



WATERFRONT COMMITTEE

MINUTES
APRIL 17, 2007
7:30PM

CITY HALL - COUNCIL CHAMBERS, 1000 SAN PABLO AVENUE
SPECIAL MEETING

1. CALL TO ORDER

Chairman Parker called the meeting to order at 7:34 PM

2. ROLL CALL

Members Present: Brian Parker Steve Granholm
 Clay Larson Eddie So
 Kathy Diehl

Members Absent: Jerri Holan, Bill Dann

Staff Present: Ann Chaney

3. APPROVAL OF MINUTES

None. Meetings will be approved at regular meetings.

4. PUBLIC COMMENT

None.

5. REPORTS

None.

6. DISCUSSIONS AND POSSIBLE ACTION ON MATTERS RELATED TO THE FOLLOWING ITEMS, WHICH COULD INCLUDE REPORTS AND/OR PROPOSED RESOLUTIONS IF ANY:

6-1. Brown Act presentation and discussion - City Attorney Robert Zweben

Zweben provided an overview of the Brown Act. The Brown Act has been part of California government code since 1950 that governs how public agencies conduct business. The Brown Act regulates government bodies, including City Council and typically any body created by the Council. Regulations include how a legislative body conducts meetings and provides public notice. The Brown Act provides rights for the public including public right to attend and comment at meetings.

A meeting is defined as a majority of people on a body talking. Members of body are restricted from attending certain meetings – i.e. a subcommittee, where majority of members attend, members can observe but not participate. Members are restricted in that they cannot talk among themselves and express their views among themselves. They could express views to the body holding the meeting. For the Waterfront Committee

specifically, this is also true for a non-public meeting related to waterfront issues. If the majority of the Committee is at the meeting, could be in violation of Brown Act if talking about items the Committee may also address.

The Brown Act also stresses the importance of a detailed agenda to inform public of items that will be discussed with ample opportunity to make a decision of whether to attend meeting. Agenda items should be specific so public is clearly aware if action would be taken.

Zweben recommends providing more information/documentation than less for agenda items, and if a resolution will be presented, it should be included as part of agenda for public.

Parker noted he is working with staff to have attachments to agenda posted online with agendas.

Larson asked about the detail of agenda items, giving the example of the Committee's February meeting where the waterfront planning process was agendaized as "waterfront planning process: discuss and provide input", however the item considered was a letter from Parker that the Committee approved suggesting changes in waterfront planning process.

Zweben stated the waterfront planning process is a large subject and that the Committee should make every effort to be as descriptive as possible.

So asked the definition of a serial meeting.

Zweben stated serial meetings are a majority of members of a body discussing business of the body, and coming to a collective concurrence or pros/cons outside of public purview. Majority for this Committee is 4 or more.

Examples were asked by the Committee to determine when a potential Brown Act concern would arise including:

1. If 4 Committee members attend a City Council meeting regarding waterfront planning, then discuss afterwards (So)
2. If a Committee member called all Committee members and polled them on their opinion relating to a specific item without telling what others said – not a serial meeting (Parker)
3. If 2 Committee Members met with 2 members of another Commission (Parker)

Zweben responded to each scenario:

1. There would need to be an assessment of what was said. Judging attorneys opinions vary. Recommends Committee do self-regulation to ensure they are conducting themselves appropriately.
2. Recommends not probing members unless in front of public at an agendaized meeting.
3. Does not constitute a violation, although doesn't believe so. Public sentiment may not be approving.

Chaney added that if a subcommittee of a body meets that is not a quorum, the Brown Act is not violated because subcommittee work is brought back to the regular body.

Zweben stated that if Council creates a body it is subject to Brown Act requirements. Per Attorney General findings, if less than a quorum of representatives from a legislative body holds a non-standing meeting with less than a quorum from another body, and information generated at the meeting is reported back to the larger legislative body, it is exempt from the Brown Act.

If a legislative body designates representatives to meet with representatives from another legislative body created to perform a task/make a recommendation, then this is an advisory committee covered under the Brown Act.

Parker asked about the email he sent out prior to the February meeting that included a letter regarding the waterfront planning process. Committee members had indicated that he might have violated the Brown Act by emailing the letter to the group. Zweben stated he does not think it was a violation because there was not an exchange of dialogue or sentiment regarding the letter.

So asked if there were any concerns regarding citizens holding discussions with committee members.

Zweben quoted the Attorney General findings regarding individual contacts or conversations between public and board members: individuals are meant not to be defined as a meeting (Section C-1). If the individual acts independently no meeting occurs, even if member of public ultimately meets with quorum of body. The burden is on the member of the legislative body to ensure they are acting ethically.

Planning & Zoning Commissioner Hitchcock asked if collecting information from all members on a commission would be allowable if it was a simple poll and opinions of others polled were not discussed.

Zweben stated that would be allowable.

Hitchcock stated she has been discouraged by city staff in playing any kind of leadership role in neighborhood association's in any issues that would come up in front of P&Z.

Zweben stated that she should not, and that this question is not related to the Brown Act, but to the Political Reform Act – if you live within 500 feet of project, you are presumed to have a financial conflict of interest. It would also potentially cause an issue with due process if coming in front of a public body such as P&Z. The only time a comment would be allowable is one is directly affected by a potential project in a way that others are not.

Chaney asked if commissioners could be vocal within their own neighborhood group?

Zweben stated he needs to research.

Chaney asked the distinction between the Brown Act and Political Reform Act.

Zweben stated the Brown Act regulates how public agencies conduct business. Political Reform Act regulates how individuals conduct themselves while holding an office, including financial interests, ethics, etc.

Larson asked about Mayor Lieber's resolution regarding the waterfront planning process as copies of the document were shared with Council, but not the public, and the City Clerk does not have a copy. Larson finds that the law reads all documents should be available to the public at the time of the meeting.

Zweben stated that typically documents would also be given to staff and public. To the point, a public records request could be made to get the document.

7. ANNOUNCEMENTS/COMMUNICATIONS

7-1. Status of Golden Gate Fields proposed artificial racetrack surface

Chaney provided an update regarding GGF track resurfacing. The item will be discussed at the May 21st City Council meeting. Staff is currently obtaining information from other jurisdictions that have recently approved racetrack resurfacing projects.

8. FUTURE AGENDA ITEMS

(Commission/Committee/Board Member announcement of requests for future agenda items. No public comment will be taken on announcement of future agenda items).

8.1. Next Meeting May 3: Eagle Scout Project – Installation of a Community Bulletin Board at Waterfront

8.2 Updates regarding ongoing projects

9. ADJOURNMENT

The meeting was adjourned at 10 PM.