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September 7, 2011

To: Members: Administrative Services Policy Committee

From: Amy Worth (Chair), Council Member, Orinda  
Natasha Karl, League Staff (916) 658-8254

Re: **POLICY COMMITTEE MEETING — Annual Conference**  
**DATE: Wednesday, September 21, 2011**  
**TIME: 11:00 a.m. – 12:30 p.m.**  
**PLACE: Moscone West Convention Center, Room 3014**  
Fourth & Howard Street  
San Francisco

Attached is the agenda for the upcoming Administrative Services Policy Committee meeting. Included are the Annual Conference Resolutions No. 1 and No. 2 that have been assigned to this committee, as well as the background information.

Annual Conference registration is not required to attend a policy committee and since lunch is not provided at this meeting, an RSVP is not necessary. However, if you plan to attend ONLY your 90-minute policy committee meeting and do not plan to attend any other event in conjunction with the Annual Conference, please contact [mdesmond@cacities.org](mailto:mdesmond@cacities.org) and [klofte@cacities.org](mailto:klofte@cacities.org) with your request in writing.

On behalf of Vice Chair Karen Spiegel, League Staff and myself, we wish to thank each of you for your participation as a member of the Administrative Services Policy Committee during 2011.

We hope to see you in San Francisco!

**ADMINISTRATIVE SERVICES POLICY COMMITTEE**  
**Annual Conference**  
**Wednesday, September 21, 2011**  
**11:00 a.m. – 12:30 p.m.**  
**Moscone West Convention Center, Room 3014**  
**San Francisco, CA**

**A G E N D A**

**I. Welcome and Introductions**

**II. Public Comment**

**III. Annual Conference Resolutions** (*Attachment A*) *Action*

- Resolution #1 – Alternative Methods of Meeting Public Notice Requirements and to Advocate for Revisions to the Government Code Recognizing Alternative Methods as a Means to Meet Noticing Requirements  
*Speaker:* Bill Jahn, Mayor, Big Bear Lake and President, League's Desert/Mountain Division
  
- Resolution #2 – Tort Reform  
*Speaker:* Charlie Goeken, Mayor, Waterford

**IV. Adjournment of 2011 Administrative Services Policy Committee**

**NOTE:** Lunch will not be served in conjunction with this meeting.

**REMINDER:** The 2011 policy committee appointments will end at the close of the Annual Conference; appointments for 2012 can be requested thereafter. Members seeking appointments for 2012 are urged to contact their incoming department, division, or affiliate president immediately following the Annual Conference to request reappointment. A presidential appointment from the League's incoming president may also be requested, although members are encouraged to first exhaust appointment opportunities through their division or department presidents. These requests should be sent c/o Meg Desmond, 1400 K Street, Sacramento, CA 95814 or via email: [mdesmond@cacities.org](mailto:mdesmond@cacities.org). Please include a brief bio with a letter identifying which committee you would like to be assigned.

If you have questions regarding the appointment process, please call (916) 658-8224, send an email to [mdesmond@cacities.org](mailto:mdesmond@cacities.org), or visit our Web site: [www.cacities.org/polcomm](http://www.cacities.org/polcomm)

**1. RESOLUTION SUPPORTING ALTERNATIVE METHODS OF MEETING PUBLIC NOTICE REQUIREMENTS AND TO ADVOCATE FOR REVISIONS TO THE GOVERNMENT CODE RECOGNIZING ALTERNATIVE METHODS AS A MEANS TO MEET NOTICING REQUIREMENTS**

Source: Desert/Mountain Division  
Referred To: Administrative Services Policy Committee  
Recommendation to General Resolutions Committee:

WHEREAS, the Desert/Mountain Division of the League of California Cities recognizes local municipalities have a civic duty to conduct business in open, noticed public meetings; and

WHEREAS, that same duty calls for cities to engage their citizenry by noticing time and locale of public meetings, public hearings, introduction and adoption of Ordinances, and bid opportunities; and

WHEREAS, in accordance with California Government Code Section 54954.2, the requirement for posting meeting agendas reads as follows:

*54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public ...*

WHEREAS, in accordance with California Government Code Section 6066, the requirement for publishing public hearing notices reads as follows:

*6066. Publication of notice pursuant to this section shall be once a week for two successive weeks. Two publications in a newspaper published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The period of notice commences upon the first day of publication and terminates at the end of the fourteenth day, including therein the first day.*

WHEREAS, in accordance with California Government Code Section 6060, the term “notice” is defined as follows:

