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Superior Court of California
County of Los Angeles

AUG 24 2016

Sherri R. Carter, Executive Officer/Clerk
By Shaunya Bolden, Deputy

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Attorney for Petitioner
FIRST AMENDMENT COALITION

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BS164485

FIRST AMENDMENT COALITION, a
non-profit organization,

Petitioner/Plaintiff,

v.

CITY OF LOS ANGELES, and DOES 1
through 10, inclusive,

Respondent/Defendant.

) Case No.:

) **VERIFIED PETITION FOR WRIT OF**

) **MANDATE, AND COMPLAINT FOR**

) **INJUNCTION AND DECLARATORY**

) **RELIEF FOR VIOLATIONS OF THE**

) **CALIFORNIA PUBLIC RECORDS**

) **ACT AND GOVERNMENT CODE**

) **SECTIONS 34090, ET SEQ. AND**

) **6200; ACTION TO RESTRAIN**

) **ILLEGAL EXPENDITURE OF PUBLIC**

) **MONEY; EXHIBITS A THROUGH C.**

) *[Cal. Gov't. Code §§ 6250 et seq.; 34090, et*

) *seq.; and 6200; Code of Civil Procedure §§*

) *526a, 1060, 1085.]*

BY FAX

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4. To further investigate the extent of the destruction, Petitioner FIRST AMENDMENT COALITION filed a public records request seeking communications written by or sent to LaBonge regarding certain issues or projects he was reportedly extensively involved in, including the Los Angeles Department of Water and Power, the California Film Commission, and the proposed Villaggio Toscano housing development on Sepulveda Boulevard in Sherman Oaks.

1 All exhibits referenced herein are true and correct copies of the documents that they purport to be, and are incorporated by reference as if they had been set out in their entirety.

1 5. Yet, in response, the CITY OF LOS ANGELES claimed it had no
2 responsive records.

3
4 6. Petitioner FIRST AMENDMENT COALITION believes that responsive
5 records do or did exist, and the CITY OF LOS ANGELES has either failed to do a
6 reasonable search for responsive records or has illegally destroyed the responsive
7 records.

8
9 7. In this Petition, Petitioner FIRST AMENDMENT COALITION asks this
10 Court to issue a writ of mandate, ordering the CITY OF LOS ANGELES to conduct a
11 reasonable search for documents written by or sent to former Councilmember Tom
12 LaBonge in 2014 related to the work he did as an elected public official and order the
13 CITY OF LOS ANGELES to maintain records for no less than the period required by
14 law.

15
16 **THE PARTIES**

17
18 8. Petitioner/Plaintiff FIRST AMENDMENT COALITION (“Petitioner” or
19 “FAC”) is a nonprofit organization (incorporated under California’s non-profit law and
20 tax exempt under 501(c)(3) of the Internal Revenue Code) that is dedicated to freedom
21 of expression, to resisting censorship of all kinds, and to promoting the “people’s right
22 to know” about their government so that they may hold it accountable. FAC is
23 supported mainly by grants from foundations and contributions from individuals, but
24 receives some of its funding from for-profit news media, law firms organized as
25 corporations, and other for-profit companies.

26
27 9. Respondent/Defendant CITY OF LOS ANGELES (“Respondent” or
28 “CITY”) is a “local agency” as defined by Government Code § 6252(a), and is therefore

1 subject to the CPRA. The CITY is governed by a five-member council, with offices
2 located in Los Angeles County at 200 N. Spring St., Los Angeles, CA 90012.

3
4 10. The true names and capacities, whether individual, corporate, associate,
5 representative, or otherwise of respondents/defendants named herein as DOES 1
6 through 10 are unknown to Petitioner at this time, and are therefore sued by such
7 fictitious names. Petitioner will amend this complaint to allege the true names and
8 capacities of DOES 1 through 10 when they become known to Petitioner. Each of
9 DOES 1 through 10 is in some manner legally responsible for the violations of law
10 alleged herein.

11 12 **JURISDICTION AND VENUE**

13
14 11. This Court has jurisdiction over this matter pursuant to Code of Civil
15 Procedure sections 1085, 1060, and 526a, and Government Code, Sections 6258, 6259
16 and 34090.

17
18 12. Venue is proper under Government Code, Section 6259, as the records
19 are located within the County of Los Angeles. Further, venue is proper in this Court
20 because the acts and omissions complained of occurred in this judicial district.

21 22 **FACTS SUPPORTING THE CAUSE OF ACTION**

23
24 13. On February 10, 2016, Peter Scheer, Executive Director of FAC,
25 submitted a CPRA Request (the "Request") to Council President Herb Wesson. A true
26 and correct copy of the Request is attached hereto as **Exhibit B**. The Request sought
27 documents related to communications written by or sent to LaBonge related to specific
28

1 projects LaBonge worked on during the last several years of his tenure as
2 councilmember. Specifically, FAC's request sought:

3 1) copies of records, including emails, memos, letters and notes, written by or
4 sent to then-Council member Tom LaBonge in 2014, and concerning any of the
5 following:

6 a) The LA Department of Water & Power

7 b) The California Film Commission

8 c) The proposed Villaggio Toscano housing development on Sepulveda
9 Boulevard in Sherman Oaks

10
11 14. On March 3, 2016, City Council Assistant Chief Deputy Edward Johnson
12 responded to the Request, claiming that "Our office conducted a search and have
13 concluded that our office has no documents consistent with your request." A true and
14 correct copy of the CITY's response is attached hereto as **Exhibit C**.

15
16 **FIRST CAUSE OF ACTION**
17 **Violations of the California Public Records Act**
18 **(RELIEF PURSUANT TO GOV. CODE §§ 6258, 6259;**
CODE CIV. PROC. §§ 1060, 1085)

19 15. Petitioner hereby realleges and incorporates herein by this reference
20 Paragraphs 1 thorough 14 of this Petition as though set forth herein in full.

21
22 16. The CPRA defines the term "public records" to include any writing
23 containing information relating to the conduct of the public's business prepared,
24 owned, used, or retained by any state or local agency regardless of physical form or
25 characteristics...."

26
27 17. Government Code section 6253, sets forth, in pertinent part, a public
28 agency's duties to respond to a CPRA Request::

1 **(b)** Except with respect to public records exempt from disclosure by
2 express provisions of law, each state or local agency, upon a request for a
3 copy of records that reasonably describes an identifiable record or records,
4 shall make the records promptly available to any person upon payment of
5 fees covering direct costs of duplication, or a statutory fee if applicable.
6 Upon request, an exact copy shall be provided unless impracticable to do
7 so.

8 **(c)** Each agency, upon a request for a copy of records, shall, within 10 days
9 from receipt of the request, determine whether the request, in whole or in
10 part, seeks copies of disclosable public records in the possession of the
11 agency and shall promptly notify the person making the request of the
12 determination and the reasons therefor. In unusual circumstances, the
13 time limit prescribed in this section may be extended by written notice by
14 the head of the agency or his or her designee to the person making the
15 request, setting forth the reasons for the extension and the date on which a
16 determination is expected to be dispatched. No notice shall specify a date
17 that would result in an extension for more than 14 days. When the agency
18 dispatches the determination, and if the agency determines that the
19 request seeks disclosable public records, the agency shall state the
20 estimated date and time when the records will be made available.

21 ...¶...

22 **(d)** Nothing in this chapter shall be construed to permit an agency to delay
23 or obstruct the inspection or copying of public records.

24 The notification of denial of any request for records required by Section
25 6255 shall set forth the names and titles or positions of each person
26 responsible for the denial.

27 18. The documents requested by FAC relate to the conduct of the public's
28 business and were prepared, owned, used or retained by the CITY. Therefore, the
29 documents are public records pursuant to Government Code section 6252(e).

30 19. The CITY has claimed that there are no responsive public records that
31 relate to any communication, letters, or notes sent by or to LaBonge related to the
32 topics specified in Petitioner's request.

33 20. Petitioner is informed and believes, and on that basis alleges that the
34 records sought by Petitioner did, at one time, exist.

