



AUGUST 27, 2018

Dear City Council,

Our organization is requesting the removal of Planning Commissioner Farshid Joe Shooshani.

Now while the City Council may remove a Commissioner for any reason, or even no reason, and it is recognized that a Commissioner's removal is something that the Council would be extremely hesitant to do, there are facts that make Commissioner Shooshani's removal necessary to maintain the integrity of the Planning Commission.

Commissioners serve at the pleasure of the City Council and can be removed from office at any time by majority vote of the Council.

Commissioner Shooshani has repeatedly violated the Planning Commissioners' Code Of Conduct as specified in their handbook. Some examples are set forth below.

1. *As a Commissioner, you will examine relevant issues of concern, discussing them in depth at meetings...*

There is a repeated lack of analysis to determine the required findings, and a repeated failure to uphold the General Plan. On January 11, 2018, at the Friar's club hearing, he said "the General Plan is not the Constitution," in response to a concern about his belief that he should be giving away commercial land outlined in the General Plan. He is wrong, it is the Constitution for Cities.

2. *He repeatedly fails to enforce the General Plan, and moreover, sees it as an outdated document unworthy of enforcing.*

He was critical that as the General Plan was done ten years ago, it was outdated and therefore did not need to be followed. To justify his decision, he said the area is "dying". Another false narrative. Nowhere in Beverly Hills is a section "dying". His reckless statements hurt businesses, and our City. He said "we are here to make our city better". No, he is here to enforce the General Plan and make legally required findings.

Any Planning Commissioner disinterested in upholding the General Plan should be removed. Public comments he has made in hearings have demonstrated his position that the 2010 General Plan is an ancient document comparing it to the Magna Carter. He said the Staff is more qualified than the Commission to make decisions, showing a lack of independent judgment.

One has to wonder, if he is not interested in enforcing the General Plan, on what basis is he making his decisions?

On August 8, 2018, he made numerous comments that are of concern. Mr. Shooshani stated that he has common sense. He said it is time to change the General Plan. Yet, that is not his role. He talks about changing the General Plan and that is how he is voting. He can't vote based upon what he *wants* the general plan to be. He needs to be voting based upon what it is *now*. That is legislating, and that is the Council's role. He said "Beverly Hills is not a Village, that is impossible." He said "Village Time" is over. His contempt for the General Plan is obvious, and is negatively affecting his ability to do his job.

The California Supreme Court reiterated on August 23, 2018, Government Code section 65860, subdivision (a)1 requires zoning ordinances to "be consistent with the general plan of the county or city." This provision renders invalid any change to the zoning ordinance that would make it inconsistent with the general plan, whether the change is made by a local government or a local initiative. (*Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 544 (Lesher); *City of Morgan Hill v. Bushey* (Cal., Aug. 23, 2018, No. S243042) 2018 WL 4017404, at *1.

3. *Failure to follow his directive of Prepare in advance of meetings (e.g., read agenda packets carefully prior to the meeting) and be familiar with issues on the agenda*

It is clear from a number of comments and questions made at recent hearings, very little preparation goes into his decision making.

He regularly confuses the Basement Ordinance and Hillside Ordinances, and does not appear to understand them. At one hearing, he did not understand that he had voted in favor of a Basement Ordinance that applied to the City as a whole, and at the August 23rd 2018 hearing seemed to think that the Design Review item being discussed was *only* about revising the 15,000 sf R-1. How can he be making important decisions when he is so poorly informed? And recent comments suggest that he supports the petition to repeal the Basement Ordinance that *he* voted for, and attempts to legitimize the Referendum to recall it.

4. *Failure to uphold his duty to abstain from inappropriate or rude behavior to a... member of the public, failure to abide by Commissioners are discouraged from engaging speakers in debate or conversation beyond the question, and failure to abide by City Council expects that anyone who speaks at a public meeting, whether a member of the public or a fellow Commissioner is treated with courtesy and respect. Behavior that is rude or dismissive is unacceptable.*

This last item is also listed as a main reason the City Council may dismiss a Commissioner.

Among reasons the Council may dismiss a Commissioner are: excessive absence from meetings, falsely representing Commission or Council business, unbecoming or illegal behavior, inappropriate or rude behavior to a City staff member, another Commissioner or member of the public, or inappropriate use of resources or funds.