*6060. Whenever any law provides that publication of notice shall be made pursuant to a designated section of this article, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner provided in that section. As used in this article, “notice” includes official advertising, resolutions orders, or other matter of any nature whatsoever that are required by law to be published in a newspaper of general circulation.*

WHEREAS, notwithstanding any provision of law to the contrary, a newspaper is a "newspaper of general circulation" if it meets the criteria listed in California Government Code Sections 6000 and 6008, which read as follows:

*6000. A "newspaper of general circulation" is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers, and has been*

*established, printed and published at regular intervals in the State, county, or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement.*

**6008.** *Notwithstanding any provision of law to the contrary, a newspaper is a "newspaper of general circulation" if it meets the following criteria:*

- (a) It is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers and has been established and published at regular intervals of not less than weekly in the city, district, or judicial district for which it is seeking adjudication for at least three years preceding the date of adjudication.*
- (b) It has a substantial distribution to paid subscribers in the city, district, or judicial district in which it is seeking adjudication.*
- (c) It has maintained a minimum coverage of local or telegraphic news and intelligence of a general character of not less than 25 percent of its total inches during each year of the three-year period.*
- (d) It has only one principal office of publication and that office is in the city, district, or judicial district for which it is seeking adjudication.*

WHEREAS, in accordance with California Government Code Section 36933, within 15 days after a passage of an Ordinance, a City Clerk shall publish and post Ordinances, and if so chosen, a member of the public may request notification as follows:

- .....(d) (1) Any member of the public may file with the city clerk, or any other person designated by the governing body to receive these requests, a request for notice of specific proposed ordinances or proposed amendments to ordinances.*
- (2) Notice pursuant to paragraph (1) shall be mailed or otherwise transmitted at least five days before the council is scheduled to take action on the proposed ordinances or proposed amendments to an ordinance. **Notice may be given by written notice properly mailed or by e-mail if the requesting member of the public provides an e-mail address.** Notice may be in the form specified in either paragraph (1) or (2) of subdivision (c), as determined by the city council.*
- (3) As an alternative to providing notice as requested of specific proposed ordinances or proposed amendments to ordinances, the city clerk, or other person designated by the governing body, may place the requesting member of the public on a general mailing list that gives timely notice of all governing body public meetings at which proposed ordinances or proposed amendments to ordinances may be heard, as provided in Section 54954.1. If this alternative is selected, the requesting member of the public shall be so advised.*
- (4) The city may charge a fee that is reasonably related to the costs of providing notice pursuant to this subdivision. The city may require each request to be annually renewed.*
- (5) Failure of the requesting person to receive the information pursuant to this subdivision shall not constitute grounds for any court to invalidate an otherwise properly adopted ordinance or amendment to an ordinance.*

WHEREAS, as California Government Code Section 36933 already recognizes electronic mail as a form of communicating with the public when it comes to Ordinances, the Desert/Mountain Division of the League of California Cities seeks other public noticing requirements in the Government Code reflect the same; and

WHEREAS, the traditional means of noticing in local adjudicated newspapers is antiquated and inefficient; and

WHEREAS, the Desert/Mountain Division of the League of California Cities recognizes that in recent decades, technology has vastly improved; and

WHEREAS, that technology includes the advent of the internet, electronic mail, social media, smart phones and other smart devices (i.e. iphones/ipads); and

WHEREAS, the public is becoming increasing familiar with the use of new technology and using it as a means to gain quick and up-to-date information; and

WHEREAS, the public has a preference for receiving information in an electronic format; and

WHEREAS, the Desert/Mountain Division of the League of California Cities is in support of cities communicating with the public using innovative, enhanced methods of communication; now therefore be it

RESOLVED by the General Assembly of the League of California Cities assembled at the Annual Conference in San Francisco, September 23, 2011, that the Desert/Mountain Division of the League of California Cities:

1. Desires to enhance current public noticing requirements by communicating with the public using innovative, technologically friendly methods of communication.
2. Request that the League, as a whole, support alternative methods of meeting public notice requirements.
3. Request the League advocate for the State Legislature to adopt revisions to the California Government Code recognizing alternative methods as a means to meeting public notice requirements.
4. Support any legislation that would adopt revisions to the California Government Code recognizing alternative methods as a means to meeting public notice requirements.

