
Economy & Efficiency Commission

Meeting Minutes

MINUTES OF THE REGULAR MEETING ECONOMY AND EFFICIENCY COMMISSION

WEDNESDAY, OCTOBER 6, 1993
KENNETH HAHN HALL OF ADMINISTRATION
500 West Temple St., Los Angeles, CA 90012

Editorial Note: Agenda sections may be taken out of order at the discretion of the chair. Any reordering of sections is reflected in the presentation of these minutes.

I. CALL TO ORDER

Vice Chairperson Trotter called the meeting to order.

II. INTRODUCTION OF NEW COMMISSIONER

Vice Chairperson Trotter introduced the new Commissioner, John Grande, the 1992-1993 Grand Jury Foreman.

Commissioner Grande appointed by the Board of Supervisors, gave a brief description of his background and career which included 40 years of experience in education.

III. APPROVAL OF COMMISSIONER'S ABSENCES

COMMISSIONERS PRESENT:

Judith Brennan
David Farrar
John FitzRandolph
Dr. Alfred Freitag
Jonathan Fuhrman
John Grande
Chun Lee
Carol Ojeda-Kimbrough
Roman Padilla
Robert Philiposian
Daniel Shapiro
Betty Trotter

COMMISSIONERS EXCUSED:

Gunther Buerk
Marshal Chuang
Jack Drown
Louise Frankel
Dr. Mike Gomez
Randy Stockwell

COMMISSIONERS ABSENT:

Fred Balderrama
Richards Barger
Efrem Zimbalist

IV. CONSIDERATION OF MINUTES

SEPTEMBER 8, 1993 COMMISSION MEETING

Vice Chairperson Trotter asked for any amendments or objections to the September 8th Minutes.

Commissioner Padilla asked that remarks attributed to Chairperson Buerk on page 10 of August's minutes be amended.

Resolved that: the Minutes of the September meeting of the Commission be amended on page 10, in remarks after the recess attributed to Chairperson Buerk to read " Chairperson Buerk felt that Commissioner Padilla's amendments were noteworthy however the Task Force decided not to go forward with the discussions on the amendments due to considerations of time."

Motion was seconded, voted and approved.

V. OLD BUSINESS

DEPARTMENT OF HEALTH SERVICES STUDY STATUS

Commissioner Barger was absent. No status report was given.

UNINCORPORATED AREAS BUDGETING TASK FORCE

Commissioner Padilla reported that the Commission met on September 15 with representatives of the Departments of Fire, Public Works and Sheriff to discuss the purpose of the study and the role of the Urban Research Service (URS). On October 5th, he received a literature review on the topic being studied by URS. There is not much research available on municipal services.

COUNTY BUDGET AND ECONOMIC GROWTH TASK FORCE

Commissioner Philibosian reported that the Task Force has not been active. He anticipates having a meeting later this month to focus on workers' compensation. The focus will be twofold, on state legislation and county ordinances that the Board can initiate apart from state legislation. It may be possible to get some time volunteered from Sacramento and County Counsel on this matter, as opposed to hiring consultants. The bill by Senator Bergeson passed, and it was thought that having someone from Sacramento come to the Commission's December meeting to discuss streamlining government operations might be a good idea.

Commissioner Grande stated that the Grand Jury issued a very detailed report on workers' compensation and it should be read. Price Waterhouse assisted the Grand Jury on this.

PROPOSITION A \ CONTRACTING

Commissioner Trotter reported that a letter was sent to the Board of Supervisors calling their attention to the Commission's report on Proposition A and requesting a response from the Board to the report.

LIABILITY AND RISK MANAGEMENT STUDY STATUS

Commissioner Lee reported that a presentation was made to the Board on September 24th on the Risk Management report. The Board unanimously approved the report. There will be a 6 month follow-up report by the consultants.

PENSION FOLLOW-ON STATUS

Commissioner Freitag reported that the Pension report was sent to the Board of Supervisors, but they have not taken

any action on the report.

REAL PROPERTY MANAGEMENT

Commissioner Shapiro reported that he reviewed the Real Property Management Report and sent it to the CAO's Office for an update. He will meet with the CAO's Office in the near future.