He trivializes community activism as “sagas” and “wasting City resources”. He accuses resident groups that fight to ensure that the recent laws the City Council passed are upheld as “dream wreckers”. He personally targets individual residents and interrogates them on their motives for opposing illegal development.

His conduct at the August 23, 2018 meeting has now crossed the line. First, he started addressing a resident by her first name when he has no relationship with her. It is unprofessional. He was addressed by title and he referred to her in a colloquial manner. Second, he admitted he was trolling her on the internet, and his manner towards her about a news video in which she appeared was demeaning and belligerent. He never produced her alleged statements or the video he was referring to, which put the resident at a huge disadvantage. Third, his attitude towards her was repeatedly excessively aggressive.

5. Failure to conduct himself in a manner in which public input is encouraged and Attempting to Direct Staff which is outside of his purview

Aside from publicly personally attacking a resident, Commissioner Shooshani has made other derogatory comments at hearings aimed towards our group.

Commissioners may freely communicate with their staff liaison, but they have no authority to supervise or direct the work of City employees. Staff members report directly to their supervisor, often the Department Head and ultimately the City Manager.

At the August 23, 2018 meeting, he directed the City Attorney to create an unconstitutional and highly illegal litmus test as to which organizations are “legitimate.”

He demanded to know how organizations elect or appoint their officers and he wanted to know the membership list of organization members. This is highly illegal, improper, and unconstitutional. An organization is entitled to expressive association and the government may not demand a membership list as a prerequisite for appearance before a body. As the United States Supreme Court emphasized nearly 60 years ago in *NAACP v. Alabama* (1958) 357 U.S. 449, 462, 78 S.Ct. 1171, the seminal decision in this field: “It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute (an) effective . . . restraint on freedom of association . . . This Court has recognized the vital relationship between freedom to associate and privacy in one's associations. . . . Inviolability of privacy in group association may in many circumstances be indispensable to preservation of

freedom of association, particularly where a group espouses dissident beliefs.” California courts have long adhered to the same rules. *Britt v. Superior Court* (1978) 20 Cal.3d 844, 852–853.

In addition, where is it in the City’s laws that Planning Commissioners are going to decide which organizations are “legitimate” or “illegitimate”. Going back to the civil rights movement, it has long been the law that citizens may organize and advance expressive conduct through associations. This is called the right to freedom of expressive association, guaranteed by the First Amendment of the United States Constitution and Article 1 section 1 of the California Constitution.

Commissioner Shooshani’s inquiry and implied threats of disclosure are attempts to intimidate expressive association in front of his Commission. He has no right to order lists, inquisitions, or have staff create a test for legitimate vs. illegitimate organizations. He further insulted the speaker and our organization and its members by stating “we need to know who these people are.” Who are “these people?”

This is who we are: we are the residents who helped bring about profound change and will continue to bring change to what was a series of policies and laws which were jeopardizing the Beverly Hills hillsides. It is shocking that he insinuates he needs to know more. Our home addresses have been on numerous letters to his commission and frankly, not everyone wants to list their home address on every letter. Furthermore, other Commissioners and Council Members suggested the hillside residents form an association, and Beverly Hills has long history of associations. Muni League, BH North, etc. The City doesn’t probe into the internal governance of organizations.

As a final illegal suggestion, he wants organizations to register with the City, presumably so he can control them.

The irony is that one organization he does support through his comments about the Referendum is the BEVERLY HILLS RESIDENTS FOR PRESERVING PROPERTY VALUES, SUPPORTED BY PROPERTY OWNERS, RESIDENTS & TAXPAYERS, a secret political group with secret financing and is being run by an attorney/treasurer who has connections to a Canadian national and is the subject of numerous complaints by residents during the petition process. Commissioner Shooshani never once has questioned their membership or legitimacy.

6. Failure to Bring an Open Mind to Meetings

Bring an open mind to each meeting. You are representing an entire community, so it is important to put aside personal opinions and be open to new ideas, information and points of view.

Commissioner Shooshani in attempting to berate a resident on August 23rd, pretty much admitted that he dismisses whatever points she brings up at hearings and therefore does not evaluate them on their merit. In addition, upon being selected for the ad hoc committee, made a comment along the lines of “this will give you a chance to change my mind.” So, Commissioner Shooshani admitted he already has pre-formed opinions that need to be “changed.”

