

CITIZENS' OVERSIGHT PANELS (COPS)

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Suggestions Report

The Citizens' Oversight Panels (COPs) are composed of citizens who observe and report on the operation of governmental bodies, such as city councils, community planning groups, school district boards, as well as federal and state elected offices. Panelists participate in these proceedings and request information per the Brown Act, the California Public Records Act, and/or the Freedom of Information Act.

This Suggestions Report is a standard submission to such bodies when the Panelists observe operation that results in a violation of the rights of the public, or results in inaccurate information to be promulgated. Although purely advisory in nature, it is suggested that the bodies make a special effort to address the concerns outlined by the report. A formal written response is hereby requested, and if necessary, agenda items be placed on the docket for discussion of the concern so that procedures can be amended to fully rectify the concern. Such discussion by the body may result in a change in policy and procedures, bylaws, or other documents, as well as modify the style of operation of the body.

These reports will be posted on the Citizens' Oversight web site and may be forwarded to news media or other information outlets, forwarded to officials who are responsible for managing the operation of these bodies, and the County District Attorney's Public Integrity unit.

Name of the Body: Potrero Community Planning Group (PCPG)

Date of the Meeting: 3/8/2007 **Location:** Potrero Community Center

Cops Panelist: Raymond Lutz **Phone:** 619-820-5321 (cell)

Title of the Concern: General Suggestions for operation **Tracking Number:** PPG-001

Description: This report is perhaps more aptly treated as "suggestions" rather than the more formal citation report. *COPs* acknowledges the recent formation of the PCPG and it seems that significant headway can be made by making some minor changes to the operation of the meeting, that will improve the ability of the planning group to process the agenda while being fair to the public. It is our opinion that the chair will be able to run a much better meeting if he embraces these suggestions.

Suggestion 1. Arrangement of the Room

At the meeting on 3/8/2007, the PCPG members sat at a group of tables facing each other and the public surrounded these tables. None of the public could see all the members at one time, and video taping of the meeting would be impossible.

COPs recommends that the room be arranged so that the PCPG members sit behind a set of four tables arranged in a "[]" formation, with two tables end-to-end, and the other two set at right

angles at the far ends of those tables. This will then seat four members along one side of the center tables and four on the far ends of the outside tables, totaling eight. This is a common practice in other planning groups (where there are usually 15 members). In this scenario, the public should be seated in rows facing the planning group, that is facing the open side of the front tables. It is important to have a single location where the public speaker can stand to address the group. If anyone is talking that is not at that location, the chair should gavel them quiet. This single speaking location does not need to be a lectern, but perhaps a single (small) table set on the open side of the front tables, reserved only for the current speaker.

With all this said, the meeting room looks like this tiny graphic: [- |||| where the – in the middle is the central speaking location, and |||| are the rows of seats for the public.

Indeed, the public can sit in any convenient location. This detail is one left to the discretion of the chair.

2. Public Comment Period

It is recommended that the Public Comment Period be moved to the end of the agenda, although with adequate time to complete the comments to be made to the body. At the 3/8/2007 meeting, several comments were made that related to the later agenda items and this subtracted from the Q&A time with the BlackwaterUSA representative.

The PCPG may want to further administrate this period by passing out speaker cards, allowing anyone to sign up to speak, and then allocating a specific time, say three minutes, for each speaker.

During public comment period, it is not allowed, according to the Brown Act, to discuss or take any action on the issues brought forward, but they may be added to the agenda for a future meeting. This is to allow everyone in the community to be notified that such a discussion will be taking place.

3. Anonymous Speakers

COPs believes that the Brown Act allows for any citizen to attend the meeting without signing in or paying any fees, and those people are allowed to speak. Instead of making this a continued sore spot, we recommend that the chair simply ask for the name and if the speaker wishes to remain anonymous, then that person should say “Decline to State” and then note that in the meeting report. Indeed, that person will sacrifice their credibility, but is simply their right. We have made a request to the California Attorney General’s Office to provide a legal opinion on this matter as it is not stated explicitly in the text of the Brown Act. Our County District Attorney’s office did not have a final answer on this.