1 21. Petitioner is informed and believes, and on that basis alleges that the
2 CITY is either wrongfully withholding responsive records or that the records have been
3 unlawfully destroyed.

4
5 22. Petitioner alleges that Respondent failed to comply with the CPRA by
6 failing and refusing to respond to its Request as required by Government Code section
7 6253. Namely, Petitioner alleges that Respondent violated the CPRA by failing to
8 conduct a reasonable search for responsive documents, and for erroneously asserting
9 that no responsive public records exist.

10
11 23. The requested records were prepared, owned, used or retained by the
12 CITY, and are, therefore, deemed to be public records pursuant to Government Code §
13 6252(e).

14
15 24. The People of California have elevated the right to open government to
16 one protected by their State Constitution. The California Constitution, Article 1,
17 Section 3, Paragraphs (a) - (b) state:

18 The people have the right to instruct their representatives, petition
19 government for redress of grievances, and assemble freely to consult for
20 the common good.

21 The people have the right of access to information concerning the conduct
22 of the people's business, and, therefore, the meetings of public bodies and
the writings of public officials and agencies shall be open to public
scrutiny.

23 A statute, court rule, or other authority, including those in effect on the
24 effective date of this subdivision, shall be broadly construed if it furthers
25 the people's right of access, and narrowly construed if it limits the right of
access.

26
27 25. Petitioner has exhausted its administrative remedies. Petitioner has
28 requested copies of disclosable public records from the CITY but the CITY has refused

1 to produce those public records. The only plain, speedy, and adequate remedy left to
2 the Petitioner is the relief provided by Government Code § 6258.

3
4 26. Government Code § 6258 provides:

5 Any person may institute proceedings for injunctive or declarative relief or
6 writ of mandate in any court of competent jurisdiction to enforce his or
7 her right to inspect or to receive a copy of any public record or class of
8 public records under this chapter.”

9 27. Government Code § 6259 provides:

10 Whenever it is made to appear by verified petition to the superior court of
11 the county where the records or some part thereof are situated that certain
12 public records are being improperly withheld from a member of the public,
13 the court shall order the officer or person charged with withholding the
14 records to disclose the public record or show cause why he or she should
15 not do so. The court shall decide the case after examining the record in
16 camera, if permitted by subdivision (b) of Section 915 of the Evidence
17 Code, papers filed by the parties and any oral argument and additional
18 evidence as the court may allow.

19 28. Code of Civil Procedure § 1060 provides:

20 Any person interested ... who desires a declaration of his or her rights or
21 duties with respect to another ... may, in cases of actual controversy
22 relating to the legal rights and duties of the respective parties, bring an
23 original action or cross-complaint in the superior court for a declaration of
24 his or her rights and duties in the premises, including a determination of
25 any question of construction or validity arising under the instrument or
26 contract. He or she may ask for a declaration of rights or duties, either
27 alone or with other relief; and the court may make a binding declaration of
28 these rights or duties, whether or not further relief is or could be claimed
at the time....”

29. An actual controversy exists between the parties regarding the CITY’s
responsibility to retain public records and, upon request, disclose them under the
CPRA.

1 30. The CITY has a ministerial duty to perform according to the laws of the
2 State of California, including the CPRA.

3
4 31. Petitioner has an interest in having the laws executed and public duties
5 enforced and, therefore, has a beneficial interest in the outcome of the proceedings.

6
7 32. Petitioner has a clear, present, and legal right to the CITY's performance
8 of its ministerial duties, as required by the CPRA.

9
10 33. The CITY has a present legal duty and present ability to perform its
11 ministerial duties, as required by the CPRA.

12
13 34. The CITY has failed to perform its ministerial duties as required by the
14 CPRA.

15
16 35. Through this action, Petitioner seeks no greater relief than would be
17 afforded to any other member of the public.

18
19 36. Therefore, this Court should find that the records are non-exempt public
20 records, and that the CITY has violated the CPRA by (1) destroying public records; (2)
21 failing to conduct a reasonable search for records responsive to FAC's CPRA Request;
22 and, (3) failing to disclose the public records responsive to FAC's CPRA Request. This
23 Court should order CITY to conduct a reasonable search and immediately release all
24 documents responsive to Petitioner's Request.

25
26 **SECOND CAUSE OF ACTION**
27 **Violations of Government Code § 34090**
28 (RELIEF PURSUANT TO
 CODE CIV. PROC. §§ 1060, 1085)

1 37. Petitioner hereby realleges and incorporates herein by this reference
2 Paragraphs 1 through 14 and 16 through 36 of this Petition as though set forth herein in
3 full.

4
5 38. California Government Code Section 34090, *et seq.* requires the CITY to
6 retain records for a minimum of two years, and prohibits the destruction of those
7 records unless they are duplicates.

8
9 39. Petitioner is informed and believes, and on that basis alleges that the
10 CITY wrongfully destroyed records in violation of Government Code Section 30490, *et*
11 *seq.*, and records responsive to FAC's CPRA Request.

12
13 40. Petitioner is informed and believes, and on that basis alleges that the
14 CITY is not complying with its legal obligation to retain public records for the
15 minimum required two years.

16
17 41. An actual controversy exists between the parties regarding the CITY's
18 responsibility to retain records as required by Government Code Section 34090.

19
20 42. The CITY has a ministerial duty to perform according to the laws of State
21 of California, including Government Code Section 34090.

22
23 43. Petitioner has an interest in having the laws executed and public duties
24 enforced and, therefore, has a beneficial interest in the outcome of the proceedings.

25
26 44. Petitioner has a clear, present, and legal right to the CITY's performance
27 of its ministerial duties, as required by Government Code Section 34090.

1 45. The CITY has a present legal duty and present ability to perform its
2 ministerial duties, as required by Government Code Section 34090.

3
4 46. The CITY has failed to perform its ministerial duties as required by
5 Government Code Section 34090.

6
7 47. Through this action, Petitioner seeks no greater relief than would be
8 afforded to any other member of the public.

9
10 48. Petitioner and the public will suffer irreparable harm if the CITY
11 continues to destroy, or fails to retain, records as required by law.

12
13 49. Therefore, this Court should find that the records created by the CITY
14 should be retained in accordance with Government Code Section 34090, and that the
15 CITY has violated Government Code Section 34090, by destroying records. This Court
16 should order the CITY to comply with Government Code Section 34090, and enjoin
17 any and all practices causing or resulting in the destruction of records that are less
18 than two years old.

19
20 **THIRD CAUSE OF ACTION**
21 **Violations of Government Code § 6200**
22 (RELIEF PURSUANT TO
 CODE CIV. PROC. §§ 1060, 1085)

23 50. Petitioner hereby realleges and incorporates herein by this reference
24 Paragraphs 1 through 14 and 16 through 36 and 38 through 49 of this Petition as
25 though set forth herein in full.
26
27
28

1 51. Petitioner is informed and believes, and on that basis alleges, that the
2 CITY wrongfully destroyed information sought by the Request in violation of
3 Government Code Section 6200.

4
5 52. Government Code Section 6200 provides:

6 Every officer having the custody of any record, map, or book, or of any
7 paper or proceeding of any court, filed or deposited in any public office, or
8 placed in his or her hands for any purpose, is punishable by imprisonment
9 pursuant to subdivision (h) of Section 1170 of the Penal Code for two,
10 three, or four years if, as to the whole or any part of the record, map, book,
11 paper, or proceeding, the officer willfully does or permits any other person
12 to do any of the following: (a) Steal, remove, or secrete. (b) Destroy.
13 mutilate, or deface. (c) Alter or falsify.

14
15 53. Petitioner is informed and believes, and thereon alleges that CITY is
16 destroying records in violation of Government Code Section 6200.

17
18 54. An actual controversy exists between the parties regarding the CITY's
19 desctriction of records prohibited by Government Code Section 6200.

20
21 55. The CITY has a ministerial duty to perform according to the laws of the
22 State of California, including Government Code Section 6200.

