force Draft General Plan
  - A. Videotape of Previous Presentation to City Council (8/13/88) or Staff Presentation
  - B. Discussion
- VI. Written Communications
- VII. Oral Communications
- VIII. Committee Members Comments

ADJOURNMENT (9:30 P.M.)

# CONDIDO CITY COUNCIL AGENDA

ITEM NO. M/

DATE October 5, 1988

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TO: Honorable Mayor and Councilmembers  
FROM: Robert A. Leiter, Community Development Director  
SUBJECT: General Plan Revision Schedule

RECOMMENDATION:

1. Adopt the attached schedule (Exhibit A) for the General Plan Revision, including 19 meetings of the Growth Management Oversight Committee (GMOC)
2. Reinforce policy directions provided to the GMOC (Exhibit B)
3. Direct staff to begin preparation of an interim ordinance on growth and development, which would be effective from January 1, 1989, until adoption of the new General Plan.

DISCUSSION:

1. Schedule

Exhibit A is the proposed overall schedule for the completion of the General Plan Revision program. This schedule includes 19 meetings of the Growth Management Oversight Committee (GMOC). The GMOC will meet approximately every two weeks beginning October 10, 1988 and ending May 31, 1988. Their main tasks include recommendations on: The Land Use Plan; Quality of Life Standards; Growth Management Policies; and Implementation.

Following completion of the GMOC's work, the schedule calls for public review of a revised Draft Environmental Impact Report and Planning Commission and Council hearings. The entire process is scheduled for completion on November 22, 1989.

2. Policy Direction to the GMOC

During discussions with Sid Hollins, the GMOC's appointed chairman, and Councilmember DeDominicis representing the City Council subcommittee on the General Plan, regarding this schedule, it was suggested that the Council should reinforce previous policy direction given to the Growth Management Oversight Committee. Exhibit B contains the policy directions presented in the Council Subcommittee's memo, as well as the overall goals of the "Cost Managed, Quality of Life Initiative". The Council may wish to supplement these policy directions, or emphasize individual goals, as you provide your direction to the Growth Management Oversight Committee.

3. Extension of Interim Ordinance

City Council adopted Ordinance 88-44 on August 3, 1988 (Exhibit C). This ordinance established certain interim development regulations, including limitations on issuance of residential building permits, which are effective until December 31, 1988. Since the schedule for completion of the General Plan Revision Program will extend through late 1989, Council should consider extending this interim ordinance or establishing other interim regulations for the period from January 1, 1989 until adoption of the new General Plan. It is recommended that Council direct staff to begin developing an ordinance, with policy direction from Council or an appropriate Council subcommittee.

4. Summary

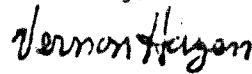
The attached schedule is designed to provide sufficient time and work effort to accomplish all tasks which the Council has assigned to complete the General Plan Revision effort. However, we will monitor progress closely, and advise Council as to any future need to modify this schedule. Upon Council authorization of this schedule, staff will return with specific recommendations for staff and/or consultant support of the General Plan Revision effort.

Respectfully submitted,



ROBERT A. LEITER  
Community Development Director

Reviewed and Recommended  
By City Manager



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PROPOSED SCHEDULE

GENERAL PLAN REVISION

I. REVIEW LAND USE PLAN

<u>DATE</u>	<u>EVENT</u>
A. Monday, October 10, 1988	<u>Growth Management Oversight Committee Meeting #1</u> (GMOC #1) <ol style="list-style-type: none"><li>1. Overview of Schedule</li><li>2. Council Expectations of the Oversight Committee (Council Subcommittee)</li><li>3. Rules and Procedures</li><li>4. Presentation of Task Force's General Plan (staff, consultant)</li></ol>
B. Monday, October 17, 1988	<u>GMOC #2</u> <ol style="list-style-type: none"><li>1. Presentation on LU Needs for Schools, Parks</li><li>2. GMOC Reacts to LU Categories, LU Constraints</li></ol>
C. Monday, October 31, 1988 <i>Nov 1</i>	<u>GMOC #3</u> <ol style="list-style-type: none"><li>1. Review 1 Subarea</li></ol>
D. Monday, November 14, 1988	<u>GMOC #4</u> <ol style="list-style-type: none"><li>1. Review 2 Subareas</li></ol>
E. Monday, November 28, 1988	<u>GMOC #5</u> <ol style="list-style-type: none"><li>1. Review 2 Subareas</li></ol>
F. Saturday, December 10, 1988	<u>GMOC #6: Public Workshop</u> <ol style="list-style-type: none"><li>1. Public Testimony on LU Plan</li></ol>
G. Monday, December 12, 1988	<u>GMOC #7</u> <ol style="list-style-type: none"><li>1. Adopt LU Plan/Status Report to Council</li></ol>

