

conformance with the Federal Advisory Committee Act. 5 U.S.C. app. 2 §§ 1-16. Among other things, this statute requires advisory committees to have a “fairly balanced” membership, conduct open meetings, and allow public inspection of all records. *Id.* at §§ 5(b)(2); 10(a)(1); 10(b). Not only would this approach be in compliance with federal law, but it would be good public policy that would lead to better decision-making.

B. Committee Mandate

The draft charter states that the goal of the Committee is to evaluate proposed land use projects. In other words, the proposed Committee would serve as a reactive review body that considers piecemeal proposals from outside parties. Instead, the Committee mandate should be revised to reflect a proactive, long-term and comprehensive land use planning mission. The need for such a planning mechanism at the Medical Center has been recognized by many parties over the years—including Congress, which ordered the VA to develop a 25-year and 50-year land use “master plan” for the West Los Angeles Medical Center. *See* Veterans Programs Enhancement Act of 1998, Pub. Law 105-368, sec. 707 (1998) (attached as Exhibit B). To date, the VA has failed to achieve this statutory mandate. If the Network wishes to use a Land Use Planning Committee, it should be re-structured to perform the land use planning that Congress required, rather than attempt to avoid it.

C. Public Participation

The center of all our concerns is that under the Network’s proposed land use plan, the VA is likely to make decisions about the use of its valuable community resources without proper public participation. We have already seen this happen with the Network’s apparent determination that some unspecified portion of its property should be open to alternative land use proposals. The details of this determination have been kept from public review—we are still unable to comment on the criteria used or the decisions made, because we have not been granted access to such information.

Under federal law, the VA must follow certain public review and consultation procedures before taking actions, such as land use planning decisions, that significantly affect the environment and/or historic resources. *See* Section 102 of the National Environmental Policy Act, 42 U.S.C. § 4332(C), and implementing regulations; *see also* Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f, and implementing regulations. Actions taken without following such public participation procedures are subject to judicial challenge under the Administrative Procedures Act. 5 U.S.C. § 706.

It appears from the draft Committee Charter and the actions taken by the VA to date that the VA is on a path to make important land use decisions without fully informing the public, without seeking proper consultation with other agencies and interested stakeholders, and without proper consideration of impacts or alternatives. This is a disastrous process that will lead to improper decision-making and could also lead to protracted litigation.

The better result would be to fully involve the public from the beginning. Whether through coordination by a re-structured Land Use Planning Committee or otherwise, the VA should follow mandated public review and consultation procedures, thereby opening its planning process to the public and seeking input from all interested stakeholders. At the end of this process, the VA should be receptive and give consideration to the concerns, alternatives and recommendations advanced by the public, thereby basing its decision-making on a full record and achieving the best possible outcome.

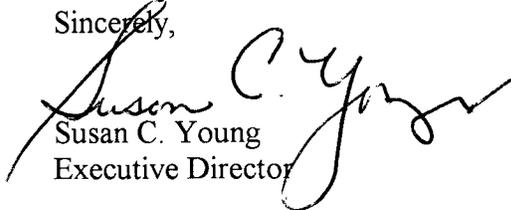
IV. Recommended Actions

For all of the foregoing reasons, the VPC respectfully requests the CARES Commission to make the following recommendations to the Secretary of Veterans Affairs:

- The Secretary should not approve the Land Use Planning Committee Charter or Land Use Policy advanced by VISN 22 in the Draft CARES Plan. Planning decisions that affect historic, cultural and natural resources are outside the proper scope of the CARES Program and should be developed on a local level with input from all interested stakeholders.
- Alternatively, if the Commission believes that the Network's Land Use Policy is within the proper scope of the CARES Program, then the Secretary should direct VISN 22 to revise its Land Use Planning Committee Charter in order to re-structure the membership and procedures of the Committee in compliance with the Federal Advisory Committee Act, including the requirements to have balanced membership, hold public meetings, and maintain open records.
- Furthermore, the Secretary should direct VISN 22 to revise the Land Use Planning Committee Charter in order to change the Committee's central mission from project-by-project review of land use proposals from outside parties, to long-term land use planning in compliance with Public Law 105-368.
- Finally, the Secretary should direct VISN 22 to revise the Land Use Planning Committee Charter in order to coordinate the Committee's activities with the VA's legal duties to solicit public comment, consider alternatives, and undertake consultation before finalizing major land use decisions.