23
24 56. Petitioner has an interest in having the laws executed and public duties
25 enforced and, therefore, has a beneficial interest in the outcome of the proceedings.

26
27 57. Petitioner has a clear, present, and legal right to the CITY's performance
28 of its ministerial duties, as set out in Government Code Section 6200.

 58. The CITY has a present legal duty and present ability to perform its
ministerial duties, as required by Government Code Section 6200.

1
2 59. The CITY has failed to perform its ministerial duties as required by
3 Government Code Section 6200.

4
5 60. Through this action, Petitioner seeks no greater relief than would be
6 afforded to any other member of the public.

7
8 61. Therefore, this Court should find that the records created by the CITY
9 should be retained in accordance with Government Code Section 6200, and that the
10 CITY has violated Government Code Section 6200, by destroying public records. This
11 Court should order the CITY to comply with Government Code Section 6200, and
12 enjoin any and all practices causing destruction of records that are less than two years
13 old.

14
15 **FOURTH CAUSE OF ACTION**
16 **Taxpayer Action To Enjoin Illegal Expenditure of Public Funds**
17 (RELIEF PURSUANT TO CCP § 526a)

18 62. Petitioner hereby realleges and incorporates herein by this reference
19 Paragraphs 1 through 14 and 16 through 36 and 38 through 49 and 51 through 61 of this
20 Petition as though set forth herein in full.

21
22 63. Petitioner is informed and believes, and on that basis alleges that the
23 CITY implements and enforces policies and practices that violate state law providing for
24 access to and the retention of public records and prohibiting the destruction of public
25 records including, but not limited to, the CPRA, Article I, Section 3 of the California
26 Constitution, and Government Codes sections 34090, *et seq.* and 6200, *et seq.*

1 64. Respondent's expenditure of the money of the CITY and the State of
2 California to implement, enforce, or otherwise carry out such illegal policies and
3 practices constitutes an illegal expenditure of public funds within the meaning of Code
4 of Civil Procedure ("C.C.P.") Section 526a.

5
6 65. C.C.P. Section 526(a) provides that an "injunction may be granted...(1)
7 when it appears by the complaint that the plaintiff is entitled to the relief demanded,
8 and the relief, or any part thereof, consists in restraining the commission or
9 continuance of the act complained of, either for a limited period or perpetually."

10
11 66. C.C.P. Section 526a gives a member of the public standing to sue a
12 government body to resolve a controversy related to governmental activity.

13
14 67. Petitioner, a membership organization, has members who reside in the
15 CITY and are taxpayers of the CITY.

16
17 68. Respondent's expenditure of the money of the CITY and the State of
18 California to implement, enforce, or otherwise carry out its illegal policies and practices
19 will cause the taxpayers of the CITY and the State of California, including Petitioner, to
20 suffer irreparable injury.

21
22 69. Unless enjoined by this Court, the CITY will continue to spend the money
23 of the CITY and the State of California in furtherance of its illegal policies and practices,
24 causing irreparable injury to the taxpayers of the CITY and the State of California,
25 including Petitioner.

1 70. Petitioner and the taxpayers of the CITY and the State of California have
2 no plain, adequate, or speedy remedy at law and are entitled to injunctive relief against
3 the CITY.

4
5 **WHEREFORE, PETITIONERS PRAY AS FOLLOWS:**

6
7 1. That this Court set “times for responsive pleadings and for hearings in
8 these proceedings ... with the object of securing a decision as to these matters at the
9 earliest possible time,” as provided in Government Code Section 6258.

10
11 2. That after a trial of this action, to be held on notice, this Court should
12 issue a declaration that:

- 13 (a) The records requested by the Petitioner are disclosable public records;
14 (b) The CITY violated the California Public Records Act by:
15 (i) destroying public records;
16 (ii) failing to conduct a reasonable search for records responsive to
17 FAC’s CPRA Request; and,
18 (iii) failing to disclose the public records responsive to FAC’s CPRA
19 Request; and,
20 (c) The CITY violated Government Code § 3400, et seq., by destroying
21 public records less than two years old;
22 (d) The CITY violated Government Code § 6200 by destroying records;
23 and,
24 (e) The CITY has used taxpayer funds to implement, enforce, or otherwise
25 carry out illegal policies and practices.

1 3. That after a trial of this action, to be held on notice, this Court should
2 cause a peremptory writ of mandate to issue, immediately directing the CITY OF LOS
3 ANGELES to:

4 (a) conduct a reasonable search for records responsive to FAC's CPRA
5 Request and requiring immediate disclosure of any responsive records; and,

6 (b) maintain public records for a minimum of two years, or by the
7 minimum time required by law, whichever is greater;

8
9 4. Issue an injunction prohibiting the CITY OF LOS ANGELES from
10 destroying any public records less than two years old in violation of Government Code
11 Sections 34090, et seq. and 6200, and from spending the money of the CITY and the
12 State of California in furtherance of its illegal policies and practices which further the
13 destruction of records that are less than two years old;

14
15 5. That Petitioner/Plaintiff FIRST AMENDMENT COALITION recover
16 attorneys' fees incurred in this action pursuant to Government Code Section 6259
17 and/or Code of Civil Procedure Section 1021.5; For an award of costs incurred in this
18 action; and,

19
20 6. This Court award such further relief as is just and proper.

21
22 DATED: August 23, 2016

LAW OFFICES OF KELLY A. AVILES

23
24 

25 Kelly A. Aviles
26 Attorneys for Petitioner/Plaintiff
27 FIRST AMENDMENT COALITION
28

STATE OF CALIFORNIA, COUNTY OF MARIN,

This Verification was executed on August 23, 2016, at San Rafael, California.



Peter Scheer

Exhibit A

Tom LaBonge Leaves the Cupboard Bare ... Records on \$600,000 Missing

JAMES O'SULLIVAN / 18 JANUARY 2016

GUEST WORDS--By the time Tom LaBonge [*photo*] termed out of the City Council in June 2015 his City Hall office was a mess. Shades of the fall of Saigon, file cabinets were emptied and records were shredded or just vanished. Not a single piece of paper was left for the incoming David Ryu administration. Council District Four residents who had been asking for assistance with problems or filing complaints were out of luck because there were no records for Ryu's staff to respond to.

To make matters even worse, LaBonge had gone on a last minute spending spree. He promised to hand out over \$600,000 in discretionary funds to various groups with no documentation to show how these expenditures had been earmarked or why.

When those of us who closely follow City Hall found out that LaBonge had emptied the CD 4 bank account we were stunned because the use of discretionary funds had been a major issue in the runoff election between Carolyn Ramsey, LaBonge's former Chief of Staff, and David Ryu. For many voters LaBonge passing out money like Halloween candy was the straw that pushed them into Ryu's camp. Ryu won the election hands down. (We can only speculate if those funds and files would have been left intact if Ramsey had been elected.)

In order to bring some sanity to the situation, on his first day in office Councilman Ryu filed motions to have LaBonge's spending spree rolled back. On July 28, 2015 the City Council voted 15-0 to do just that. They cancelled LaBonge commitments and declared that these funds were unencumbered. Ryu then appointed a committee of stakeholders to advise him in this effort to review LaBonge's pledges, but with no paperwork to go on the effort has been extremely daunting. The committee has been diligently trying to help the

Councilman examine the requests and appropriately reallocate funds. But the task is complicated. Did the groups listed by LaBonge as needing public funds actually apply for them or was this LaBonge's peevish attempt to empty the coffers before he left office?

There are legitimate and pressing needs for discretionary funds in CD 4: trees to be trimmed, potholes to be filled, sidewalks to be fixed, and the list goes on! Which of the projects on LaBonge's list should be funded, which should not? This is public money and each group should have to step forward and make their case for the funds to the Council office – and to the public.

The list of LaBonge's giveaways ranged from Parent Teacher Associations to museums. It also appears that some funds were earmarked for projects outside of Council District Four – these are probably the most egregious items.