**II. REVIEW QUALITY OF LIFE STANDARDS/FISCAL AND ECONOMIC ANALYSIS**

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<b>DATE</b>	<b>EVENT</b>
A. Monday, January 9, 1989	<u>GMOC #8</u> 1. Review Q.O.L. Standards 2. Review Economic and Fiscal Analysis
B. Monday, January 23, 1989	<u>GMOC #9</u> 1. Review Q.O.L. Standards 2. Review Fiscal Analysis
C. Saturday, February 4, 1989	<u>GMOC #10: Public Workshop</u> 1. Public Testimony on Q.O.L. Standards
D. Monday, February 6, 1989	<u>GMOC #11</u> 1. Adopt Q.O.L. Standards (Revised G. P. Text)/ Status Report to Council

**III. REVIEW GROWTH MANAGEMENT POLICIES**

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<b>DATE</b>	<b>EVENT</b>
A. Monday, February 20, 1989	<u>GMOC #12: G.M. "Locational" Issues</u> 1. Urban Service Areas 2. Annexation Policies 3. Commercial/Industrial Policies
B. Monday, March 6, 1989	<u>GMOC #13: G.M. "Timing" Issues</u> 1. Review SANDAG Growth Forecasts and Proposed Policies 2. Local Growth Issues Related to Timing of Development
C. Monday, March 20, 1989	<u>GMOC #14: G.M. "Implementation" Issues</u> 1. Discuss Implementation Strategies 2. Review Housing Element Policies

II. REVIEW GROWTH MANAGEMENT POLICIES (Continued)

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DATE	EVENT
D. Saturday, April 1, 1989	<u>GMOC #15: Public Meeting</u> 1. Public Testimony on Growth Management Policies
E. Monday, April 3, 1989	<u>GMOC #16:</u> 1. Adopt Growth Management Policies/Status Report to Council

V. OVERALL "WRAP-UP"

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DATE	EVENT
A. Monday, April 17, 1989	<u>GMOC #17: G.P. Implementation Chapter</u> 1. Specific Planning Areas 2. Zoning Conformance Policies 3. Implementation "Master Plans" 4. GPA Criteria 5. Annual Review Requirements
B. Monday, May 1, 1989	<u>GMOC #18:</u> 1. Adopt Final Recommendations on Draft General Plan
C. Wednesday, May 31, 1989	<u>GMOC #19: Council/GMOC Workshop</u> 1. Briefing on Proposed Draft General Plan 2. Council Direction to Staff to Proceed 3. GMOC Work is Now Completed

V. PUBLIC REVIEW OF DRAFT EIR

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DATE	EVENT
A. Friday, June 12, 1989	Begin Public Review: Draft EIR
B.	Public Meeting on Draft EIR

V. PUBLIC REVIEW OF DRAFT EIR (Continued)

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DATE	EVENT
C. Monday, July 27, 1989	End of 45-Day Public Review
D. Monday, August 14, 1989	Final EIR Published

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VI. PLANNING COMMISSION HEARINGS ON THE GENERAL PLAN

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DATE	EVENT
A. Tuesday, September 12, 1989	Public Input
B. Thursday, September 14, 1989	Public Input
C. Tuesday, September 19, 1989	Provide Directions to Staff
D. Tuesday, October 10, 1989	Adopt Recommended Draft General Plan

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VI. CITY COUNCIL HEARINGS ON THE GENERAL PLAN

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DATE	EVENT
A. Wednesday, October 25, 1989	Public Input
B. Wednesday, November 1, 1989	Provide Directions to Staff
C. Wednesday, November 22, 1989	Final Adoption of General Plan

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MEMO

TO: CITY COUNCIL MEMBERS  
FROM: GENERAL PLAN SUBCOMMITTEE JERRY HARMON and CARLA DeDOMINICIS  
RE: GROWTH OVERSIGHT TASK FORCE  
DATE: September 6, 1988

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We are asking the council to appoint the following individuals--each of whom has agreed to serve--to a growth oversight task force:

PLANNING COMMISSIONERS: Brian Bateman,  
David Drake,  
Thomas Tucker

TASK FORCE MEMBERS: Earle Frey  
Lori Pfeiler  
Richard Sola  
John Williamson

AT-LARGE MEMBERS: David Ferguson  
Phyllis Hassinger  
Sid Hollins  
Thomas Knipstein

The Growth Oversight Task Force will be charged with the task of reviewing the proposed revised general plan and melding it with the purposes and intent set forth in the Citizens Quality of Life Initiative.

