



Public Works Department

Summary Minutes
REGULAR MEETING
OF THE
CITIZEN STREET OVERSIGHT COMMITTEE

Monday, January 23, 2012, 7:00 p.m.
El Cerrito City Hall
Hillside Conference Room
10890 San Pablo Avenue

Call to Order at 7:02 p.m.

1. Roll Call

Present: Chair Al Miller, and Committee Members Thomas Miller, Aurelia Schultz and Lynne Kessler

Absent: Vice Chair Liz Ozselcuk

Other Attendees: Staff Liaison Jerry Bradshaw
Finance Director Mary Dodge
City Audit Consultant Amy Meyer

Chair Miller welcomed new committee member Shultz

2. Comments from the Public

None.

3. Review Fiscal Year 2010-11 Audit and Auditor's Report

Dodge introduced the item, furnished packet items (excerpts from the City's Comprehensive Annual Financial Report (CAFR) and the Agreed Upon Procedures Report (AUPR)), and Auditor Meyer. No findings or exceptions were indicated in the AUPR. One expense was questioned, but the City had already reversed the charge; this same expense (for decommissioning the temporary City Hall site) was questioned by the Committee at the October 2011 meeting, and staff subsequently reversed it.

Thomas Miller – appalled by the degree that Maze denies responsibility for the adequacy of the procedures in the AUPR. It was pointed out that the responsibility lies with the City [Council]. The auditor makes its report to the City Council rather than to the Committee. The Committee was created to review the report and other documents and report its findings to the Council. Further, Meyer stated that it is standard practice for auditors to state that they only test samples of transactions, and therefore cannot state with certainty, for example, that nothing is wrong – only that they did not find anything wrong.

One change from past years' CAFR is that references to footnotes are no longer incorporated. This is because the Street Improvement Fund is no longer considered a Major Fund now that the large amount of bond proceeds has been spent. This is in accord with standard CAFR structure.

Kessler – what does “Due to Other Funds” mean (CAFR pages 82 & 83)? This means that on June 30th, the fund had a negative balance. Since that is not allowed, it actually borrows money from other funds which would be repaid when sufficient revenues are received. The negative balance came about due to the decision to authorize additional work on the 2010 construction contract to include Balra Drive.

Al Miller – page 3-9 (AUPR page 2) State Controller reported a revenue of \$1,375,828. Where is that amount shown in the CAFR? That is shown in the CAFR (page 3-5).

Thomas Miller – where is the total amount spent shown? Page 3-5 shows expenditures of \$2,579,920. Clarified question – how much through history of Measure A? Cumulative expenditure is not shown in annual report – staff would need to compile all annual reports. The amount is likely on the order of \$14 – 15 million.

Action taken: M/S Thomas Miller/ Kessler to approve annual report. Approved unanimously.

4. Staff Liaison Report

Liaison Bradshaw followed up on his discussion with the City Attorney about the extent to which staff salaries are eligible for Measure A. It was concluded that any staff time spent doing project-related work that would have been done in the past by consultants or contractors would be eligible: planning, design, construction administration, project close-out. Salaries that would not be charged to Measure A would be for purely administrative tasks such as Public Works administrative staff doing routine processing of paperwork, staff from other departments (Finance, Legal, Personnel) doing indirect tasks. There could be instances where the Public Works Director's time would be charged to Measure A. However, that would be unusual since there is typically enough staff to perform the direct tasks.

Thomas Miller How does this mesh with the language in Measure A documents? Section 4.06.150(a) 2, “*No revenues collected pursuant to the tax levies hereby may be spent on department administrators' salaries*”. Thomas Miller felt that “department administrators” means department heads. Bradshaw interpreted that differently: “administrators” is extended to include any staff doing purely administrative functions. This would be more conservative, or restrictive, than the department head definition.

Al Miller – would this be put in writing from the City Attorney? Not anticipated at this time. Staff plans to proceed based on the philosophy stated above. City Attorney will continue to be available to advise as future circumstances arise. Al Miller asked that Bradshaw advise the Committee if his time is expected to be charged to the Fund.

