



Public Works Department

Summary Minutes

REGULAR MEETING OF THE CITIZEN STREET OVERSIGHT COMMITTEE

Monday, November 14, 2011, 7:00 p.m.
El Cerrito City Hall
Hillside Conference Room
10890 San Pablo Avenue

Call to Order at 7:00 p.m.

1. Roll Call

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

Absent: Vice Chair Liz Oszelcuk

Other Attendees: Staff Liaison Jerry Bradshaw

Chair Miller welcomed new committee member Shultz

2. Staff Liaison Report

Liaison Bradshaw reported that he met with new Committee Member Schultz a few weeks earlier and briefed her on the purpose and activities of the Committee.

Bradshaw went over the following items in the agenda packet:

- The Maddy Act Notice announcing all openings on boards, commissions and committees.
- Press release announcing openings on boards, commissions, and committees.

Following up on certain expenditures for decommissioning of the temporary City Hall campus that had been used by the Street Improvement program staff for two years, staff has moved those decommissioning expenditures out of the Streets Fund (211) to the Capital Fund (301).

Bradshaw reviewed the updated Committee Roster, which shows the expiration of each member's terms. Terms for committee members Al Miller, Kessler and Schultz expire on January 1, 2012. Each was invited to re-apply (none will have termed out of office).

Following up on staff salaries eligible for Measure A fund: Bradshaw reviewed minutes from a past meeting (January 26, 2009). This item had cleared up a discrepancy between the enabling ordinance and the Expenditure Plan. The ordinance prevails in this instance – No administrator's salaries will be charged to the fund. It is the intention of the Public Works Department to charge only expenses for personnel directly involved with planning, design or construction of Measure A projects. In practice, there have only been outside consultants

charged to the fund, however in the current fiscal year (FY 2011-12) some staff costs are being charged directly to the fund (two temporary staff working directly on the projects). In the past, no permanent city staff has been managing the projects, so none have been charged to the fund. However, in the future Public Works staff may be more directly involved with project management – possibly including the Public Works director. In that event, city staff costs would be eligible to be charged to the Streets Fund. Other non-direct city staff costs such as finance department staff, clerical and other overhead costs would not be charged to the Fund. The mechanism for tracking time and costs will be staff time cards.

Thomas Miller believes there should be a system in place to track eligible staff costs, and time cards are adequate.

Chair Al Miller recommends that Bradshaw draft up a policy or procedure as to when various staff costs would be eligible for Measure A and ask the City Attorney to review it. Bradshaw agreed to check with the City Attorney regarding eligibility.

Thomas Miller suggested that an annual cap on staff expenditures be put in place. Acknowledging that program consistency varies too much for that, he agreed that time cards would be an adequate control.

3. Comments from the Public

None.

4. Approval of Minutes

No comments or corrections

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

5. Committee Standing Rules

Bradshaw first made a correction from the previous meeting – he had stated that he had been given no direction on the duties of a staff liaison. In fact he had received and reviewed a copy of Administrative Policy No. 1 A 6, Staff Support for Boards, Commissions and Committees.

Pages 5-2 and 5-3 of the packet provided excerpts from adopted minutes (three meetings) summarizing previous discussion by the Committee on standing rules.

Thomas Miller pointed to Page 5-9 (excerpt from municipal code section 2.04.220) where there were two mentions of bylaws. He interprets those as requiring bylaws. Schultz counters that they allow for bylaws, but don't require them citing Paragraph H – “may draft bylaws”. Chair Al Miller does not see the need for standing rules, but doesn't object to having them. Thomas Miller agreed that rules are not required by the Municipal Code.

Bradshaw reviewed with other staff liaisons what their practices for rescheduling meetings for other boards, commissions and committees were. He found that a liaison usually works with the chair to change schedules. He also checked with the City Clerk about how much communication can be made with committee members within the bounds of the Brown Act.

She advised that as long as communication is directly with liaison on availability – not between committee members – there would be no conflict with the Brown Act.

Discussion on Rules

There was a lengthy discussion on each of the existing rules (1 – 9) as well as on several new rules (10 – 15) proposed by Thomas Miller. The following summarizes critical discussion points that led to a consensus on a new draft set of rules. For the most part, the specific wording was arrived at through the discussion. In a few instances noted below, there were outstanding questions that would require input from the City Attorney. Based on these discussions Bradshaw will compile a new set of draft Standing Rules and present them (along with any information from the City Attorney) at the next regular meeting. No formal action was taken.