Specifically, the GOTF shall be asked to:

1. Review the proposed revised general plan and recommend to the Council land use alternatives to achieve a maximum theoretical population buildout of 165,000 and a probable population buildout of 150,000.
2. Review the standards set forth in Section 4 of the Citizens Quality of Life Initiative to determine if they are feasible, cost-effective goals for the community; and if they are not, to recommend alternative feasible cost-effective goals in those ten areas of community concern.
3. To devise a method of regulating/managing the rate of growth until such time as the quality of life standards are met; and a plan to assure that the quality of life standards continue to be met thereafter;
  - A. To recommend a method to prioritize the allocation of building permits under any growth management plan;
4. To analyze the cost-benefit of campus industrial land use within the city's sphere of influence, and, if beneficial, to formulate an industrial land use plan that is both consistent with the quality of life goals and compatible with surrounding land uses.

ORDINANCE NO. 88-44

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF ESCONDIDO, CALIFORNIA, TO REGULATE  
GROWTH & DEVELOPMENT IN THE CITY OF  
ESCONDIDO

SECTION 1. STATEMENT OF PURPOSE AND INTENT

- A. The purpose and intent of this ordinance are to insure a quality of life for the residents within the sphere of influence of the City of Escondido by establishing a comprehensive plan for growth consistent with the standards set forth herein by:
1. Establishing the desired maximum population capacity range for the General Plan Area of the City of Escondido in an amount less than that contemplated by either the current or the proposed revision of the Escondido General Plan.
  2. Calendaring development to occur in an economically viable manner that serves new residents without diminishing the quality of life for existing residents or overburdening the capacity of existing, and the availability of projected, public facilities.
  3. Increasing population at a moderate level so that existing rural, semi-rural and suburban characters in different parts of the Escondido General Plan Area can be maintained as Escondido grows at an orderly and deliberate pace.

SECTION 2. FINDINGS:

- A. Escondido's population has nearly doubled since 1970. The 1988 population of 89,000 is expected to increase by an additional 25,150 people by the year 2000. This past, and the projected 2.3 percent annual Escondido growth rate exceeds that of either the 2 percent projected growth rate of the County of San Diego and the 1.7 percent projected growth rate of State of California.

Municipal services and infrastructure have not kept pace with the population increase. Without a comprehensive, fiscally responsible growth plan, Escondido's quality of life has deteriorated, and will continue to deteriorate.

1. Specifically, the community is experiencing:
  - a. Increase traffic congestion;
  - b. Overcrowded schools;
  - c. Increased crime rate;
  - d. Overburdening of public services and facilities;
  - e. Loss of open space and aesthetic or environmentally sensitive land.
- B. The current Escondido General Plan establishes a maximum build-out in excess of 300,000 people. The proposed revision of the Escondido General Plan establishes maximum build-out populations of approximately 200,000 to 240,000 people. Both the current and proposed revision of the General Plan contemplate populations in excess of that capable of being adequately served with the City's current and projected facility and infrastructure.
- C. The current and proposed revision of the Escondido General Plan do not regulate the timing of predicted future development to assure that new demands on City facilities and infrastructure do not outpace supply, or further exacerbate or cause the decline in the community's quality of life.
- D. To assure orderly, cost-effective growth and an acceptable quality of life for Escondido residents, it is necessary to define the maximum population holding capacity, identify minimum quality of life standards that the residents seek to obtain and preserve, and phase growth such that capital improvements are planned and constructed to keep pace with demand.

Therefore, the City of Escondido shall adopt the following cost managed, quality of life growth plan:

### SECTION 3. MAXIMUM POPULATION HOLDING CAPACITY RANGE

- A. The present City General Plan Land Use Element allows for a maximum capacity build-out in excess of 300,000 which threatens the health, welfare and general safety of the residents of Escondido. To preserve the citizens' quality of life and affirm their right to live in safe and healthful surroundings:
  1. The City's General Plan Land Use Element shall be amended to define and designate land uses within its sphere of influence to establish a maximum population holding capacity range of 150,000 to 165,000.

### SECTION 4. QUALITY OF LIFE STANDARDS

- A. The residents of Escondido hereby declare the Ten Quality of Life Standards set forth below as their legitimate, minimum community interests, goals and objectives:

1. Traffic Traffic at intersections along Prime Arterials shall operate on a level of service of no less than C, as defined by the TRB Highway Capacity Manual to mean "stable flow; speeds and maneuverability more closely restricted." Traffic at intersections along Major Roads and Collector Roads shall operate on a level of service of no less than B, as defined by the TRB Highway Capacity Manual to mean "stable flows; operating speeds beginning to be restricted; little or no restrictions on maneuverability from other vehicles."

2. Schools The City shall have sufficient classroom space in permanent school facilities to meet state mandated space requirements, with student attendance calculated on traditional, rather than year-round school schedules. Teacher/student ratios shall not exceed state mandated standards.