NOTE: Agenda Item #5 was taken up prior to Agenda Item #4 due to the scheduled departure of Committee member Schultz at 8:00.

5. Election of Committee Officers

Al Miller stated that he shares Thomas Miller's opinion that a single individual should not be the chair for a protracted period of time.

Chair - Thomas Miller nominates Kessler. Kessler declines since she would prefer to have more experience prior to serving.

Kessler nominates Al Miller. This would constitute a third term for Al Miller, and the proposed Standing Rules includes term limits of two consecutive terms. However, the Rules are not yet adopted (scheduled for later in the meeting). So this would not pose a violation.

Al Miller does not look forward to continuing as the Chair believing it should move among other members. Thomas Miller stated that he should not be the chair due to his age and recent health issues.

Action taken: M/S Kessler/Schultz to elect Al Miller for Chair. Approved 3-1 (Ayes: Kessler, Schultz, Al Miller. No: Thomas Miller.)

Vice Chair

Action taken: M/S Thomas Miller/Schultz to elect Kessler for Vice Chair. Approved unanimously.

6. Approval of Minutes

Thomas Miller – Page 6-2, Item #5, Committee Standing Rules. Third paragraph, last sentence states, "Thomas Miller agreed that rules are not required." In order to clarify Thomas Miller's intent, it was agreed to modify this to add, "... by El Cerrito Municipal Code."

Action taken: Approve minutes as presented. M/S; Thomas Miller/Kessler. Approved unanimously.

7. Committee Standing Rules

Background: The standing rules were discussed at length at the prior meeting where wording was drafted on a consensus basis. No formal action was taken; staff was to bring back a conformed set of draft Rules for final review and adoption.

Options:

1. Adopt the proposed Rules as-is.
2. Make minor changes that can be agreed upon and adopted at this meeting
3. Make more changes that might require adoption at a later date.

Rule 14 might need modification in light of earlier action tonight to re-elect Al Miller to a third term as chair, although that action preceded any adoption of these rules. Thomas Miller – consider a Rule 16, allowing extension of the term limits. Alternately, add a sentence to Rule 14: “In the event that new officers cannot be selected, the incumbents may serve for an additional term.”

Follow up items after consultation with City Attorney

- Rule 9 – remove sentence that no business can be conducted without staff? City Attorney (CA) stated that the question has not been asked before. The spirit of the code is that staff should be there. Agreed that taking the language out is OK. Staff commits to being at all scheduled meetings. If staff does not show up, then Committee would continue to meet and designate someone to take minutes. Staff recommends staying with draft that does not have this language.
- Rule 12 – was severability necessary. CA saw no harm in leaving the rule in, but stated that it is unlikely that a court would be reviewing the Committees rules. But, if that happened, the court is pretty reasonable at sorting good rules from bad rules and severing any “bad” rule. Staff recommends keeping the severability clause (Rule 12) as drafted.
- Rule 13 – who can make officer nominations? The ordinance states, “the board or commission shall select its officers.” Also, at the Council level, the selection of the Mayor & Mayor Pro Tem are picked by only the council members. Based on these, staff recommends deleting the second sentence that references nominations.

Kessler – should there be a rule about unexcused attendance? Bradshaw believes the municipal code covers that. He will look into that and report back at a later date.

Action taken: M/S Thomas Miller/Kessler to 1) delete the second sentence of Rule 13, and 2) add an additional sentence to Rule 14 as noted above. Approved unanimously.

8. Future Agenda Items and Meeting Schedule

The next regular meeting will be on September 24, 2012.

- Review of revenues and expenditures
- Review Standing Rules
- Review of any work done
- Report on Moratorium Coordination with Utilities

If any committee members would like agendaize any other items, they can notify the Chair or Liaison Bradshaw.

9. Adjourned at approximately 9:00 p.m.