Rule 1 – no proposed changes

Rule 2 – setting the time and place for regular meetings. Chair Al Miller asked how a conflict over room availability would be handled under this rule. Since reserving a room is not appropriate for an action by the Committee, the actual room was left out of the standing rules. The important items are the time and location, and “City Hall” is specific enough. The actual room for each meeting would be indicated on each agenda.

Rules 3 & 4 – The issue is how to reschedule regular meetings when there is not enough notice to have the committee vote on it. The recent occurrence when liaison Bradshaw was not able to attend the September meeting brought this to light.

- Since this scenario came to light because the regular staff liaison could not be present, there was discussion about how to deal with that other than changing the meeting schedule. Kessler proposed in that event the Committee would appoint a person on the Committee to record the minutes. Other discussion involved appointing a substitute liaison. In the case of this Committee, Bradshaw has unique understanding of the programs, projects and finances, and it would be difficult to find a substitute with that knowledge. Multiple staff (for project management and finance management) could possibly combine to adequately address committee business. At the very least, Bradshaw could (and would) designate a substitute providing that person with as much briefing as possible to participate in the committee business.
- There was lengthy discussion of the various scenarios of how to change meeting schedules within the bounds of the Brown Act while remaining flexible. There was finally a consensus by the Committee that existing Rules 3 & 4 will remain in place with the understanding that if a regular meeting was being considered for cancellation and there were no other regular meetings scheduled before then, the Chair would call a special meeting pursuant to Rule 4 to consider cancellation of the upcoming regular meeting pursuant to Rule 3.

Rule 5 – no proposed changes

Rule 6 – a change is suggested and incorporated to cover secretarial duties in the event the staff liaison does not attend the meeting. Wording is added to provide for the committee to designate an attendee to be acting secretary (Kessler’s comment from Rules 3 & 4 above). Bradshaw stated that he intends to always have a staff member attend to perform these

functions.

Rules 7 & 8 – no proposed changes

Rule 9 – remove wording that prohibits the committee from meeting in the absence of a staff liaison. Bradshaw agreed to verify with the City Attorney whether there is a prohibition for the Committee to conduct business in the absence of staff.

Proposed New Rules

Rule 10 – new rule outlining the Committee’s recourse if the staff liaison fails to perform his/her function. Initial proposal was to report to the City Council. Chair Al Miller recommended changing that first report to the City Manager, then to Council if no corrective action occurred. This was an acceptable change.

Rule 11 – a rule stating that committee business be conducted in accordance with the Brown Act and that all requests for Brown Act clarification be transmitted through the Chair to staff. Discussion included whether a rule is needed since Brown Act compliance is already established in law and through the Municipal Code, and seeking clarifications through staff is already available and that practice is in place. The committee agreed to include this rule for the purpose of advising present, and especially future, committee members of the Brown Act requirements.

Rule 12 – a severability clause. Schultz questions whether there is any jeopardy of the rules being challenged or deemed illegal in a way that would necessitate protecting the portion of the standing rules not being challenged. Bradshaw will check with the City Attorney whether this rule has any merit. The last sentence of the proposed rule requires the chair to develop a replacement rule in time for action by the Committee at the next meeting.

Rule 13 – a rule establishing the method of nominating and electing officers of the Committee. The proposal of secret ballots is in conflict with public meeting laws, and cannot be included. The proposal allows nomination by anybody present at the meeting, including members of the public and staff. The question of whether the nominations can be made by anybody or only by Committee members will be posed to the City Attorney.

Rule 14 – a proposed new rule limiting terms of office to two successive terms; accepted as written.

Rule 15 – a proposed new rule requiring periodic review of the standing rules. The proposal locks in the timing for any rule changes to a strict annual schedule beginning with the September meeting and concluding with the January meeting. There was a consensus that it would be beneficial for the Committee to review the rules annually with a standing agenda item – presumably at the September meeting. There was also a consensus that rule changes could be proposed at any time – not locked into a pre-set schedule. The process for drafting and voting on rule changes was discussed, and it was acknowledged that whether the process for approving rule changes would take one, two or three meetings varied depending on the complexity of the rule change and the degree of deliberation required. Proposed rule was modified accordingly.

The 15 proposed rules conforming to these discussions is attached to these minutes and incorporated by reference.

6. Future Agenda Items and Meeting Schedule

- Standing Rules
- Response to inquiries to City Attorney
- Year-End Audit presentation – should be put at the head of the agenda
- Election of officers

Agenda order – Audit presentation should be first on the agenda. Should Election of officers occur at the end of the meeting, or right after the Audit report (in the middle of the meeting)? Consensus was that election of officers would occur immediately after the audit report and any related action.

7. Adjourned at approximately 9:55 p.m.