3. Police The City shall maintain a police/population ratio of 1.3 officers to 1,000 residents. Further, the city shall maintain police staff and organize patrol areas to achieve a response time of four minutes for Priority 1 calls (life-threatening incidents) and six minutes for Priority 2 calls (serious but not life-threatening incidents).

4. Fire The City shall maintain fire station locations such that all habitable structures are located no more than three miles travel distance or a five minute response time. Each fire engine company shall be staffed with four men crews. Further, the City shall maintain staffing levels adequate to achieve an Insurance Service Office rating of 3. Paramedic units shall be located throughout the community in order to meet a maximum response time of 10 minutes in urban areas and 15 minutes in rural areas.

5. Sewer System The City shall have adequate trunkline, pumping facilities and secondary treatment capacity to meet both normal and emergency demand and to avoid sewage spills affecting streams, and reservoirs and shall provide a sewage capacity able to treat 260 gallons per day for each residence on said system.

6. Parks The City shall provide 2.5 acres of developed neighborhood and community parks and special recreation facilities per 1,000 residents.

7. Library The Public Library shall have a collection stock and staffing to meet the minimum standards set by the American Library Association of 3 books per capita and 1 full-time equivalent employee per 2,000 residents. The City shall provide branch libraries to serve neighborhood areas that include a population density of 30,000 within a two mile radius.

8. Open Space Permanent bodies of water, floodways, slopes with an inclination of greater than 35 percent or more, significant wetlands, riparian or woodland habitats, shall be considered ninety percent (90%) undevelopable and shall be excluded from density calculations.

9. Air Quality The locally generated population within the San Diego Air Pollution Control District as measured at the Escondido monitoring

station shall meet federal and state Clean Air health standards for ozone, particulates, nitrogen, nitrogen dioxide, carbon monoxide, sulfur dioxide, lead, sulfates and other federal and state criteria air pollutants for no fewer than 364 days in a calendar year.

10. Water System The City shall have adequate water supply, pipeline capacity and storage capacity to meet normal and emergency situations and shall have the capacity to provide 600 gallons per day per household. Federal and state drinking water quality standards shall be met.

#### SECTION 5. RESIDENTIAL IMPROVEMENTS

- A. Effective January 1, 1988 and until the Cost-Managed, Quality of Life Initiative Standards of Section 4 are met, the City shall not authorize any residential development unless at the time of authorization the City ensures that the number of building permits issued for residential development dwelling units shall not exceed a population growth rate in excess of 1.2% annually measured on the basis of 2.6 persons per permit.
1. If the number of units authorized for a given year are not issued in that year, up to a maximum of fifty percent of the unused units may be carried forward to the next year. The number carried forward shall not be included in calculations for subsequent years.
  2. If all ten standards are met for any two consecutive fiscal years, the City may, at its option, replace the limits of Section 5 with a limit based on the California average annual growth rate for those two complying years. If this option is exercised, the dwelling units shall be authorized for the next fiscal year so long as all such standards are maintained.
  3. If all ten standards are met for five consecutive years the City may, at its option, eliminate or replace the limits of Section 5 with a limit or limits as the City may determine appropriate to ensure the Cost-Managed, Quality of Life Standards of Section 4 will continue to be met.
- B. Building permits for single family residences, duplexes, triplexes or fourplexes on a lot of record existing on the effective date not requiring discretionary approvals or subdivisions and without concurrent enabling upzone request shall be exempt from the limitations set forth in Section 5.
- C. Projects that rehabilitate, remodel or replace existing dwellings units without adding any units, shall be exempt from the limitations set forth in Section 5.
- ~~D. Property or projects upon which substantial expenditures or documented non-cancellable liabilities have been incurred and substantial construction has been performed in good faith reliance on an issued building permit, or pending final discretionary approval shall be exempt from the limitations set forth in Section 5.~~
- ~~1. Substantial expenditures and good faith shall be determined on a case-by-case basis by the City Council following application by the~~

~~developer. Actions taken to speed up or expedite a development project during the pendency of this measure shall not be considered in good faith and shall not qualify for an exemption.~~

*See Attached Amendment*

**SECTION 6. RESIDENTIAL PERMIT ALLOCATION BASED ON GENERAL FUND REVENUE-VALUE**

A. In the event that the maximum residential development dwelling permits allowed by Section 5 has been issued in any calendar year, more permits may be issued under the following conditions:

1. In consideration of the right to develop beyond the limitations set forth in Section 5, the individual or entity obtaining said permit agrees that each residential development dwelling permit issued under Section 6 shall be subject to an excessive growth-share, special impact assessment fee in a fixed sum equivalent to an amount equal to the cumulative dollar total of all other impact fees ordinarily assessed in the normal course. The individual or entity obtaining said permits agrees that the excessive growth-share special impact assessment fee shall be allocated by the City to further the attainment of the community goals and objectives set forth in Section 4.