VI. NEW BUSINESS

CONSIDERATION OF COMMISSIONER FUHRMAN'S PROPOSAL ON CONTRACTING OUT OF COUNTY COUNSEL

Commissioner Fuhrman offered the following motion to undertake a review of the County Counsel's Office to assess the workload and management of the office.

Resolved that: The Commission undertake a review of the management and work product of the County Counsel's Office including an analysis of whether outsourcing a larger portion of the County's legal work would lead to lower cost and/or higher quality work.

Discussion:

Commissioner Fuhrman stated that many of the small to medium size cities in the County contract out for their legal services. Given the economic climate, it may be possible to obtain competitive rates with some outside firms. The Commission should look at this over the next six to nine months.

Commissioner Brennan stated that the City of Norwalk contracts out for legal services, but there is an issue of economy of size that may not make this cost efficient for the County. It is important to determine if the Board would support this concept.

Commissioner Philibosian stated that the County Charter provides specifically that the legal representation of the County rest with the County Counsel. Due to the Charter there is no way to outsource for legal services except on a case by case basis, which is already being done. The comparison of the cities is a totally different situation. Size is not the issue. The scope of responsibilities is greater for the County than a city.

Commissioner Padilla stated that the Commission received a letter that was sent to the Board concerning firms that over bill. This seems to be indicative of a systemic problem. The Risk Management Study also brought up some areas that were problematic.

Commissioner Philibosian stated that one letter of complaint on one subject matter does not indicate a systemic problem. County Counsel acts as a lawyer for the Board. There is an attorney-client relationship that includes confidences. It is impractical to have a number of firms performing this action. Perhaps the Commission should focus on the follow-up of the Risk Management Study to make sure that those recommendations are implemented.

Commissioner Lee stated that he spoke with the lawyer who sent the letter. It was suggested that the Task Force look at law firms performing work for the County. He said law firms charge 2 hours of time for a 5 minute meeting. This should be investigated.

Commissioner Shapiro felt it would be easier to look at current issues. There is a procedure for firms to audit legal work. This could bring about immediate feedback and from there, the Commission could move to other issues. The audits would address the concerns of Commissioner Lee.

Vice Chairperson Trotter stated that a recommendation of the Risk Study asks the Auditor-Controller to audit the work of legal firms.

Commissioner Philibosian stated that the Commission's effort should focus on monitoring the implementation of the Risk Study recommendations.

Commissioner Shapiro felt that the Commission should set its priorities on what should be pursued. This would be something that could be put on the agenda for next month in place of a guest speaker. He suggested that the motion be deferred until next month when priorities can be discussed and set. Motion was tabled for discussion in November.

Resolved that: The Task Force monitor the recommendations made in the Risk Management Study and report back on a monthly basis on the progress made on the implementations.

Motion was seconded and approved.

VII. PRESENTATION

Vice Chairperson Trotter introduced Mr. David Muir, Principal Deputy County Counsel of Los Angeles County. Mr. Muir is involved with issues concerning interpretation of the Brown Act and the Public records Act for the County.

Mr. Muir gave a brief history of the origins of the Brown Act and the Public Records Act and how they have evolved over the last 35 years. The "Brown Act" was introduced by Assemblyman Ralph Brown and signed into law in 1956 following a ten-part series of articles in the San Francisco Chronicle entitled "Your Secret Government," which described widespread abuses in secret meetings and secret caucuses. On the federal level, the Freedom of Information Act was passed in 1966 following a lengthy campaign by the press and other interested groups to force wider disclosure of governmental operations. In 1968, the State passed the California Public Records Act, which was modeled on the Freedom of Information Act.

Anything can be construed as a record under the Public Records Act, whether it is a document, a note, or a computer file. The real question is whether a record falls under any of the exemptions for disclosure. Various exemptions exist based on a legislative determination that there is some counterbalancing public interest that is served by keeping a record confidential. Mr. Muir cited some examples:

- Preliminary notes, drafts, and memoranda are exempt. The government's deliberative process should be allowed to explore avenues and work out ideas before it will go public. If factual information is contained, those facts should be made public.
- Public Policy Exemption provides for a situation where there is a legitimate public purpose to keep something confidential. If the public purpose of confidentiality clearly outweighs the public's right to know, it may be kept confidential. The burden of proof for confidentiality lies with the government.