Thank you for considering these comments on the Draft National CARES Plan. There are many neighbors and stakeholder groups—including the VPC—who stand ready to work with the VA in order to preserve and enhance the historic, cultural and natural resources of the West Los Angeles Medical Center. By joining together in a collaborative effort, we can achieve the best use of these important resources for the benefit of all.

Sincerely,



Susan C. Young
Executive Director

SCY/vnk
Attachments



1. Overall Mission:

It is the mission and goal of the VA Desert Pacific Healthcare Network Land Use Planning Committee is to address land use issues, developing a criteria based process for re-use of excess land located within the VA Desert Pacific Healthcare Network.

a. Definition:

Excess land is generally defined as VA owned land assets identified by the CARES process as "not required for support of VA's health care mission". The VA Long Beach Health Care System and VA Greater Los Angeles Health Care System account for the vast majority of excess land within Network 22, however, this process covers all Network facilities.

b. Background:

CARES has identified Excess Land Use as a Planning Initiative wherein a process to address this excess land will be locally discussed, analyzed and described in the Network Market Plan. Upon review by the CARES Commission and approval by the Secretary of Veterans Affairs, the Land Use Planning process will guide local VA and developers when making decisions on proposed re-use initiatives.

2. Specific Charge:

The Committee will evaluate excess land available for re-use, provided developments are in compliance with established guidelines. Guidelines to be established will be based on applicable VA, County, and City planning criteria, and include such items as setback requirements, building heights, finishes and allowable occupancy types.

The process will include establishment of a Network Land Use Planning Committee. Membership on the Committee is made part of this charter. The goal of this Committee will be to evaluate proposed land use projects against established and approved criteria and make recommendations to the Network Director. The Committee will establish a formal process whereby stakeholder input will be obtained on each project under consideration. A process will also be defined to address variances to established guidelines.

The frequency of meetings will be determined by the Chair *as needed* to review land use issues as they are submitted and to obtain and consider stakeholder feedback.

3. Board Leadership and Reporting Relationships:

Director, VA Loma Linda Healthcare System will chair the Committee. The Committee will report to the Network Finance and Business Management Council (F&BMC) with input from the Strategic Management Council (SMC).

4. Authority/Limitations:

This Committee will establish a set of guiding principles for decisions on excess land use and development and review any unique and/or long-term proposals and give input as to their feasibility. The guidelines established herein will be submitted as part of the CARES Market Plan on April 15, 2003, for consideration and approval by the CARES Commission and the Secretary of Veterans Affairs.

When voting, a quorum will be a simple majority of all members of the Committee. A simple majority is required to approve or disapprove a proposal. Electronic voting by Committee members can be obtained on proposals and actions.

5. Evaluation Criteria:

At least one of the following criteria must be met:

- a. There must be a direct benefit to veterans or the VAs missions.
- b. The proposed project is a non-recurring land use arrangement that does not adversely affect medical center operations.
- c. Non-recurring public activities or events that generate revenue for VHA.

All of the following criteria must be met:

- a. Projects enhance the VA's goal of building healthy communities by expanding community, academic and research partnerships and by providing leadership in times of local and national disaster.
- b. Projects do not create significant adverse environmental impact that cannot be mitigated.
- c. Projects must recover all costs and must demonstrate a direct economic benefit to VHA and the Veterans it serves. The economic benefit to the VA should meet industry/community standards.
- d. Projects do not create significant adverse community impact that cannot be mitigated.
- e. Projects must be consistent with the approved CARES Market Plan.

6. Membership:

Committee membership will be appointed by the Network Director and will be comprised of VA staff from all Network facilities. The following positions or those comparable will comprise the membership of the Network Land Use Planning Committee:

Director, Loma Linda VA Loma Linda Healthcare System	Chairperson
Network Business Center Program Manager	Member
Director of Facilities Management, VA San Diego Healthcare System	Member
Associate Director, VA Southern Nevada Healthcare System	Member
Director, Asset Management, VA Greater Los Angeles Healthcare System	Member

Sharing Coordinator, VA Long Beach Healthcare System

Member

7. Evaluation:

Once a project has passed the criteria that have been approved as part of the CARES process, community stakeholders will be notified by e-mail or writing by the Land Use Planning Committee and will be given thirty days to meet with their constituents to identify additional concerns prior to submission to the F&BMC/SMC and ultimately as an Executive Decision Request (EDR) to the Network Executive Leadership Board (NELB) for a final recommendation to the Network Director.