2. In no event shall the maximum population growth rate exceed 1.7 percent annually, measured by 2.6 persons per new residential dwelling permit issued pursuant to Sections 5 and 6.

**SECTION 7. CALCULATION OF AUTHORIZED BUILDING PERMITS**

A. If the number of building permits issued for residential development dwelling units authorized by Sections 5 and 6 (without regard to the exemptions set forth in Subsections 5(B), 5(C) and 5(D)) for calendar year 1988 has been equaled or exceeded on the effective date of this Ordinance, no further building permits for such uses shall be issued during the remainder of 1988, except for uses which are exempt from the limitations imposed by this Ordinance pursuant to the provisions of Subsections 5(B), 5(C) and 5(D).

**SECTION 8. RESIDENTIAL PRIORITIZED ALLOCATION BASED ON MERIT**

A. Within 90 days of the effective date of this ordinance, the City Council shall develop, adopt and implement after noticed public hearing, a prioritized allocation system for issuing residential dwelling permits allowed by Section 5 and 6 based upon merit.

B. The priority allocation shall assign objective measures of merit based upon the proposed housing units' ability to further the Quality of Life Standards in Section 4, and considering the need for the type of proposed housing unit in relation to existing housing stock and vacancy factors, compliance with state and federal law and moderate income housing

mandates, environmental benefits, design quality, compatibility to surrounding area and upon such additional criteria, as the City Council may adopt consistent with the purposes, findings, and intent of this measure.

- C. This residential prioritized allocation merit-based system shall be reviewed, amended or modified by the City Council annually after noticed public hearing, to address changing circumstances dictating revised priorities.

#### SECTION 9. COMMERCIAL AND INDUSTRIAL PLAN

- A. Within 180 days of the effective date of this ordinance, the City shall develop, adopt and implement a plan for commercial and industrial growth which meets, at minimum, the following criteria:
  - 1. Furthers the attainment of the Quality of Life Standards set forth in Section 4.
  - 2. Establishes impact fees or other developer-paid programs to finance necessary public facilities, services and infrastructure that are attributable to the new commerce or industry.
  - 3. Is environmentally and design compatible with existing land uses.

#### SECTION 10. CAPITAL IMPROVEMENT REVENUE PLAN

- A. The City Council shall, within 180 days from enactment of this ordinance, adopt a Ten Year Capital Improvement Plan and Budget that provides for the fiscally balanced implementation of public improvements, facilities and infrastructure that would further the attainment of the quality of life standards set forth in Section 4, giving priority to the standards as enumerated within Section 4.
- B. The Capital Improvement Plan shall be reviewed and revised annually to address unanticipated emergencies or changing circumstances dictating revised local priorities.

#### SECTION 11. ANNUAL REPORT

- A. Each year, the City Council shall adopt and publish, after noticed public hearing, a report certifying that each provision of this measure has been complied with, and setting forth the manner of compliance.

## SECTION 12. IMPLEMENTATION

- A. Upon the effective date of this ordinance, the General Plan of the City of Escondido shall be deemed to be amended to contain these concepts and enforced as such by the City. Where this ordinance is in conflict with other aspects of the General Plan or other ordinances or regulations, the terms of this ordinance shall prevail.
- B. The City Council, and all City Agencies, Boards, and Commissions are hereby directed to take any and all actions necessary to carry out this ordinance and implement it as a matter of the highest priority to the City.
- C. The City Council shall within 180 days revise the text of the General Plan and other ordinances to specifically reflect the provisions of this ordinance.
- D. In the interim, developments not exempted herein may be approved if the City Council first adopts unanimous findings that said developments are consistent with the provisions of this ordinance.

## SECTION 13. SEVERABILITY

If any section, subsection, sentence clause, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by a final judgment of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. It is hereby declared that this ordinance and each section, subsection, sentence, clause, part or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

## SECTION 14. EXPIRATION

This Ordinance shall expire and be of no further force or effect on the earlier of the effective date of the initiative proposition currently being circulated for signature and entitled "An Initiative Measure To Regulate Growth and Development In the City of Escondido" or December 31, 1988.

## EXPLANATION OF EXEMPTION

### SECTION 5B: OF CITY ORDINANCE 88-44

"Building permits for single-family residences, duplexes, triplexes, or fourplexes on a lot of record existing on the effective date not requiring discretionary approvals or subdivisions and without concurrent enabling upzone request shall be exempt from the limitations set forth in Section 5."

#### GUIDELINES FOR APPLICANT:

The construction of a single-family residence, or duplex, or triplex, or fourplex conforming with existing zoning on a legal lot of record which was in existence as of the effective date of the ordinance and which is in separate ownership at the time the building permit is issued shall be considered exempt from the ordinance. This exemption shall not apply where the property owner owns any vacant parcels adjacent to the property for which a building permit is requested.

