

## **Scenario I**

### **“Water, water everywhere . . . “**

The City has decided to take the California drought head on by building its own desalinization plant on the Chula Vista Bayfront. A site near the old power plant, about 500 feet south of the Chula Vista Marina, has been selected. Once constructed, the plant is expected to produce up to 75 million gallons of potable water per day, enough to serve all Chula Vista households, plus 60 thousand more.

After a complex design-build procurement process, City staff has recommended that the City Council award the construction contract to Agua Libre, LLC, a family owned, local company founded in 1911.

A week before the meeting at which the City Council was to consider the contract, Agua Libre CEO, Nacho Libre, was enjoying a plate of green chilaquiles at Talavera Azul on Third Avenue. By coincidence, right when Nacho was starting to think about the right things to say to the Council to help secure their approval, he spotted two of the City’s five City Councilmembers, Nadia Newbie and Linus Pockets, motioning for him to join them at their table. “Nacho” said Linus, “I’ve been in love with your sister, Amor, ever since I laid eyes on her, and I like your project. But Nacho, I’m in a pickle. The second low bidder, Saul Tway, has been saying he’ll do the job faster, giving the City a net savings. He gave me a \$300 campaign contribution my last go-around, and two tickets to an upcoming “Save the Turtles” charity event. I really need to go to that type of thing these days, to help me retire my campaign debt. Any other factors you want me to consider before I decide?” Nacho, who used to be on the Planning Commission and remembered his ethics training responded, “You should do what you think is in the best interests of the City, Mr. Pockets. I think my bid is the best, of course, and I know Councilmember Goalong posted she’s leaning towards our design on her Facebook page; but you’ll hear our full pitch next week at the Council meeting from my sister, Amor; I’ve just decided to make her the project manager.” Nadia then chimed in. “Nacho, the Mayor just texted me a picture of your design, with a “thumbs up” emoji, but I’m not so sure. Your design looks efficient, but it’s so UGLY! I just bought my step-son a houseboat at the Marina, and I his views could be ruined. Maybe if you spruce it up a bit, add a water slide or something so it goes with the Bayfront hotel and convention center, I’ll follow the Mayor’s lead and get on board.”

- 1. Can Linus Pockets lawfully participate in the City Council’s vote on the desalinization plant?**
- 2. How about Nadia Newbie?**
- 3. Has the Brown Act been violated?**
- 4. Is the Mayor’s text a public record?**

## **Scenario II**

### **Don't Tread on Homer**

The Chairman of the City's seven member Charter Review Commission, Homer Rule, is fed up with the State Legislature's preemption of city local rule-making and its "bogus" declarations of "statewide concern." Their latest insult was a law banning local sales of "The Simpsons" show bobble-head dolls (a business Homer's family had been in for decades). Homer called City Attorney, Ima Fair, and asked her to call a Special Meeting of the Commission to consider, under the "Chair's Comments," an action item entitled: "I'm Mad As Hell and I'm Not Going to Take it Anymore." Ima dutifully prepared the agenda, sent it to the City Clerk for posting on the City's website, and posted a paper version at the City Hall kiosk just prior to close of City business.

The next day, around 4:00 p.m., once a quorum of his fellow Commissioners had assembled in the City Hall "V Room," Homer convened the special meeting. By 4:30, a large crowd of citizens and the press had also crammed inside, with some sitting at the conference room table among the Commissioners themselves, and others standing against the wall. Local reporter Stu Scoops, set up a large video camera on a tripod near the door to record what he hoped would be a public spectacle. Homer didn't disappoint. He refused to allow public comment until after he delivered a 30 minute soliloquy on bobble-head rights. He then "presided" over a virtual free-for-all of Commissioner and public comments, cutting off some before they got started, letting those who agreed with him go on well past 5 minutes, and tweeting disparaging remarks from his City tablet. He even had Scoops ushered out by the police claiming that the whirring of Scoops' camera distracted him and that Scoops was blocking the door creating a fire hazard. After 2 hours of spirited debate, Homer's main ally on the Commission, Claudia Compromiso, proposed a Charter amendment she titled "We're Mad As Hell and We're Not Going to Take it Anymore." The measure was designed to preserve City authority to allow Simpsons novelty item sales in perpetuity. Over the objection of Ima Fair, the Commission approved the measure and referred it to an ad hoc subcommittee for drafting and placement on the ballot. The Commission vote was 4-1, with two abstentions. Homer abstained because he realized he may have a conflict; fellow Commissioner Voysa Reason abstained because she thought anything proposed by Homer was inherently absurd. After the measure was successfully placed on the ballot, Homer thanked his friend and colleague Claudia Compromiso by giving her for her birthday a limited edition 25<sup>th</sup> anniversary bendable Simpsons mega set, an all-expenses paid trip to the Simpsons Museum in Springfield, Oregon (so she could learn more about Simpson's novelty sales), and a coupon for Smoked Tuna Fries at T.J. Oyster Bar.

- 1. If Stu Scoops sued the City for violating the Brown Act, would he prevail?**
- 2. Did Homer need to abstain from participation in the vote? How about Voysa Reason?**
- 3. If Claudia Compromiso reports her gifts from Homer on her Form 700, is she in compliance with State conflict of interest rules?**