Chairperson
Director, Loma Linda VAMC

Date

Kenneth J. Clark, FACHE
Network Director,
VA Desert Pacific Healthcare Network

Date

Date

Exhibit B

PL 105-368 (HR 4110)

November 10, 1998

VETERANS PROGRAMS ENHANCEMENT ACT OF 1998

(Only Section 707 Reproduced)

An Act to amend title 38, United States Code, to improve benefits and services provided to Persian Gulf War veterans, to provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to enhance programs providing health care, compensation, education, insurance, and other benefits for veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States
of America in Congress assembled,

<< 38 USCA § 101 NOTE >>

* * *

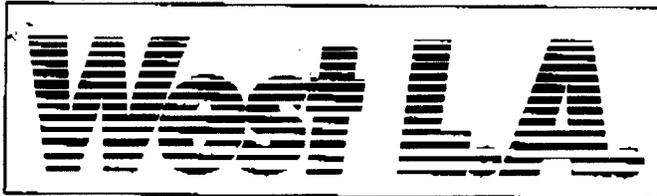
SEC. 707. MASTER PLAN REGARDING USE OF DEPARTMENT OF VETERANS AFFAIRS LANDS AT WEST LOS ANGELES MEDICAL CENTER, CALIFORNIA.

(a) REPORT.--The Secretary of Veterans Affairs shall submit to Congress a report on the master plan of the Department of Veterans Affairs relating to the use of Department lands at the West Los Angeles Department of Veterans Affairs Medical Center, California.

(b) REPORT ELEMENTS.--The report under subsection (a) shall set forth the following:

- (1) The master plan referred to in that subsection, if such a plan currently exists.
- (2) A current assessment of the master plan.
- (3) Any proposal of the Department for a veterans park on the lands referred to in subsection (a), and an assessment of such proposals.
- (4) Any proposal to use a portion of those lands as dedicated green space, and an assessment of such proposals.

(c) ALTERNATIVE REPORT ELEMENT.--If a master plan referred to in subsection (a) does not exist as of the date of the enactment of this Act, the Secretary shall set forth in the report under that subsection, in lieu of the matters specified in paragraphs (1) and (2) of subsection (b), a plan for the development of a master plan for the use of the lands referred to in subsection (a) over the next 25 years and over the next 50 years.



Chamber of Commerce

September 17, 2003

CARES Commission
810 Vermont Avenue, N.W.
Washington D.C. 20420

Attention: The Honorable Everett Alvarez, Jr.

Dear Mr. Alvarez,

On behalf of the West L.A. Chamber of Commerce, representing more than 1400 businesses in the West L.A. Area, I am writing this letter to strongly oppose Network 22's formation of the Desert Pacific Healthcare Network Land Use Planning Committee.

While I need not refer in complete form to Section 707 of the Veterans Program Enhancement Act of 1998, as I'm sure you are well versed, I must say that the continued attempts by the V.A. and the Federal Government to exclude the general public from the "Public Hearings" is mind boggling.

Having been at most of the past hearings regarding the West L.A. campus, I was shocked to find out that our organization was not included in the invitation to speak, nor were most of the other interested parties in the surrounding areas. I am amazed that the definition of a public hearing seems to be quite different from that definition, as we all understand it. "By invitation only" is NOT a fair, open process. Furthermore, appointing health care employees from around the area to sit on the planning committee, and excluding the very community you plan to impact is yet another sign of the insensitivity of the V.A. towards its neighbors.

I strongly request that before this process proceeds further, that you open up the committee to the representation of the very community that the plan will impact, to gain a fair and balanced representation of the viewpoints of the community. Additionally, let's begin a fair and open process to enact a 25-year MASTER PLAN, as opposed to a surgical removal of each piece of the property until the patient is dead.

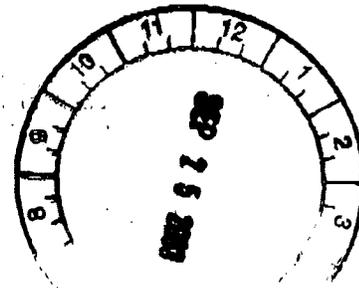
When I met with Secretary Principi during his trip to L.A. after the last master plan was unveiled, he promised that what is happening now would not happen under his leadership. Personally, as a life long Republican supporter, I am yet again questioning the honesty of the process.

I await your speedy reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Handal". The signature is fluid and cursive, written over a white background.