#### DOCUMENTATION NEEDED TO EXPLAIN REQUEST:

1. Evidence of ownership such as a copy of a Grant Deed or other document which demonstrates that the subject property was a legal lot of record as of September 10, 1988.
2. Evidence to prove that the property owner does not own any vacant properties adjacent to the subject parcel.



## EXPLANATION OF EXEMPTION

### SECTION 5C: OF CITY ORDINANCE 88-44

"Projects that rehabilitate, remodel, or replace existing dwellings units without adding any units, shall be exempt from the limitations set forth in Section 5."

#### GUIDELINES FOR APPLICANT:

There are no guidelines necessary for this exemption.

#### DOCUMENTATION NEEDED TO EXPLAIN REQUEST:

1. Sufficient information for staff to determine no dwelling units are being added to the existing development.



ORDINANCE NO. 88-52

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ORDINANCE NO. 88-44 PERTAINING TO THE REGULATION OF GROWTH AND DEVELOPMENT IN THE CITY OF ESCONDIDO BY THE AMENDMENT OF SUBSECTION 5(D) AND THE ADDITION OF A NEW SUBSECTION 5(E) AND DECLARING THE URGENCY THEREOF

The City Council of the City of Escondido, California,  
DOES HEREBY ORDAIN as follows:

SECTION 1. That Subsection 5(D) of Ordinance No. 88-44  
is amended to read as follows:

D. Property or projects which have received final approval of a tentative subdivision map, parcel map, planned development, planned unit approval or an approved plot plan on or before September 14, 1988 and upon which substantial expenditures or documented non-cancellable liabilities have been incurred or substantial construction has been performed in good faith reliance on an issued building permit, or pending final discretionary approval may be determined by the City Council to be exempt from the limitations set forth in Section 5 in accordance with the following provisions:

1. Substantial expenditures and good faith shall be determined on a case-by-case basis by the City Council following application by the developer. Actions taken to speed up or expedite a development project during the pendency of this measure shall not be considered in good faith and shall not qualify for an exemption.
2. Applications for exemptions pursuant to this subsection must be submitted to the City no later than 5:00 p.m., October 7, 1988.
3. In reviewing applications under this subsection, the City Council shall consider:
  - (i) the extent to which the project furthers the Quality of Life Standards set forth in Section 4; and
  - (ii) the extent to which failure to grant the exemption will result in an economic hardship to

the developer of or other parties interested in the project.

4. Exemptions granted pursuant to this subsection shall accrue only to the benefit of party identified in the exemption. The exemption shall not run with the land and shall not be assignable.
5. The exemption shall expire and no further building permits shall be issued pursuant to the exemption at 5:00 p.m., March 1, 1989.
6. The City Council may grant or deny applications for exemptions under this subsection either in whole or in part. If an application is denied, the City Council may assign the project priority for the issuance of building permits pursuant to Section 6 in such manner as it deems appropriate.

SECTION 2. Ordinance No. 88-44 is amended by the addition of a new Subsection 5(E), to read as follows:

E. Any project which is determined to be exempt from Section 5 shall, as a condition of such exemption, be required to pay such fees as may have been adopted by the City (without regard to any delay in the effective date of such fees which may otherwise apply pursuant to any other provision of law) at the time a building permit is issued. Failure to comply with this provision shall render the exemption and any building permit issued pursuant thereto immediately null and void.

SECTION 3. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. That all ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 5. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or

a summary to be published one time within 15 days of its passage in the Time Advocate, a newspaper of general circulation, printed and published in the City of Escondido.

SECTION 6. This ordinance is adopted as an urgency measure and shall be effective September 10, 1988.

DECLARATION OF URGENCY

The City has recently adopted Ordinance No. 88-44 which will severely restrict the eligibility of residential development projects for building permits for the remainder of 1988.

At a hearing held on August 24, 1988, the City Council received testimony that the exemptions from the building permit limitations currently provided in Ordinance No. 88-44 do not adequately address the circumstances of certain developers who, as a consequence of their inability to receive building permits in a timely fashion under the existing ordinance may, suffer severe financial hardship.

In order to address these needs and alleviate the imminent economic hardship which these developers have testified they will suffer under the current ordinance, this City Council desires and deems it in the best public interest to adopt this ordinance as an urgency measure to provide for a hardship exemption from the provisions of Ordinance No. 88-44.