The amounts on LaBonge's list range from \$2500 to \$50,000. Some names are recognizable while others are not. All are just a simple line entry on a page that lists the names and amount. There are no supporting documents illuminating why one group was to get money and others were not. To many this is the perfect example of a slush fund: opaque, arbitrary, and subjective.

One name and amount on LaBonge's ledger immediately jumped off the page: Museum Associates was to get \$50,000 to finance a way-finding project involving signage along Museum Row.

I had to look at it several times to make sure I was really seeing what I was seeing. Museum Associates is a privately owned 501(c)(3) non-profit doing business as the Los Angeles County Museum of Art.

This group receives around \$30-million a year from the County to run LACMA and is also slated to get another \$125-million from the County to build its new museum on Wilshire Boulevard. Museum Associates also owns the old May Company property where the Motion Picture Academy is being built – as well as its Spaulding parking lot and 6006 Wilshire

Boulevard. So, the first thought that came to mind was does LACMA really need \$50,000 from the CD 4 discretionary fund and if so, why?

In a letter LaBonge submitted to the City Council on July 28, 2015, he asked them to leave his financial gifts in place and not return the funds to Councilman Ryu. LaBonge claimed he was fulfilling a \$ 100,000 commitment to Los Angeles County by giving \$50,000 to LACMA and \$50,000 to the Ford Museum. That actually should be fairly easy to check out. An inquiry to the County should turn up something that references such a commitment.

Museum Associates should also be of help as they have a personal service contract with an independent contractor detailing plans for a way-finding plan to promote LACMA and other Miracle Mile museums. That contract mentions a grant from the city that will be used to pay the contractor. Surely there is something in writing that Museum Associates can produce that details the conditions of such a grant? The project may be the greatest thing since sliced bread, but what elevated it above all the other needs in CD 4?

Again, these are public funds and there must be a paper trail documenting the basis for this grant. Without that the specter of quid pro quo will forever hang over all of these funds and projects.

David Ryu is committed to an open and transparent process in this matter. He promises to come up with a grant proposal system that all must comply with. There is already a template that many Neighborhood Councils use to help them in this process. Whether a Neighborhood Council or a Council Office, there needs to be a rational and fair way to vet the expenditure of public money. After all, it's our money – not Tom LaBonge's.

*(James O'Sullivan is Vice President of Fix The City and President of the Miracle Mile Residential Association. This perspective was posted first in the **MMRA Newsletter**, edited by Ken Hixon.)*

-CW

CityWatch

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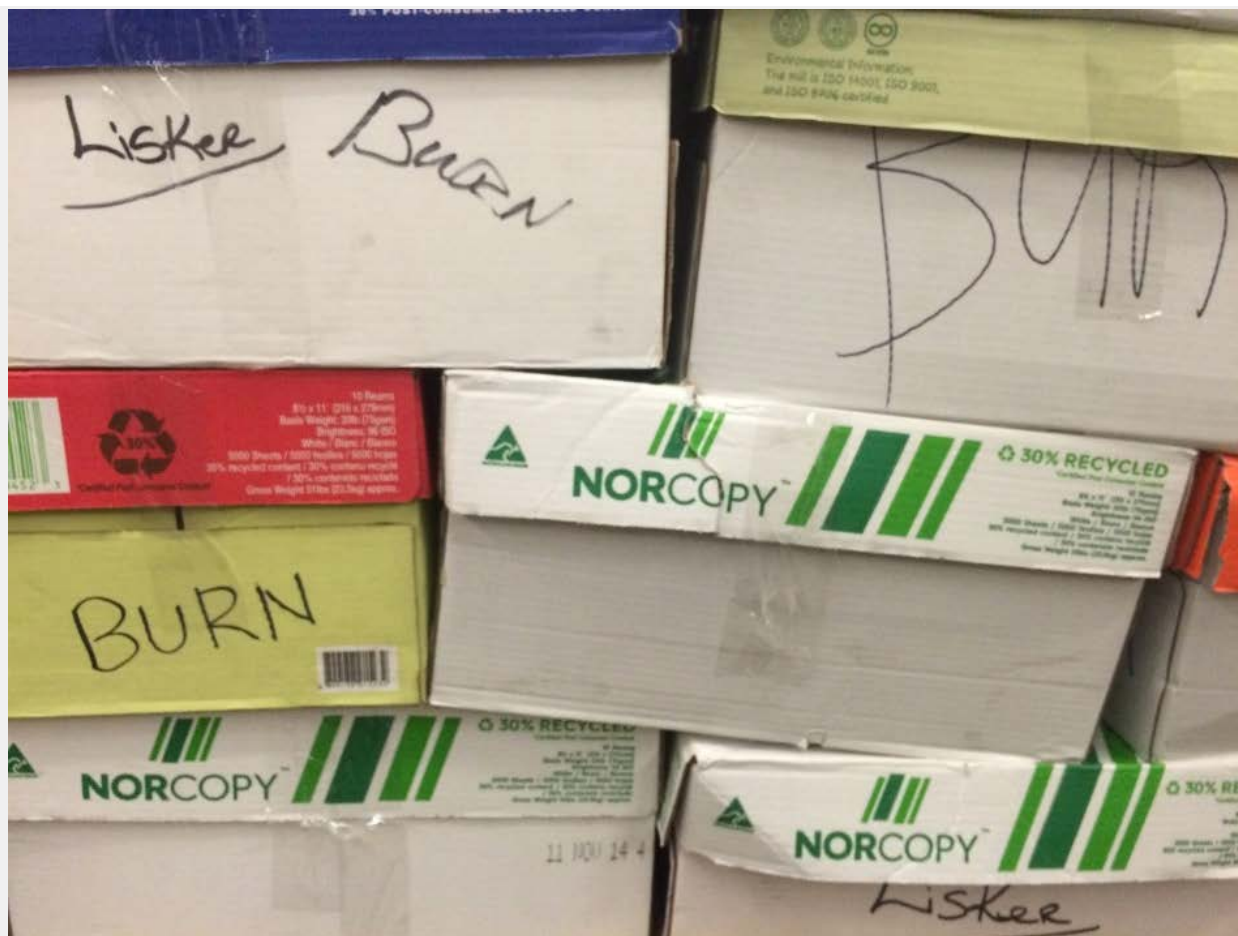
Los Feliz Ledger

Contact  “A Great big, Small-Town Newspaper” Advertising Info 

What People Say About the Los Feliz Ledger Paper Locations

At Least 113 Boxes Ordered Destroyed by LaBonge

BY [ALLISON B. COHEN](#) · JANUARY 28, 2016



Boxes filled with police records designated for destruction photographed today at Piper Technical Center, the location where city documents are sent for destruction or archival. Photo: Allison B. Cohen.

LOS ANGELES—Over 100 filled boxes with documents from outgoing Los Angeles City Councilmember Tom LaBonge's office were moved from his City Hall suite in June and transported to the city's records manager with the notation the contents be destroyed and burned.

The destruction of the documents, detailed in public records obtained by a Los Feliz resident through a California Public Records request and forwarded to the *Ledger*, was ordered by LaBonge's secretary Juliette Durand June 12th, June 14th and June 26th, just prior to the long-term councilmember's last day in office June 30th.

The paperwork asked that 90, 10 and 13 boxes be picked up from LaBonge's council office and taken to a city facility, called Piper Technical Center, located just east of downtown, for destruction, specifically to be burned.

The issue of missing files from LaBonge's office has been ongoing and rumored since newly elected Los Angeles City Councilmember David Ryu took office July 1st. Ryu beat LaBonge's hand chosen successor, his former Chief of Staff Carolyn Ramsay, in an election for the council seat last May.

In a strange twist, however, 35 boxes earmarked for destruction have been salvaged.

According to multiple sources, the Los Angeles City Attorney's office has had those boxes in their office since the first week of July after a staffer stumbled upon them accidentally while seeking CD4 litigation documents from Piper, where city archives are also kept.

Still, a total of 78 boxes from LaBonge's office shipped to Piper are unaccounted for.

"They would have been destroyed," said Todd Gaydowski the city's records management officer.