Jay Handal
President
West L.A. Chamber of Commerce
San Gennaro Café
310-836-0400 Fax 310-388-3025
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JH:pls

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Murray, Estella

From: West LA Chamber of Commerce Information [info@westlchamber.org]
ent: Monday, September 29, 2003 11:58 AM
o: estella.murray@med.va.gov
Cc: Jay Handal
Subject: Cares Commission

Attention Cares Commission:

I would like to thank you for the opportunity to be heard today. While on a plane to Las Vegas last week, I spoke to a veteran who just left the West Los Angeles facility. He told me the care that he received could not have been better and that things there had changed for the good. But, he wanted to know why he still has to shuttle between campuses to get comprehensive care.

The point is simple, two years ago Secretary Principe promised an open inclusive process, for the entire community, to develop a master plan that addresses the needs of the veterans without compromising the integrity of the community. We read his lips and we believed him. Veteran Land for Veteran Use. That is what the land was deeded for and that is what the Veterans and community expect.

Private development - lease for sale of the land is both inconsistent with law and a slap in the face to our veterans. Using the Cares Commission to circumvent proper, lawful process is wrong.

I urge you to submit your findings to say:

1. Provide comprehensive services to Veterans
Preserve open space.
Upgrade and restore historic properties.
- +. Put in place an all inclusive land use committee made up of Medical Administrators, Veterans and representative from the surrounding community stake holders to develop a plan, not to sell or lease the land, but one to maintain, restore and upgrade existing properties and maintain comprehensive care for all Veterans.

The fact that this plan is not specific is reason enough for you to call for a master plan that is all inclusive. Which can be done in conjunction with the medical panel empowered to evaluate Veterans benefits from the Medical Center's use.

Remember, Veteran Land for Veteran Use.

Thank You

Jay Handal
President
West LA Chamber of Commerce

NOTES PERTAINING TO REMARKS OF LEONARD H. McROSKEY AT THE "CARES" COMMISSION HEARING ON MONDAY SEPTEMBER 29, 2003 AT THE VA LONG BEACH HEALTHCARE SYSTEM.

MY ORAL COMMENTS TO THE COMMISSION WERE AUTHORIZED BY MR. BILL BREW OF CARES WASHINGTON OFFICE: 202/501-1958. THE REMARKS RELATE PRIMARILY TO THE WEST LOS ANGELES BRANCH OF THE GREATER L A HEALTH CARE SYSTEM, BUT MAY BE APPLICABLE TO ANY VA SITE.

1. PERSONAL RUNDOWN: A FORMER DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR RESERVE AFFAIRS, A RETIRED USNR OFFICER (without pension), AUTHORED MILITARY HOUSING PROGRAM MANUAL FOR THE SAN DIEGO NAVAL DISTRICT (RADM J.S. Walker, USN). AM A BOARD MEMBER OF THE HOLMBY-WESTWOOD PROPERTY OWNERS ASSOCIATION REPRESENTING 1100+ FAMILIES JUST EAST OF THE VETERAN'S ADMINISTRATION SITE IN WEST LOS ANGELES AT THE TRIPLE INTERSECTION OF WILSHIRE AND SEPULVEDA BLVDs AND THE 405 FREEWAY RAMPS.
2. THANK YOU LADIES AND GENTLEMEN OF THE NETWORK FOR THE OPPORTUNITY TO MAKE THIS ORAL PRESENTATION. ONE, A BIT DIFFERENT FROM THE CONCEPT OF A MASTER PLAN BUT ONE THAT IS ESSENTIAL TO PROGRESSIVELY PROTECT AND ENHANCE THE PRIDE OF THE UNITED STATES AND HER ARMED FORCES, PROTECTORS OF HUMAN RIGHTS WORLDWIDE. PLAINLY SAID, WE MUST NEVER FORGET THE UNSELFISHNESS AND DEVOTION OF OUR PAST, PRESENT, AND FUTURE UNIFORMED MEN AND WOMEN. THE ONLY WAY IS TO RE-DEDICATE (NOT MASTER PLAN) OUR "CAMPUS OF HERO'S" FROM ARLINGTON TO WEST LOS ANGELES "VETERANS CONSERVATORY"; ALL HALLOWED GROUNDS OF REVERENCE.
3. A LAND USE MASTER PLAN IS NOT THE PANACEA FOR SUSTAINING GROWTH OF A VENERABLE INSTITUTION OVER A SCORE OF SCORES OF YEARS. A CONSTITUTIONAL-LIKE DOCUMENT WILL PROVIDE THE PRODUCTIVE CONTINUITY ESSENTIAL TO PRESERVE THE NASCENT OBJECTIVITY OF A SACRED MONUMENT CREATED FOR THE SINGLE PURPOSE OF BENEFITING AND EULOGIZING THE MEN AND WOMEN OF AMERICA'S ARMED FORCES.
4. IT'S LIKE A HEALTHY GROWING TREE, A MAJESTIC CALIFORNIA LIVE OAK OR OLD GROWTH REDWOODS. FROM A SAPLING TO MAGNIFICENT HEIGHT AND SHAPE THEY LIVE ON FOR MANY HUMAN LIFETIMES: NOT SO IF THEIR GROWTH HAD BEEN STUNTED BY UNDUE INFLUENCES. THINK ABOUT THIS PARALLEL!