David W. Ferguson  
Loggs, Fletcher and Mack  
13 W. Valley Pkwy., Ste. 345  
Escondido, CA. 92025-2552

Growth Management Oversight  
Committee

Thomas B. Tucker  
55 Chestnut Street  
Escondido, CA. 92025

David A. Drake  
1019 Hypoint Drive  
Escondido, CA. 92027

Harle W. Frey  
110 Reed Road  
Escondido, CA. 92027

Thyliss A. Hassinger  
304 Orange Avenue  
Escondido, CA. 92025

Brian Pfeiler  
Magnolia Avenue  
Escondido, CA. 92025

Richard Sola  
21 East 6th Avenue  
Escondido, CA. 92025

John Williamson  
945 S. Juniper Street  
Escondido, CA. 92025

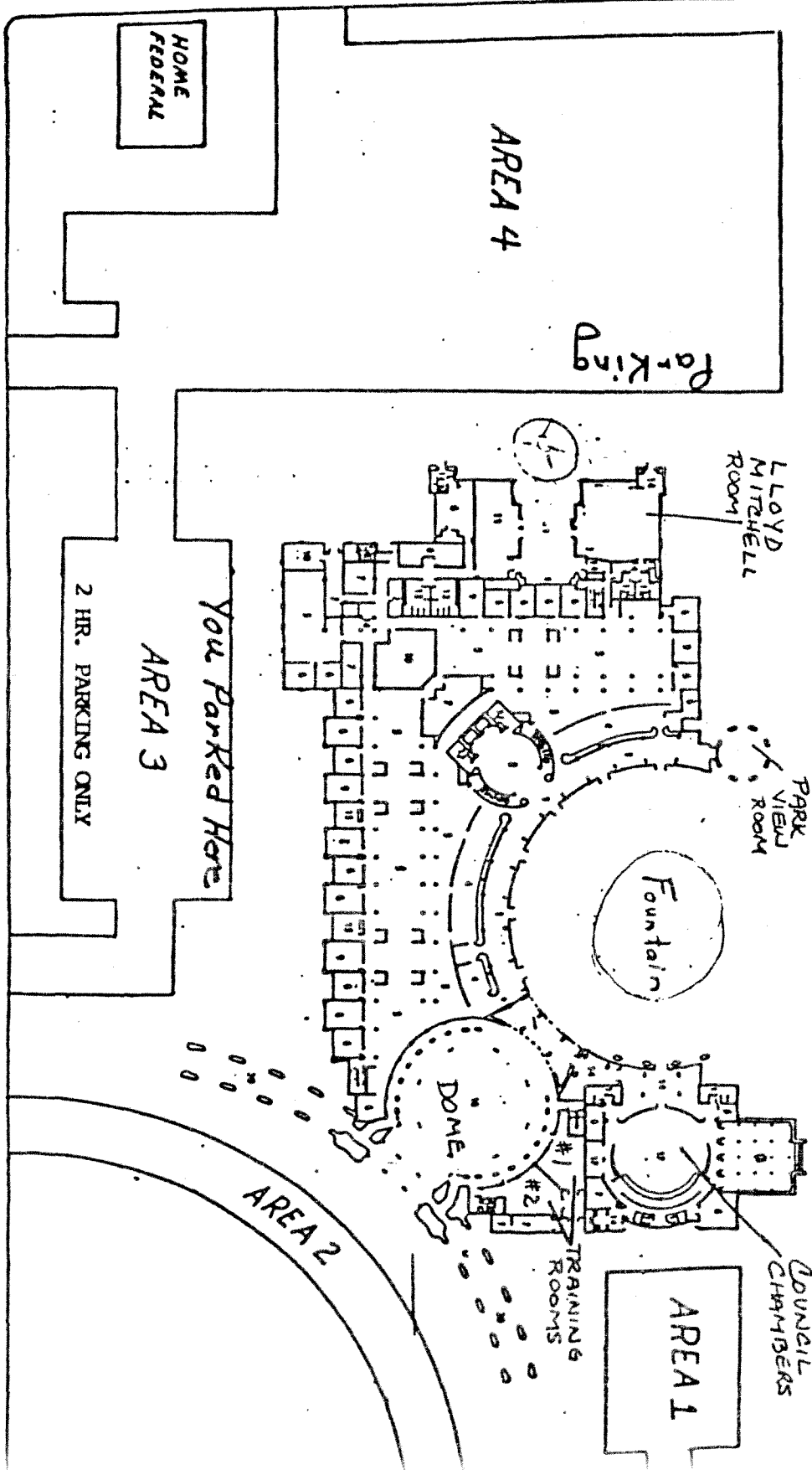
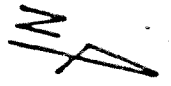
Christian Bateman  
1021 Alton Way  
Escondido, CA. 92025

David Hollins  
274 La Palma Glen  
Escondido, CA. 92026

Thomas Knipstein  
15 N. Elm Street  
Escondido, CA. 92025



NO. ESCONDIDO BLVD.