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### **Background Information on Resolution No. 1**

**Source:** Desert/Mountain Division

Municipalities have a civic duty to conduct business in open, properly noticed public meetings. That same duty calls for cities to engage their citizenry by noticing time and locale of public meetings, public hearings, introduction and adoption of Ordinances, bid opportunities and the like. The public has a right to know what local elected officials are doing with public funds. The public has a right to know what decisions are being made that will affect them.

In efforts to engage the public, encourage more participation at public meetings and enhance communication with constituents, our division has discussed current public noticing requirements required by the State of California. Current requirements include cities place notices in a general newspaper of circulation. Annually, cities spend quite a bit on this task. For example, the City of

Big Bear Lake, population 6,700, spends \$15,000 - \$20,000 a year on noticing in their local weekly newspaper and on occasion, in a regional. This is a substantial amount for a small city.

Noticing is typically done in the classified section, next to garage sale and help wanted ads. This system is antiquated and inefficient. Can you remember the last time you read that section of the paper? In recent decades, technology has vastly improved, given the advent of the internet, electronic mail, social media, smart phones and other smart devices (iphones/ipads). The public is becoming increasing familiar with the use of new technology, using it as a means to gain quick and up-to-date information. We see more and more the public have a preference for receiving information in an electronic format. Technology allows us to be more efficient and when it comes to business, much more economical.

Our division would like to see a change to State Law that allows cities more discretion based on their community's distinct needs (i.e. residents can sign up for e-mail alerts of public hearings, meetings, etc.); and that would count towards meeting the public noticing requirements. We don't want to eliminate noticing in newspapers, just enhance requirements by allowing cities to use alternate methods as a means of meeting the law.

In recent years, this issue has come before the State Legislature, but newspaper publication groups have lobbied against this. They receive revenue from classified ads. But noticing is not supposed to be about generating revenue for private industry. It is supposed to be about informing the public, getting them more involved in local government and enhancing our methods of communication. Many times, we don't always see the turnout we would like at public meetings and hearings. We need to enhance our methods to change this.

In addition, cities are supposed to be reimbursed by the State for a portion of the cost to notice meetings, but these funds have been deferred for several years now due to the State Budget. If we are not receiving these funds, why can't the legislature work with cities to modify the requirements? We want to work smarter, not harder!

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**2. RESOLUTION RELATING TO TORT REFORM**

Source: Mayor Charlie Goeken, City of Waterford  
Referred To: Administrative Services Policy Committee  
Recommendation to General Resolutions Committee:

WHEREAS, frivolous lawsuits cost cities, counties, special districts, and school districts millions dollars a year to defend; and

WHEREAS, the money that cities spend each year in legal fees fighting frivolous lawsuits is a waste of taxpayers' money; and

WHEREAS, the money spent to defend frivolous lawsuits could be put to better public use; and

WHEREAS, cities or other government entities are easily sued without reasonable cause when there is no requirement that the person or entity filing the lawsuit have any responsibility when the lawsuit is lost; and

WHEREAS, the public good would be served if the law were changed to require the person or entity who filed the lawsuit to pay for all fees and costs of the city, or other sued party, to defend the lawsuit if it were unsuccessful; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Francisco, September 23, 2011, that the League encourages the existing 482 California cities to adopt resolutions calling for tort reform; and, be it further

RESOLVED, that California cities be encouraged to ask their state legislators to pass a bill that establishes loser-pays lawsuit and tort reform; and, be it further

RESOLVED, that California cities are encouraged to ask the League to sponsor and support a statewide proposition that makes loser-pays lawsuit and tort reform a constitutional amendment.

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### **Background Information on Resolution No. 2**

**Source:** City of Waterford

Every year cities must weigh the cost of fighting frivolous lawsuits against the amounts requested by the plaintiffs. The frivolity of the lawsuits usually have little bearing on this balancing act, nor does the likelihood that settling will only encourage more lawsuits. This perverse use of the court system penalizes cities and other government entities by allowing a person to file a lawsuit with no regard for the facts and no exposure on their part. Attorneys accept these lawsuits, relying on getting paid by a city settling the lawsuit as a purely business decision, often times receiving more money than the plaintiffs.

Scarce taxpayer dollars are squandered fighting frivolous lawsuits or paying settlements to avoid lengthy trials and bad publicity. The passage of tort reform and a loser-pays constitutional amendment would enable elected officials to govern fairly without the fear of frivolous lawsuits, while still allowing the public to file suit when they have genuinely been wronged. The money saved through court costs, attorney's fees, payouts, staff time, and insurance premiums would be put to better use by cities to serve their taxpayers.