5. MANY POSITIVE INFLUENCES HAVE SHAPED THE CAMPUS DURING THE FIRST 150 YEARS OF ITS BEING. AFTER THE CIVIL WAR, THE SPANISH-AMERICAN CONFLICT, WWI and WWII, KOREA, VIET NAM AND DESERT STORM VIGOROUS GROWTH OCCURRED TOTALLY FOR THE BENEFIT OF OUR VETERAN'S. THE CAMPUS IS AFFECTIONATELY KNOWN AS THE "OLD SOLDIER'S HOME." ANGELENO'S RECOLLECT THE HISTORY THAT RISES FROM ITS HUNDREDS OF ACRES, AN ICON OF LOS ANGELES AS IS ARLINGTON NATIONAL IN WASHINGTON, DC. THEY MUST REMAIN SO AS MANY VETERAN'S ARE YET UNBORN!
6. SEVERAL NEGATIVE INFLUENCES ARE AFLOAT CURRENTLY. THAT IS THE ATTEMPTED INTRUSION OF OPPORTUNISTS WANTING TO BUY, LEASE, OR OTHERWISE ACQUIRE CAMPUS RIGHTS FOR COMMERCIAL AND/OR RESIDENTIAL DEVELOPMENT. A MAJORITY OF CITIZENS AND LEGISLATORS AND OTHERS STRONGLY OPPOSE ANY CONSIDERATION THE VA MAY GIVE SUCH PROPOSALS.
7. EXCESSIVE PROFIT MOTIVES HAVE BEEN UNDER SEVERE SCRUTINY FOR THE PAST SEVERAL YEARS ACCORDING TO SEVERAL MEDIA SOURCES. FOR REFERENCE VIEW THE WSJ 9/18/03 EDITION, FRONT PAGE TITLED "NYSE." LIKE ARTICLES HAVE BEEN RAMPANT NATIONALLY. IS IT POSSIBLE SUCH A DEBACLE COULD BEFALL VA IF THE DECISION WAS MADE TO BREAK UP THE CAMPUS INTEGRITY BY CUTTING OUT PARCELS FOR PRIVATE USEAGE?
8. PLEASE BEAR IN-MIND LOCAL GROUPS LIKE THE "VETERAN'S PARK CONSERVANCY" WANT TO IMPLEMENT THE RIGHT AND CORRECT GROWTH PATTERNS FOR OUR VETERAN'S CAMPUS. THEY HAVE SHOWN THEIR MEDAL BY IRON FENCING AND GATING THE ENTIRE CEMETERY GROUNDS. AND FURTHER INSTALLING ON WILSHIRE BLVDA TREE LINED CENTER DIVIDER WHICH THEY NAMED "THE VETERAN'S PARKWAY." ARE THEY THE DESERT STORM GENERATION? OTHER PRIVATE CITIZENS GROUPS ARE ALSO INVOLVED.
9. TO THE NETWORK PANEL I EXTEND MY PERSONAL THANKS FOR YOUR CONCERN ON BEHALF OF OUR MILLIONS OF VETERNS WHO SEEK A CLEAR AND PLAIN PATENT TO THEIR MONUMENT BESTOWED BY AN APPRECIATIVE GOVERNMENT, AND IN SOME CASES BY PRIVATE FAMILIES. I RESPECTFULLY SUGGEST A CONSTITUTIONAL DOCUMENT, CAREFULLY DRAFTED, WILL FOREVER ENSURE PERMANCENCY AND FREEDOM FROM INTERFERENCE BY PRIVATEIZERS.

VERY RESPECTFULLY,  Len McRoskey @ T:310/273-1383 F:310/474-2941
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Los Angeles 90024