But according to Gaydowski there still may be more.

According to Gaydowski, LaBonge had sent a slow dribble of boxes, 10 and sometimes 20 at a time, to Piper for destruction the last six months he was in office. Additionally, he said, at times, LaBonge would bring the boxes to Piper himself.

Gaydowski, however, said he is uncertain of the quantity of boxes LaBonge's requested destroyed, as his department does not keep a log of boxes coming in for destruction.

Whether or not LaBonge has engaged in a crime is uncertain. According to Gaydowski, the mayor's office and the city's 15 city councilmembers can destroy documents without any questions asked. Other city departments, however, cannot.

In the latter instance, departments must file paperwork for how long such records, police files for instance, must be retained, which then trips a date when they can be destroyed. For those non-elected personnel, records earmarked for destruction must be approved by the Los Angeles City Council and must be made available for 60 days to allow the public the opportunity of viewing them.

When asked why elected city council members and Los Angeles mayors were not held to the same standard as hired city employees regarding the destruction of public documents, Gaydowski had no comment. He simply shook his head and shrugged his shoulders.

According to to Gaydowski, documents received for destruction by his facility are sent off site for shredding. The term “burn,” he said, is colloquial only and does not mean the records are incinerated.

A former LaBonge staffer, who has asked to remain anonymous, has already indicated LaBonge instructed staff to destroy the records for two reasons.

There was “lots of wrong doing and [LaBonge] wanted to make sure that was covered [up] plus make sure that Ryu would have to start from scratch,” the staffer wrote in an email on the subject received by the Ledger.

The former staffer has also said the help of multiple agencies were sought by LaBonge staff last year, including the City Ethics Commission, the City Clerk and the city’s department of human resources, over what they believed was misconduct occurring in LaBonge’s office, but that their requests for help was ignored.

The *Ledger* as well as Los Feliz resident Michael Miller, a former city attorney for multiple Southern California cities, were denied a California Public Records request by the City Ethics Commission for any grievances filed against LaBonge from 2012 until he left office. Miller said he intends to sue for the documents.

Further collaboration of the staff tossing documents into boxes, with the intention they be destroyed, was additionally confirmed today by an forgotten, saved voice-mail left behind on one of LaBonge’s former staffer’s telephones that a current Ryu staffer is now assigned to. The voice mail was forwarded to the *Ledger*.

In the message, dated June 25th, former LaBonge council aide Leslie Shim is heard leaving a message for former LaBonge deputy, Ben Seinfeld, that everyone is looking for him “especially Tom and if you can, please hurry back to City Hall right now as we are cleaning everything out.”

Attempts to reach Shim today were unsuccessful. Multiple attempts to reach LaBonge have also been unsuccessful.

It’s not clear if LaBonge’s staffers could be held complicit in the destruction of public documents.

“Apparently, there was a direct demand by LaBonge to get the pitchforks out and start tossing stuff into the fire,” said Pasadena based attorney Robert Silverstein. “Clearly the buck stops with him.”

According to both Silverstein and another attorney, Michael Overing, who teaches media law at USC and whose practice specializes in 1st Amendment issues, all documents in LaBonge's office, destroyed or otherwise, are the public's.

"The destruction of public documents can be a felony," Overing said. "[The city has an] obligation as agents of the public. . . . If they can simply destroy these documents with impunity, that smacks of bad faith."

Overing suggested an independent committee be formed to investigate the LaBonge's documents as well as the city's processes overall. Both attorneys said LaBonge's conduct was outrageous.

Half of the salvaged 35 boxes were moved today to councilmember Ryu's office with the remainder coming by Friday. According to Ryu spokesperson, Estevan Montemayor, the office is currently redacting any personal information contain in the documents, such as social security numbers or home addresses, and will make them available to the public soon.

Ryu authored a motion in December for the City Attorney's office to create procedures for transitioning councilmembers, including the sharing of information and documents. Currently, only the mayor's office has such protocol.

"This is exactly why we put forth that motion," Ryu spokesperson Montemayor said.

This story was updated at 7:05 p.m.

First & Spring Files missing from ex-councilman's office are an issue in lawsuit over Sherman Oaks development



Documents from the office of former Los Angeles City Councilman Tom LaBonge, marked for destruction, are now in the possession of his successor, Councilman David Ryu. (Brian van der Brug / Los Angeles Times)



By **Emily Alpert Reyes** · Contact Reporter

JANUARY 29, 2016, 2:37 PM

When Los Angeles City Councilman Tom LaBonge left office, he left nothing behind. Documents kept by LaBonge and his staff members were nowhere to be found, his successor, David Ryu, said after taking office last year. And at a July hearing, Renee Weitzer -- a former LaBonge planning staffer now working for Ryu -- said her old files were gone.

“All our files from the past administration have been destroyed,” Weitzer told planning staff, according to a [video](#) recorded for the law firm of attorney Robert P. Silverstein. “So, basically, I have to start from scratch.”

State law restricts what kinds of city documents can be destroyed and when. But city officials say there is no municipal policy that governs what council members do with their files when they leave office. LaBonge says he did nothing wrong.

The absence of such rules has raised questions about whether L.A. is complying with the state law. Now the fate of those files -- reams of documents that LaBonge staff members sought to have destroyed -- has become an issue in a legal battle over a Sherman Oaks development.

Attorneys fighting to overturn the Il Villaggio Toscano project argue the city has failed to turn over all of the city documents that a Superior Court judge ordered them to provide nearly a year and a half ago.

In court filings, they say the missing documents include memos from the office of LaBonge, who was on the council when the controversial development in his Sherman Oaks-to-Silver Lake district was approved.

The city has fired back in court, saying that it provided everything that was required. But Silverstein, one of the attorneys trying to halt the Il Villaggio Toscano, has expressed concern that evidence may have been destroyed when LaBonge left office.

Questions about the missing records were first reported by the Los Feliz Ledger. If evidence was trashed, Silverstein said, “it cheats the public out of their ability to prove their case” against the city.

His firm is pressing for the court to impose financial penalties and order a schedule for providing the records. It is also asking a judge to set a hearing to decide whether to hold the city in contempt.

More than six months after Ryu took office, some documents were found. Dozens of boxes were turned over this week to Ryu by the city attorney’s office, which said one of its lawyers had located the files in city archives and had been reviewing them in connection with a court case.

Those 35 boxes had been marked to be destroyed, said Todd Gaydowski, who oversees city records management. Public records obtained by retired attorneys Michael H. Miller and Stephanie Scher show that a LaBonge staffer asked that several batches of material -- totaling 113 boxes -- be burned. Gaydowski said he was unsure if the other 78 boxes sent there had ultimately been destroyed.

LaBonge said no one had told him to save any records before he left. "There were no instructions given to me other than to get out of the office," he said.

LaBonge said he had not gotten rid of files to hinder Ryu or to hide any wrongdoing. The former councilman left office after a bitterly contested race that pitted his former chief of staff against Ryu. That campaign included sharp criticism of LaBonge himself and his actions as a councilman, including how he had spent discretionary money allocated to his council office.

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His former legislative deputy, Lisa Schechter, also said that city departments told them months earlier that they needed to clear out of the office, but didn't mention any rules regarding what to do with files.

California state law generally allows city governments to destroy some city records if lawmakers and the city attorney approve, but not if the documents are unduplicated and less than two years old.

Los Angeles city rules also set forth how long its departments are supposed to hold on to different kinds of records, stating that most must be retained for at least two years. But City Clerk Holly Wolcott said there is no standard way that council members are supposed to handle their files when they leave office.

Miller and Scher, both Los Feliz residents who used to represent Southern California cities as attorneys, said they were appalled at the city practice. Neither is affiliated with Silverstein or his firm.

"I can't believe that the second biggest city in the United States of America apparently doesn't do it properly," Miller said.

If a city leaves it up to an elected official to decide what to save, maybe "they toss the stuff that might portray them in a less flattering light," said San Francisco-based attorney Karl Olson, who has represented media outlets on public records issues.

