

BOARD OF SUPERVISORS

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December 14, 2011

Jeannie Nix
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William Tappan
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Arroyo Grande, CA 93420

FRANK R. MECHAM, Supervisor District One
BRUCE GIBSON, Supervisor District Two
ADAM HILL, Supervisor District Three
PAUL TEIXEIRA, Supervisor District Four
JAMES R. PATTERSON, Supervisor District Five

Dear Commissioners Nix and Tappan,

We were disappointed to receive your letter of November 14, 2011 and learn that you are no longer interested in participating in the working group.

You may recall that the Board of Supervisors requested this working group to allow an ad hoc group (two members of the Civil Service Commission, two members of the Board of Supervisors and relevant County staff) an opportunity to collaborate and problem-solve prior to taking any recommendations back to the full Board and Commission. The purpose and scope of the group was to discuss four main topics:

1. The Commission's Brown Act violation and its subsequent handling by the Civil Service Commission (CSC)
2. Roles and Responsibilities and interaction between the CSC and the HR Director
3. Budget
4. Witness complaints/how hearings are conducted

After two meetings, we believe we are making progress regarding each of these topics, but do not agree that the work has been completed to the point which would warrant disbanding the working group. Our notes indicate the following status regarding each of the four topics:

1. The Commission's Brown Act violation and its subsequent handling by the CSC

We have had considerable discussion about this topic and appear to have agreement about the liability such actions have on the County and the common desire to avoid such violations in the future. As a result of our discussions, a Brown Act training plan is now in place for the Commission. At least one remaining discussion point is how to avoid a similar situation in the future. We want the Commission to advise County staff of this or similar issues in a timely fashion to receive advice on proper handling and to minimize negative impacts to the County and the Commission.

2. Roles and Responsibilities and interaction between the CSC and the HR Director

This topic has also received considerable discussion. We have discussed current ordinance language that may need adjusting regarding reporting relationships. We have discussed how to balance the Commissions' independent decision-making regarding findings and decisions with the HR Director's role to advise the Commission on County policy and practice to make the findings and decisions as solid as possible. One solution which seemed reasonable to all participants regarding hearing findings, was a suggestion for the Commission to issue tentative rulings to the parties and the HR Director for comment prior to the issuance of a final decision. Another suggestion that also seemed to gain some consideration was for the HR Director to enter into closed session with the Commission pre- or post- deliberations to discuss policy issues.

While the Commission's intent to work cooperatively, effectively, and efficiently with the HR Director is appreciated, the changes under discussion and consideration have not yet been finalized into any sort of recommendation that could be presented to the Board of Supervisors or the Civil Service Commission.

3. Budget

This issue seems to have been resolved with the Commission's new practice of obtaining authorization from the HR Director prior to obtaining work from outside counsel. The Commission's actions in this regard are appreciated.

4. Witness complaints/how hearings are conducted

You have indicated that the verbal summary of the witness complaints were inadequate and did not provide the detail you had hoped. We expected to discuss a remedy for this in our November 17, 2011 meeting. County staff all agreed that it would be useful for the Commissioners to read a report rather than simply hear an account. Tami Douglas-Schatz has provided the report to County Counsel, which is immediately available for each Commissioner to review by making an appointment with Warren Jensen or Rita Neal.

In the past when sensitive and confidential reports are necessary for the Board to review, we have utilized this mechanism in order to allow each member of the Board to review the report and still maintain the confidentiality of the report.

Based on the statements in your letter about your confidence in the Commission's recent findings and decisions, it appears we have a misunderstanding about the purpose of the working group discussing how hearings are conducted. Neither the Board nor county staff are interested in examining the outcome of any particular hearing. On the contrary, we all agree that determining outcomes on the matters before the Commission is the key component of the Commission's role which requires independence. The reason this topic is on the working group agenda is because, based on feedback from some witnesses and advocates, the Commission's work and contribution to the citizens of the County could be improved by focusing on neutral hearing procedures and practices. Considering that the purpose of this topic has not been clearly understood, it seems ill-advised to discontinue work on this issue.

In your letter, you indicated a desire to improve your work on the Commission. This desire is appreciated and is consistent with the County's value of being responsive to feedback for constant improvement. Given that the County remains committed to training and development, even in these difficult economic times, we believe a development opportunity exists that may contribute to improving the Commission's hearing procedures and practices. We will be working on identifying a training program on contemporary best practices for conducting neutral hearings for the Commission members, interested county staff and members of the public.

Finally, we were puzzled by the concerns you presented in your letter suggesting that the existence of the working group was somehow contrary to the Brown Act. We understand that you presented these same concerns to your regular counsel, Rita Neal, in your Commission meeting of October 26, 2011. Ms. Neal explained, in open session, that the working group was established and functioning properly and in compliance with the Brown Act. We are confident with the advice of our County Counsel in this matter.

Our interests lie in working for the betterment of the County. As such, we will continue to work with staff on remaining working group items. Please advise if you reconsider your participation.

Sincerely,



Bruce Gibson



Frank Mecham

CC: Jim Grant
Dan Buckshi
Warren Jensen
Rita Neal
Tami Douglas-Schatz