7. Conflict of Interest

The Political Reform Act of 1974 prohibits public officials at any level of state or local government from making, participate in making or in any way attempting to use his/her official position to influence a government decision in which he or she knows or has reason to know he or she has a financial interest. The financial interest of spouses and dependent children must also be considered.

Comments were made at the Friar's Club hearing along the lines of Commissioner Shooshani expressing interest in buying units in the building. He said "I am retiring" "I need a place to go", implying like he was going to buy a condo in the development. He said his children are coming to a certain age, like his decision was being made on what is best for his children. He leaves the public with the perception that he is voting based upon what's good for him and his children and not what is good for the public.

Does undermining protections for the Hillside advance his personal financial interests in Trousdale? Trousdale has strong protections in terms of view preservation, etc that contribute to the Trousdale area's strong property values.

Hillside residents have been fighting for years for similar protections. Our protections have been so poor that our area is regularly referred to as the "Wild West." Commissioner Shooshani regularly voted to water down the protections proposed in the Hillside and Basement Ordinance hearings, and recently voted in favor of an individual project that will set dangerous levels of hauling precedents.

An argument can be made that Trousdale property values are superior to the Hillside area by comparison due to the superior land protections. Commissioner Shooshani perhaps should have recused himself from these types of hearings.

8. Failure to provide Equal Opportunity for Access for Residents

If a Commissioner meets privately with an individual who has an item coming up for review, he or she should not make voting decisions or commitments. Equal opportunities and due process must be extended to all parties in matters under consideration. Commissioners may wish to disclose such contacts at the Commission meeting when the item is discussed.

Hillside residents have tried to meet with Commissioner Shooshani on a number of occasions, and he has not once responded to our requests. Yet, on many occasions, he has disclosed ex parte communication with lawyers who represent developers and are known to be friends of his.

9. Concern of bias due to a conflict of interest arising from construction code violations by a company owned by Commissioner Shooshani which resulted in a death.

He regularly voices strong beliefs in favor of developers including improper comments that he cannot tell people what to do with their houses and “who am I to tell someone what house they can build” as well as always being concerned with interfering with property value and profit -¹ and whose comments suggest a disregard for city ordinances. Perhaps his being a developer is clouding his objectivity. His conduct seems to suggest he may not realize his job is not to enshrine profits on the business deals that come before him, but to protect the City and enforce the General Plan and the ordinances. He rarely provides analysis in deliberation perhaps because he appears to not be prepared, and often just parrots the other commissioners - who regularly vote in a pro-development manner, or follows the points the other commissioners make.

How are we supposed to trust a Commissioner to unbiasedly uphold our codes, when he appears to be violating codes himself? He operates via an opaque Delaware LLC, and a California LLC whose business is property development. He is accused of renting an oversized, overweight, and therefore illegal, JLG Lift for his commercial property located at 8410 Sunset Blvd. in West Hollywood.

In violation of the permit that was obtained, the lift was left out on busy Sunset Blvd. in West Hollywood, illegally parked across two parking spaces. He is accused of having a lift 17 times the legal limit in West Hollywood, and not removing it from the street. There were allegedly numerous vehicle code violations with the lift. At 4:10am, a young man hit the lift and was killed, and the family is suing Mr. Shooshani personally.

Disturbingly, Mr. Shooshani is the subject of a motion to compel responses to discovery. The young man’s family is accusing him in the motion of being evasive and refusing to provide even basic responses including which donations he makes to politicians in West Hollywood. He is accusing the West Hollywood inspectors of bias against him, but refuses to say why as a basis to refuse discovery responses.

Given the nature of this case, it is hard to imagine that this situation would not bias one’s judgement. Furthermore, it now seems apparent why Mr. Shooshani wants to curry favor with developers for some sort of support as he is one of them. Has Commissioner Shooshani disclosed this lawsuit? Residents were certainly not aware of it.

How can this Council allow a Planning Commissioner to sit on the commission under these circumstances?

In conclusion, for failure to perform the duties of a Planning Commissioner including, but not limited to: failure to uphold the General Plan, failure to rule based upon the merits of the project, and a lack of impartiality, our organization requests that you enact BHMC 2-2-106 F.

¹ He owns Shooshani Developers II and Shooshani Developers

BHMC 2-2-106 F states that the City Council may remove any member from a commission or committee for any reason. Such removal may be accomplished by resolution or minute order of the City Council.

Sincerely,



Ronald Richards
President

cc: Chair Andy Licht, City Attorney Lawrence Wiener