"They're taking the law into their own hands and defeating the constitutional right of access," Olson said.

Ryu introduced a proposal in December to change the city practice, asking for staff recommendations for "a standardized transition plan."

His staffers are now reviewing the retrieved documents for confidential information before making them publicly available. Silverstein called for an independent investigation of what was destroyed, saying that even if boxes had been recovered, “How do we know those contain everything that had existed?”

City Atty. Mike Feuer declined to respond to questions about whether possible destruction of files from the council office could have eliminated evidence in the Il Villaggio Toscano case.

In a legal filing, city lawyers said the Planning Department was the central location for project records and those documents had already been provided. LaBonge said he hadn't sought to archive the documents that were sent out for destruction because important records would be available with other departments or electronically.

Silverstein countered that some records would not be kept electronically, including written notes from city officials or mailed correspondence from developers to LaBonge or his staff. Ryu spokesman Estevan Montemayor said that while some of the missing files could be obtained from other departments, their office had been unable to recover detailed notes that Weitzer had taken.

Silverstein represents a group called Sherman Oaks Residents for a Safe Environment, which contends that the as-yet-unbuilt Il Villaggio Toscano development near the 101 and 405 freeways will expose its residents to “a constant plume of dangerous levels of diesel” and create nightmarish traffic.

Development company M. David Paul did not respond to a request for comment on the suit. The Il Villaggio Toscano website says it is right for the site and will have measures to address traffic.

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Campaign records found among Ex-L.A. City Councilman Tom LaBonge's office documents



Former Los Angeles City Councilman Tom LaBonge speaks during a City Council meeting last year. On Friday, documents from his office were made public. (Katie Falkenberg / Los Angeles Times)



By **Emily Alpert Reyes** · Contact Reporter

FEBRUARY 5, 2016, 4:29 PM

Dozens of boxes of office documents that former City Councilman [Tom LaBonge](#) and his staffers sought to destroy included old lists of election donors.

LaBonge, in an interview Friday, said he had “absolutely not” worked on his campaign at his City Hall office.

L.A. city officials and employees are prohibited from campaigning, fundraising or doing campaign research during their work hours, or in city offices not available to the public for campaign activities.

LaBonge said he did not have time Friday to review an electronic copy of the documents from his office because of a family matter.

The salvaged documents also included budget plans and piles of travel receipts related to Sister Cities, a cultural exchange program that pairs Los Angeles with other cities around the world that had come under fire during a recent campaign, along with old planning files, letters from residents and reports.

Those reams of papers had been bound for the shredder: LaBonge staffers sent 113 boxes off to be destroyed when he left office last year, according to city records. The former councilman said no one had told him to save anything and any important documents would be available elsewhere.

Dozens of those boxes were recovered by a city attorney before they could be destroyed and later sent to Councilman David Ryu, whose staff made them available to reporters Friday. Ryu and his staff had complained that when he took office, no files from his predecessor had been left behind.

The documents provided Friday included a printed table labeled “LaBonge No Money So Far” that listed people and dollar amounts for “Re-elect07” and “Officeholder06.” It had a written note attached saying, “Jeanne / Let’s talk at lunch – see me / Tom.”

Former LaBonge staffer Jeanne Min, who now works for another councilman, said in an email that she did not talk with LaBonge about campaigning in the office or during work hours and did not recall discussing the document. Min said she didn’t know why it would have been in the office.

Another printed table was labeled “Tom LaBonge Contributors 2001-2013” and listed thousands of people with their city of residence, occupations and employers, along with “Amount Rcvd.” And the documents also included an email, sent in 2003 from campaign consultant Sue Burnside, titled “tom requested a list of the endorsers- here it is,” that was sent to his wife and an aide at their personal email addresses.

Burnside, a consultant who worked on several campaigns for LaBonge, said she had never seen the former councilman violate those rules.

And some experts said the presence of such records did not, by themselves, prove wrongdoing. The fact that such papers were trashed “doesn’t mean we can show anything other than he threw the papers away in a city garbage can,” said Gary Winuk, former Fair Political Practices Commission enforcement chief.

Other records tied into a campaign controversy: During the race last year between Ryu and LaBonge's former chief of staff, Carolyn Ramsay, LaBonge frequently faced criticism for his spending, including money allocated to the Sister Cities nonprofit by his office.

As a councilman, LaBonge had served as chairman of Sister Cities, and he and his staffers had traveled around the globe with the group. His office and the city department of cultural affairs repeatedly granted it funds for cultural programs. One of his aides, Kamilla Blanche, also served as its executive director.

Reporters were unable to get precise details about such spending during the campaign: The Times, initially believing Sister Cities to be a city program, filed a public records request for budgets and spending details going back three years. But LaBonge staffers said they did not have those records.

They referred The Times to the nonprofit, Sister Cities of Los Angeles Inc., which said it did not have to disclose such information because it wasn't a public agency. Its tax returns also yielded little information. The nonprofit did voluntarily provide a summary of public funding it had gotten and its purpose.

And when a Los Feliz Ledger reporter started asking questions about Sister Cities budgets and accomplishments, a city analyst told Blanche not to respond until after the election, emails later obtained by The Times show.

In an email, assistant chief legislative analyst Avak Keotahian advised Blanche to say "you will be happy to assist AFTER the elections," later adding, "again, 'in the interest of fairness' no information should be provided until after the elections."

When the Ledger reporter continued pressing Blanche for information about the program, Keotahian again advised the staffer "just don't respond – it's clear what she's after."

Keotahian later told The Times he advised the LaBonge staffer to not answer the questions yet because the request appeared to be related to the campaign. Because city employees cannot get involved in elections on the job, "providing information after the elections would have eliminated any allegation ... that the information was provided for campaign purposes," Keotahian wrote in an email.

Ethics experts consulted by The Times were skeptical, however, that handing over such information would have violated city rules against campaigning on the job.

The boxes released Friday included piles of old receipts for trips tied to the Sister Cities program, including hotel bills and airline tickets for LaBonge and some former staffers.

The Times was unable to immediately discern from the receipts Friday how the travel was funded.

For instance, the documents included a city form for personal expenses that listed more than \$1,600 in spending, including a hotel stay, restaurant bills and ATM withdrawals, for a trip LaBonge made to Paris. Another such form indicated that LaBonge had spent more than \$2,900 in Vancouver on a 2010 trip.

But both forms were unsigned, leaving it unclear if they were submitted to the city. The city clerk's office said it found no travel reimbursements to either Paris or Vancouver for LaBonge.

The released documents also included a budget breakdown for a celebration of the Sister Cities relationship between Los Angeles and the French city of Bordeaux, funded partly with city grants, that listed more than \$15,000 in travel and lodging expenses for LaBonge and his staffers.

However, Blanche said that appeared to be a "working document" that did not account for donated lodging. She said the city grants went toward cultural programming, not travel expenses.

Seventy eight other boxes that LaBonge staff sent out for destruction have not been located and were probably destroyed, said Todd Gaydowski, who oversees city records management.

The missing files have raised questions about whether L.A., which lacks city rules on what departing council members do with their files, is in line with state laws that limit when public records can be destroyed. California law generally allows city governments to destroy some records if lawmakers and the city attorney approve, but not if the documents are unduplicated and less than two years old.

City Clerk Holly Wolcott initially told The Times that the council offices did not fall under municipal rules requiring city departments to set schedules for how long to retain records.

Wolcott later said that after additional research, she believed that the council offices did fall under those rules and would work with them to make sure they had such schedules and understood state law.

Peter Scheer, executive director of the nonprofit First Amendment Coalition, said L.A. needs such rules – for both current and exiting lawmakers -- to ensure public documents aren't improperly destroyed.

"You can't have any kind of freedom of information if it's OK to destroy any public record any time," Scheer said.