Commissioner Fuhrman asked about the application of the Brown Act to Commission activities. The Commission contracts out a report to a consultant. The consultants' products are working papers for the Commission. Are those papers exempt from disclosure?

Mr. Muir stated those papers are exempt from public disclosure. Even though the Public Record Act allows you to keep those papers confidential, you are not required to do so. The consultant's work was distributed to a task force whose members represented less than a quorum of the Commission. There is a provision in the Brown Act, where it cross references the Public Records Act, which states that once a document is distributed to a majority of the members for discussion at a public meeting, it must be disclosed to the public. Since the product went to a task force, where further changes could take place and less than majority of the Commission had received this document, it was exempt from disclosure.

Commissioner Philibosian asked about the issue of timing for the release of documents.

Mr. Muir stated that the document may be subject to public disclosure but not until it has been distributed to a quorum of the body. The date of distribution is the date of disclosure. The question of delay between task force approval and Commission approval depends upon the policies of the Commission. If the document is still considered preliminary, and changes could be made, there are grounds to exempt public disclosure. Public policy must be served in keeping that document confidential. This issue is a more of a question of Commission policy than a mechanical reading of the law.

Commissioner Philibosian stated that it was incumbent on the Commission to set its policies and send them to County Counsel for legal review. Draft policies exist but have not been approved by the Commission. When discussing priorities for the Commission, operating procedures should be included in that discussion.

Commissioner Kimbrough asked if any member of the Commission or public can attend working group or task force meetings under the Brown Act?

Mr. Muir responded that the Open Meeting Requirement does not apply to a subcommittee that is entirely composed of members of the Commission and is less than a quorum. The Commission may have a policy that keeps the task force meetings closed. If you have such a meeting, and more than a quorum of the Commission happens to attend, you are in violation of the Brown Act for not posting an agenda 72 hours in advance and holding the meeting in public.

Mr. Muir discussed a definition of a meeting as it applies to the Brown Act. There is a concept of a serial meeting. With a quorum of 11, if there is a meeting of five people, four leave and four other Commissioners come into the meeting, that constitutes a serial meeting. If staff calls all of the Commissioners about an agenda item and people express their opinions, and the members ask staff to determine the point of view of other members, staff becomes an intermediary that facilitates deliberation, and this could constitute a serial meeting in violation of the Brown Act. It is

important to keep in mind that the public's right under the Brown Act are directed primarily at the right to observe the deliberative process.

Mr. Muir finished by discussing three bills that are on the Governor's desk awaiting signature that relate to the Brown Act: SB 36 by Senator Kopp, SB 1140 by Senator Calderon, and AB 1426 by Assemblyman Burton. All of the bills are double joined. None of them take affect unless they all pass. The Burton and Kopp Bills are essentially identical. The following are some of the changes covered by the bills: The bills change the definition of a member to include people who are elected to office but have not yet assumed office; Anyone can tape record, and videotape a meeting if it does not interfere with the proceedings; Broadcasting cannot be prohibited unless it disrupts proceedings; With certain exceptions, all meetings must take place in the agency's geographical jurisdiction; There is a specified procedure for going into closed session; If you go into closed session, which the court determines to be in violation of the Brown Act, in the future you may be required to tape all closed session meetings and to produce the tape in court in any subsequent action alleging a violation of the open-meeting requirement.

In the Calderon Bill, the less-than-a-quorum exception will be gone if it is a standing committee. All meetings of a standing committee with a continuing subject matter jurisdiction will be open, regardless of quorum.

Note: The Brown Act Bills were signed by the Governor on October 9, 1993. Although they become effective January 1, 1994, they do not become operative until April 1, 1994. Attached is a copy of the news release from the Governor's Office concerning the passage of this legislation.

VIII. PUBLIC COMMENT

None

VII. ADJOURNMENT

Upon a motion and approval of the Commission, the meeting was adjourned at 12:10p.m.

Respectfully Submitted,



Bruce J. Staniforth
Executive Director

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