W. VALLEY PKWY. (one way street)

HOME FEDERAL

AREA 4

Parking

LLOYD MITCHELL ROOM

PARK VIEW ROOM

Fountain

DOME

COUNCIL CHAMBERS

TRAINING ROOMS #1 #2

AREA 1

AREA 3

2 HR. PARKING ONLY

You Parked Here

AREA 2

# CITY OF ESCONDIDO

## memorandum

April 8, 1987

TO: General Plan Citizens' Task Force  
FROM: Brian R. Smith, Assistant Planning Director  
SUBJECT: Conflict of Interest Guidelines

Richard Sola has inquired as to the responsibility of each Task Force Member with regards to "conflict of interest" between serving on the Task Force and holding an economic interest in the General Plan area. I have discussed this matter with the City Attorney, who has concluded that the Task Force members serve in a manner similar to the Downtown Revitalization Committee, that is, an advisory capacity.

The attached memo from the City Attorney to the Downtown Revitalization Committee equally applies to the Citizens' Task Force. Feel free to contact me if you have any questions about your specific situation; I will then refer these questions to the City Attorney.

kh

cc: City Attorney

February 11, 1987

Terry Jackson  
Chairman  
Downtown Revitalization Committee  
John Burnham Company  
203 East 2nd Avenue  
Escondido, CA 92025

Subject: Conflicts of Interest

Dear Mr. Jackson:

QUESTION PRESENTED:

I have been asked whether the Escondido Downtown Revitalization Committee is subject to the provisions of the Political Reform Act of 1974 (California Government Code Section 81000 et seq; all statutory references shall be to the Government Code, and the Political Reform Act of 1974 shall be referred to as the "Act").

CONCLUSION:

The Downtown Revitalization Committee is not subject to the provisions of the Act and, therefore, the members of that Committee are not subject to the disqualification provisions found at Sections 87100 et seq. nor the disclosure requirements found at Sections 87200 et seq.

DISCUSSION:

The conflict of interest and disclosure provisions of The Act apply generally to public officials and governmental entities as those terms are used in the Act. Regulation 18700 promulgated by the Fair Political Practices Commission (the "Commission") discusses the meaning of the term public official. A copy of that regulation is attached for your reference.

Terry Jackson  
Page 2  
February 10, 1987

At least two opinions of the Commission (copies of which I attach for your reference) appear to be germane. In the first, an opinion requested by Don Bonfa, City Attorney of Huntington Beach, 2 FPPC OPINIONS 146 (No. 76-033, October 5, 1976), the Commission concluded that "members of a project area committee are not 'public officials' within the meaning of. . . Section 87100. Specifically, the Commission concluded that none of the individuals who served on a project area committee could be "public officials" by virtue of their status as "members" of the project area committee because they met none of the criteria set forth in regulation 18700 (a)(1).

The second opinion of the Commission which gives guidance in this area was requested by Charles Leach, Assistant City Attorney of the City of Bakersfield, 4 FPPC OPINIONS 48 (No. 76-092, September 6, 1978). In that opinion, the Commission examined whether the conflict of interest and disclosure provisions of the Act applied to the City of Bakersfield's Downtown Business Association or Chamber of Commerce, both of which administered certain city programs and acted in an advisory capacity on various city issues. The Commission, relying on its Siegel opinion, 3 FPPC OPINIONS 62 (No. 76-054, July 6, 1977), compared the functions of the Downtown Business Association and the Chamber of Commerce with the criteria established in the Siegel opinion for determining whether an entity is governmental in character. Those criteria are:

- a. Whether the impetus for the formation of the entity was with a governmental body.
- b. Whether all or most of the entity's funds are received from public sources.
- c. Whether the entity is performing a function which public agencies are legally authorized to perform or which they traditionally have performed.
- d. Whether the entities are treated as "public" by other statutory provisions.

In the Leach opinion, the Commission concluded that while some of the Siegel criteria applied to the Downtown Business Association and Chamber of Commerce, on the whole neither entity was

Terry Jackson  
Page 3  
February 10, 1987

sufficiently covered by those criteria to qualify as a governmental agency. Similarly, in the case of the City of Escondido's Downtown Revitalization Committee, while some of the Siegel criteria do apply (for example, the Committee was formed by the City and receives all its funding from the City), on the whole the Downtown Revitalization Committee is much more akin to the Chamber of Commerce and Downtown Business Association than the Commission held in Leach were not governmental entities under the Siegel criteria, than the Water Board which in the Siegel opinion was determined to be a governmental entity.

For the above reasons, I conclude that the members of the Downtown Revitalization Committee are not public officials nor is the Committee itself a governmental entity as those terms are used in the Act and, therefore, the members are not subject to the conflict of interest provisions or disclosure requirements of the Act.

Yours very truly,

DAVID R. CHAPMAN  
City Attorney

DRC/mce

cc: Marilyn Whisenand  
Jeanne Bunch