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Documents ex-L.A. councilman sought to destroy are made public by successor



Boxes of documents from the administration of former Los Angeles City Councilman Tom LaBonge, marked for destruction, are now in the possession of his successor, David Ryu. (Brian van der Brug / Los Angeles Times)



By **Emily Alpert Reyes** • Contact Reporter

FEBRUARY 6, 2016, 2:00 AM

Dozens of boxes of office documents that former Los Angeles City Councilman **Tom LaBonge** and his staffers sought to destroy were instead made available Friday by his successor.

The records included planning files, letters and piles of travel receipts related to Sister Cities, a global cultural exchange program that pairs Los Angeles with other cities that had come under fire during a recent campaigns.

Also among the salvaged documents were old lists of election donors, which drew scrutiny from some attorneys. L.A. city officials and employees are prohibited from campaigning, fundraising or doing campaign research during their work hours, or in city offices not available to the public for campaign activities.

LaBonge, who said he didn't have time to review the documents Friday, said he had "absolutely not" worked on his campaigns at his City Hall office.

The papers had been bound for the shredder: LaBonge staffers sent off 113 boxes to be destroyed when he left office last year, according to city records. The former councilman said no one had told him to save anything and any important documents would be available elsewhere.

Dozens of those boxes were recovered by a city attorney before they could be destroyed and later sent to Councilman David Ryu, whose staff deemed them to be public documents and made them available Friday. Ryu had complained that LaBonge left him no files when he took office.

The documents included a printed table labeled "LaBonge No Money So Far" that listed people and dollar amounts for "Re-elect07" and "Officeholder06."

It had a written note attached that read, "Jeanne / Let's talk at lunch – see me / Tom." Former LaBonge staffer Jeanne Min, who now works for another councilman, said in an email that she did not talk with LaBonge about campaigning in the office or during work hours and did not recall discussing the document.

Another printed table was labeled "Tom LaBonge Contributors 2001-2013" and listed thousands of people and the "Amount Rcvd." And the documents also included a 2003 email from campaign consultant Sue Burnside, titled "tom requested a list of the endorsers- here it is," sent to his wife and an aide on their personal email.

Stephanie Scher, a retired attorney living in Los Feliz who has raised concerns about records being destroyed, said LaBonge needs to explain why the campaign documents were there, adding they "should be at a campaign office."

However, Burnside, who worked on several campaigns for LaBonge, said she had never seen the former councilman violate the city rules. The fact that such papers were trashed "doesn't mean we can show anything other than he threw the papers away in a city garbage can," said Gary Winuk, former enforcement chief for the Fair Political Practices Commission.

The boxes released Friday also included piles of old receipts for trips tied to the Sister Cities program, including hotel bills and airline tickets for LaBonge and some former staffers.

Reporters had sought information about Sister Cities amid a campaign controversy: During the race last year between Ryu and LaBonge's former chief of staff, Carolyn Ramsay, LaBonge frequently faced criticism for his spending, including money allocated to the Sister Cities nonprofit by his office. As a councilman, LaBonge had served as chairman of Sister Cities and traveled around the globe with the group. His aide Kamilla Blanche served as its executive director.

Seventy-eight other boxes that LaBonge staff sent out for destruction were probably destroyed, said Todd Gaydowski, who oversees city records management.

The missing files have raised questions about whether Los Angeles, which lacks city rules on what departing council members do with their files, is in line with state laws that limit when public records can be destroyed. California law generally allows city governments to destroy some records if lawmakers and the city attorney approve, but not unduplicated records less than 2 years old.

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A version of this article appeared in print on February 06, 2016, in the News section of the Los Angeles Times with the headline "Ex-councilman's files are public - Tom LaBonge and his staff intended to destroy documents, but his successor made them available." — Today's paper | [Subscribe](#)

Editorial Tom LaBonge is gone—and so (unfortunately) are his documents



Boxes of files from the administration of Los Angeles City Councilman Tom LaBonge, marked for destruction, are now in possession of City Councilman David Ryu. (Los Angeles Times)

By **The Times Editorial Board** · **Contact Reporter**

FEBRUARY 9, 2016, 5:00 AM

When newly sworn-in Los Angeles City Councilman David Ryu showed up for work at City Hall last July, he was shocked to find an office stripped bare except for a few computers. There were no files for ongoing projects in the district, which had been represented for 14 years by Tom LaBonge. There were no logs of constituent service requests. No records showing how hundreds of thousands of dollars of Council District 4 funds had been spent. In fact, Ryu's staff said, not a scrap of paper was left for the new councilman.

Yes, politics can be ugly. During the runoff with LaBonge's former chief of staff, Carolyn Ramsay, Ryu was highly critical of how the councilman had managed his office. Ryu complained LaBonge had used “secret slush funds” to bankroll pet projects and to pad staff salaries, and he pledged to make discretionary spending more transparent. LaBonge, who backed Ramsay, might have destroyed the

documents just to make Ryu's life more difficult; he certainly wouldn't be the first outgoing politician to have let sore feelings override his professionalism. Or perhaps, as some allege, there were documents he didn't want seen.

“

Some council members have felt free to toss out any documents they choose, which denies people the right to view public records.

That's why government bodies should have much clearer rules and policies on what records should be kept in the transition between the outgoing and incoming elected official.

The status quo is not only terribly inefficient, it's also possibly illegal. California law requires that public records be preserved for a certain period of time. A city can destroy records if lawmakers and the city attorney approve, but not if the records are unduplicated and less than two years old. The city's own rules spell out how long city departments are supposed to retain documents, but they haven't been applied in the past to council offices. So some council members have felt free to toss out any documents they choose, which denies people the right to view public records.

The result is that constituents lose continuity of service in the transition, and the public loses a vital window into the operation of its government. And secrets remain secrets forever. As Peter Scheer, executive director of the First Amendment Coalition, told Times reporter Emily Alpert Reyes: “You can't have any kind of freedom of information if it's OK to destroy any public record any time.”

Ryu introduced a motion in December calling for the city attorney and chief legislative analyst to develop a protocol for council office transitions, for incoming members as well as outgoing ones. Councilman Marqueece Harris-Dawson, who also took office in July, arrived to find no transition or recordkeeping policy. His predecessor, Bernard Parks, had left six filing cabinets filled with old files, which Harris-Dawson's staff reviewed and sent off for recycling.

LaBonge told reporters that he was instructed to clear out his office and that's what he did. Nobody ever told him to keep files on hand or preserve public documents. His scorched-earth office cleaning sent 113 boxes of documents to be shredded, most of which are presumed to have been destroyed. However, the City Attorney's office was able to recover 35 boxes, which were discovered while city lawyers were searching for documents related to a lawsuit. Still, an attorney suing the city over the approval of the Il Villaggio Toscano project in Sherman Oaks has expressed concern that evidence may have been destroyed when LaBonge left office.

For the Record

Feb. 9, 1:05 p.m.: An earlier version of this editorial said that city lawyers had found 35 boxes of Council District 4 records while searching for documents related to a lawsuit over the Il Villaggio Toscano project in Sherman Oaks. In fact, the lawyers were looking for records related to a different lawsuit.

The lack of records has also raised eyebrows because LaBonge made plans in his final weeks in office to dole out \$600,000 in Council District 4 discretionary funds to various community groups and projects. When Ryu came in, he convinced the City Council to rescind the funds so the projects and commitments could be examined by a new community task force. But there were no documents or applications to explain why the money had been promised or even what it was for. The task force has OK'd only \$83,700 of LaBonge's \$600,000.

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A version of this article appeared in print on February 09, 2016, in the Opinion section of the Los Angeles Times with the headline "Where'd the documents go?" — Today's paper | [Subscribe](#)

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L.A. City Hall's Lack of Record-Keeping May Come Under Fire

Laws dictate that records must be preserved for a certain amount of time, but it doesn't appear that City Council and the mayoral offices have followed those rules.

BY DAKOTA SMITH, DAILY NEWS / FEBRUARY 10, 2016

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Los Angeles City Hall

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(TNS) — Los Angeles City Hall's practice of allowing elected officials to destroy records rather than retain those documents could open up the city to legal challenges, experts said this week.

While Los Angeles city departments follow guidelines for preserving records, it doesn't appear that City Council and mayoral offices have followed those same rules, city employees said this week.

