



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: Disclosure and Sharing of
Material Facts

DATE: 4-18-06

BACKGROUND

On March 7, 2006, the City Council reviewed various issues proposed by Councilmember Reed relating to closed sessions and the Council's duty to disclose material facts. The City Attorney's Office prepared draft Council Policy language for discussion on the disclosure of "material facts." The Council directed the City Attorney to further clarify the term "material facts" for the proposed Council Policy and also, as it is used and applied in the Lobbying Ordinance (SJMC 12.12.510 C. Prohibitions.)

ANALYSIS

The following proposed Council Policy is prepared for City Council review and discussion:

Purpose

The purpose of this policy is to require the Mayor and Members of the City Council to publicly share substantive information that is relevant to a matter under consideration by the City Council which they have received from sources outside of the public decision-making process.

Scope of Application

This Policy applies to each Member of the City Council which includes the Mayor.

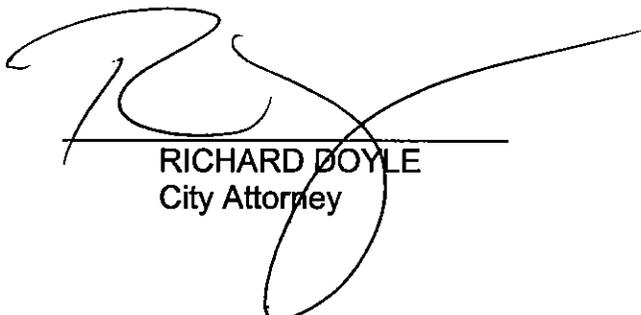
Policy

1. Each Member of the City Council has a duty and responsibility to publicly disclose all substantive information and material facts related to an item on the City Council Agenda to the City Council after the information and material facts are obtained or received from sources outside of the public decision-making

process.

2. The information shall be disclosed prior to the City Council taking any action on the item. All written information which is required to be disclosed in accordance with this Policy shall be provided to the City Clerk who will make the information publicly available. Oral information shall be communicated to the City Council no later than public discussion of the matter under consideration by the City Council after a good faith determination by the Member of the City Council that the information obtained is required to be disclosed in accordance with this Policy.
3. Substantive information and material facts means important information or important facts that are relevant and necessary for a Member of the City Council to make an informed and knowledgeable decision on a pending legislative matter or an item of business before the City Council.

A fact is "material" if it is one which would likely to affect the judgment or decision of a Member of the City Council or likely to influence a Member of the City Council on an item of business on the City Council Agenda. Further, a fact is "material" if its omission or the failure to disclose the fact will substantially mislead any Member of the City Council from making an informed and knowledgeable decision about a pending legislative matter or an item of business before the City Council.



RICHARD DOYLE
City Attorney

cc: Les White