

**Meeting Date: 7/30/2013**

**Report Type:** Consent

**Report ID:** 2013-00603

**Title: Removal of Members from the Community Racial Profiling Commission**

**Location:** Citywide

**Issue:** Failure to file a Statement of Economic Interest form is considered good cause for removal of a board member pursuant to the City's Conflict of Interest Code and City Charter.

**Recommendation:** Pass a Motion 1) removing member Michael Nguyen from the Community Racial Profiling Commission for failure to file an annual Statement of Economic Interest form; and 2) removing member Michael Benjamin II from the Community Racial Profiling Commission for failure to file an annual Statement of Economic Interest form.

**Contact:** Holly Charl  ty, Senior Deputy City Clerk, (916) 808-7605; Wendy Klock-Johnson, Assistant City Clerk, (916) 808-7509, Office of the City Clerk

**Presenter:** None

**Department:** City Clerk

**Division:** City Clerk

**Dept ID:** 04001011

**Attachments:**

1-Description/Analysis

2-Background

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**City Attorney Review**

Approved as to Form

Matthew Ruyak

7/24/2013 9:33:27 AM

**Approvals/Acknowledgements**

Department Director or Designee: Wendy Klock-Johnson - 7/23/2013 8:13:48 AM

## **Description/Analysis**

**Issue Detail:** Failure to file a Statement of Economic Interests form is considered good cause for removal of a board member pursuant to the City's Conflict of Interest Code and City Charter.

**Policy Considerations:** This action is consistent with the City's Conflict of Interest Code (Resolution 2013-0023, Section 1000) and City Charter section 232.

**Economic Impacts:** None

**Environmental Considerations:** None

**Sustainability:** None

**Commission/Committee Action:** None

**Rationale for Recommendation:** Removing a member for failure to file a Statement of Economic Interests form provides the City with the opportunity to fill the seat with a person who is fully committed to the responsibilities of membership. When a member does not file a conflict of interest statement, the public is denied the ability to confirm whether the member has a potential conflict in the decision-making process, and whether that member is acting in the best interest of the community.

**Financial Considerations:** None

**Emerging Small Business Development (ESBD):** None

## **Background:**

Pursuant to City Code section 2.110.070, members of the Community Racial Profiling Commission shall be required to file statements disclosing financial interests pursuant to the conflict of interest code adopted for the commission. The City's approved conflict of interest code, Resolution 2013-0023, requires that the statement be filed no later than April 30 of each calendar year. In addition, the conflict of interest code allows for removal of members who fail to meet their filing requirements in excess of 60 days.

Section 1000 of the Sacramento Conflict of Interest Code provides:

If the member's failure to file and/or pay the associated fine persists for more than 60 days after the final filing date, the member may be removed from the board or commission pursuant to the procedures specified in City Charter Section 232.

Additionally, City Charter section 232 provides:

For good cause, neglect of duty or misconduct in office, a member of a city board or commission who has been appointed for a specified term by the city council or by the mayor with the approval of the city council, may be removed from office during such term by the city council. Such member may be removed only after such member has been given a copy of the charges against such member at least ten days prior to a hearing to be held on the charges. At the hearing the member shall have an opportunity to be heard in person or by counsel.

Two members of the Community Racial Profiling Commission have failed to meet the annual filing requirement of their position on the board. As of June 30, the annual Statement of Economic Interest form was 60 days past due.

## **Michael Nguyen**

Mr. Nguyen was appointed to his first term on the Community Racial Profiling Commission by district three and confirmed by the city council on May 24, 2011. Mr. Nguyen has failed to meet the filing requirements of his position after the following notifications: reminders sent via e-mail on March 18, 2013 and April 23, 2013; notice of late filing sent via e-mail on May 14, 2013; notice of disqualification sent via e-mail and U.S. mail on June 3, 2013; telephone call on June 26, 2013; and finally notice of pending removal sent via e-mail and certified mail on July 8, 2013.

As required by City Charter section 232, the notice of removal sent on July 8 provided the member with at least 10 days notice prior to consideration of removal by city council.

### **Michael Benjamin II**

Mr. Benjamin II was appointed to his first term on the Community Racial Profiling Commission by the mayor and confirmed by city council on January 24, 2011. Mr. Benjamin II has failed to meet the filing requirements of his position after the following notifications: reminders sent via e-mail on March 18, 2013 and April 23, 2013; notice of late filing sent via e-mail on May 14, 2013; notice of disqualification sent via e-mail and U.S. mail on June 3, 2013; telephone call on June 26, 2013; and finally notice of pending removal sent via e-mail and certified U.S. mail on July 8, 2013.

As required by City Charter section 232, the notice of removal sent on July 8 provided the member with at least 10 days notice prior to consideration of removal by city council.

The Community Racial Profiling Commission consists of 15 members; there are currently two openings. The Office of the City Clerk has a recruitment open for these seats until a sufficient number of applications are received. Removal of two additional members will not adversely affect the Community Racial Profiling Commission's ability to have a quorum of members. The next meeting is expected to occur in August 2013.