The issue came to light after former Los Angeles City Councilman Tom LaBonge acknowledged that he didn't preserve city documents upon leaving office in 2015. Former Councilman Bernard Parks, who also left in 2015, also didn't retain some documents, his former chief of staff said in an interview this week.

Stephanie Scher, a retired attorney for the cities of Bellflower, Baldwin Park and Palos Verdes Estates, said the lack of retention raises legal issues because of both state and L.A. city laws. Such laws dictate that records must be preserved for a certain amount of time.

"You got watchdog groups that are going to be very unhappy about the city destroying public records," said Scher, who was one of the first attorneys to raise issues about the destruction of the documents.

The Los Angeles District Attorney's office could try and prosecute the individuals who sought the destruction of LaBonge documents, she said.

The office of City Councilman David Ryu, who represents District 4, last week made public 35 boxes of documents (<http://www.dailynews.com/government-and-politics/20160205/la-city-councilman-david-ryu-releases-old-files-from-councilman-tom-labonge>) belonging to Ryu's predecessor, LaBonge. The release of the documents — marked for destruction — highlighted the lack of preservation required by the city.

In releasing the documents, Ryu's team emphasized that they weren't accusing LaBonge of any misdeeds, only bringing to light the need for better citywide rules for preserving records.

Los Angeles department heads are responsible for keeping records retention schedules and laying out a process for preserving records. A record could be a permit for a new downtown building, for instance.

But city elected officials, such as council members and the mayor, haven't followed those procedures.

The last council member to submit a records retention schedule was City Councilman Marvin Braude, City Clerk Holly Wolcott said. Braude left the council in 1997.

Asked if council members and the mayor are required under current law to retain official records, Wolcott said: "We believe they are."

Terry Francke, general counsel with Californians Aware, said the lack of record-keeping could result in lawsuit against the city brought by taxpayers. The crux of the lawsuit would be that the city was abusing taxpayer dollars by violating state or federal law.

Some City Council members have sent files to be retained. Since 2000, 20 council members have sent files to be preserved, said Todd Gaydowski, the city's records management officer and head of the city clerk's Records Management Divisions.

It wasn't immediately clear what was contained in the files sent by those council offices.

The issue of the destroyed LaBonge documents came to light in a lawsuit brought by attorney Robert Silverstein, who is suing the city over the approval of a Sherman Oaks development. Silverstein is seeking documents from LaBonge's office held by the city.

Plaintiffs in other lawsuits brought against the city over land-use projects in Council District 4 while LaBonge was in office could also ask the court to weigh in on the issue of missing documents, Silverstein said.

Silverstein is asking for an independent investigation into what happened to the documents in LaBonge's office and the destruction of documents at City Hall.

The city does retain emails from all city employees dating back to 2010, said Ted Ross, general manager of the city's technology department. All employee emails are kept, including deleted emails, Ross said.

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When L.A. City Council files are burned, so is the public

By The Editorial Board, LA Daily News

Thursday, February 18, 2016



Los Angeles city politicians shouldn't have to be reminded that the offices they inhabit don't belong to them — they belong to the public.

So, while it's encouraging that officials have [gotten to work on new rules](#) to prevent more screw-ups like the one involving former City Councilman Tom LaBonge, it's also disappointing to realize the rules are necessary.

LaBonge says he wasn't told to preserve official documents as he and his staff prepared to leave office because of term

limits last June.

He says that's why he left no office files behind for new District 4 Councilman David Ryu, instead sending more than 100 boxes of documents to a city facility to be destroyed.

The lack of rules for outgoing City Council members probably gets LaBonge off the hook legally. But this is a poor excuse.

It should have been obvious that the thousands of documents being sent off to be shredded or burned would include many of real use to the next councilman. Maybe it would have been different if LaBonge deputy Carolyn Ramsay had won the election runoff against Ryu to succeed her boss. LaBonge and his staff might have seen the value in holding onto files concerning land-use issues, discretionary-fund commitments and constituents' inquiries.

As it was, when Ryu came in, he and his staff had to start from scratch in trying to deal with issues that had been brought to LaBonge and his people by residents of the district that winds from the San Fernando Valley community of Sherman Oaks to Griffith Park and the Miracle Mile. (Councilman Marqueece Harris-Dawson recounted a similar problem when he took over from Bernard Parks.)

Imagine being a resident who has been asking your council office for help with a problem like a pothole or busted street light, and being told the staff suddenly knew nothing about it.

About one-third of the documents from LaBonge's office were saved from destruction only because the city attorney's office tracked them down at the request of the plaintiff in a lawsuit over a Sherman Oaks development.

Those 35 boxes then were put on display to the press by Ryu. The files reportedly included documents related to LaBonge's election campaigns. LaBonge has denied having campaign work done from his council office, which would violate city law.

Ryu said he wasn't accusing LaBonge of doing anything sinister by destroying files. He said he was just trying to draw attention to the need for explicit guidelines for the sharing of material between outgoing and incoming members.

This week, a council committee passed a motion, presented by Ryu and seconded by Council President Herb Wesson, instructing the chief legislative analyst and city attorney's office to recommend a standardized transition plan.

To repeat, this shouldn't be necessary. But other public offices have such plans and the City Council should too.

The need is clarified by the fact this mistake was made by LaBonge. The 14-year councilman was [renowned for his constituent-service work and civic-mindedness](#). Yet even he didn't think to help his successor serve the public.

The new rules should require saving everything that can be practically saved and is potentially relevant to a new council member. They should set out serious punishment for violations.

URL: <http://www.dailynews.com/opinion/20160218/when-la-city-council-files-are-burned-so-is-the-public>

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Exhibit B



February 10, 2016

SENT BY FAX AND EMAIL

Herb J. Wesson, Jr.
President, LA City Council
200 North Spring Street, Room 430
Los Angeles, CA 90012
Fax: (213) 485-9829
Email: councilmember.wesson@lacity.org

Re: Public Record Request

Dear Mr. Wesson,

This is a request for public records pursuant to the California Public Records Act (CPRA), Gov. Code sec. 6250 et seq., and Article 1, sec. 3(b), of the California Constitution. It is submitted on behalf of the First Amendment Coalition (FAC), a California nonprofit organization with offices in San Rafael, CA. FAC is dedicated to free speech and government transparency. I hereby request:

1) copies of records, including emails, memos, letters and notes, written by or sent to then-Council member Tom LaBonge in 2014, and concerning any of the following:

a) The LA Department of Water & Power

b) The California Film Commission

c) The proposed Villaggio Toscano housing development on Sepulveda Boulevard in Sherman Oaks

If the requested records exist in a standard electronic format (e.g., PDF, Word, Excel, txt), I would like to receive them in that format, delivered either by email or mailed CD. Please call me to discuss other arrangements for delivery.

Please contact me to obtain my consent before incurring copying costs, chargeable to FAC, in excess of \$100.

If I can be of assistance in clarifying this request or helping your agency identify / locate the requested records, please feel free to contact me at: 415-886-7081, pscheer@firstamendmentcoalition.org

Thank you for your time and attention to this matter.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Peter Scheer', is written over a light gray rectangular background.

Exhibit C

From: Edward Johnson <edw.johnson@lacity.org>
Date: Thu, Mar 3, 2016 at 3:58 PM
Subject: Public Records Request
To: pscheer@firstamendmentcoalition.org

Dear Mr. Scheer:

This email responds to your recent request for public records pursuant to the California Public Records Act (CPRA) for documents written to be or sent to then Councilmember Tom LaBonge in 2014 concerning the DWP, the California Film Commission, and the proposed Villaggio Toscano housing development on Sepulveda Blvd in Sherman Oaks.

Our office conducted a search and have concluded that our office has no documents consistent with your request.

Sincerely,

EDWARD R. JOHNSON
Assistant Chief Deputy
Council President Herb J. Wesson, Jr.
(213) 473-7010
(213) 485-9829 (fax)
edw.johnson@lacity.org

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