4. Conflict of Interest

At the 3/8/2007 meeting, one of the panelists presented a concern regarding a property that was not in code, and then he chose to abstain due to a conflict of interest. In such a case, the group member *should* leave the planning group table and present his information as a citizen. This will work well if you have a set position for a public speaker. Once presented, the planning group can discuss this amongst themselves (and without that person in the discussion), and then reach a decision (again, without the party that has a conflict.) The chair is correct that the information from that person should not be lost, but the act of positioning the speaker away from the panel

for that agenda item will eliminate the perception that any conflict exists.

5. Meeting Notices, Agendas

It is recommended that the notice for the meetings also be sent to the *Union Tribune* and the *East County Californian*, in addition to the *Potrero HotLine*. Those larger publications require notice of the meeting two weeks in advance for it to be included at the appropriate time. *COPs* will be pushing for all community planning groups to post their meeting notices and agendas using both local physical displays and the Internet, to include web site posting and posting to a email distribution list. Such lists can be maintained as a Yahoo group, for example. This eliminates much of the physical mail but some people will require that as well.

6. Display of Plans

A common practice in planning groups is to post the plans for any projects being reviewed on the wall, so that the public can review them. The plans for the Blackwater project were not displayed in this manner at the 3/8/07 meeting, although the chair stated that they have been in the past. It is not the responsibility of the Chair to attempt to maintain the accuracy of these plans. That is up to the project manager who is presenting the project. Each time the project is discussed, those plans *should* be displayed. This will encourage the project manager to submit accurate plans to the body.

7. Chair Representing the Project

It is true that in community planning groups, the chair has a vote and can speak in favor or against any motions. However, it is useful to recognize that in other bodies, this is not the case; the chair cannot vote nor speak for or against, and simply runs the meeting. These other bodies do this to reduce the domination of the chair, and thereby encourage more participation by the group. We are not recommending that the PCPG adopt this more restrictive rule, but simply to recognize that it is frequently a trouble spot.

Our observer noticed that the chair (HAMMER) frequently spoke in favor of the Blackwater project, to the point where some of the public wondered if he were the project manager or if that was the responsibility of the Blackwater representative, who was present. *COPs* recommends that the chair adopt a style which promotes limited endorsement of any project until the vote, and asking questions like any other group member.

8. Approval of Moving Target

The Blackwater representative confirmed that significant changes have been made to the plans after they were originally submitted. Indeed, many of these changes are in favor of approval. At the same time, the public has become more aware of the project and its potential impact on the community. Indeed, it takes only a majority vote to rescind a prior vote, according to Policy I-1, and such a reconsideration may be made if new information comes to light. A significant change in the plans for the project would see to fulfill that requirement for reconsideration. *COPs* recommends that the community planning group revisit the question, requesting the absolute latest plans from Blackwater, and hearing comments from the public. During this reconsideration, the input from Duncan McFetridge of Save our Forest and Ranchlands should be presented to the body. This should eliminate the perception that the PCPG is making decisions without adequate review. (see next item.)

9. Lengthy deferral of requests to address the body.

As mentioned, Duncan McFetridge of Save our Forest and Ranchlands made a written request to address the body on the Blackwater issue. The Chair (HAMMER) said the body would not have any time until May or June. It seems inconceivable that the agenda of this small group is so impacted that a concerned citizen who has expertise in the area of concern cannot address the body. It is our recommendation that this testimony be received as part of a reconsideration of the project, as mentioned above, item (8).

10. No public period on agenda items.

Our observer noticed that during the processing of other agenda items, the PCPG voted on an agenda item without opening up the item for comment from the public. Normally, this would be taken during the discussion of the item. It will be easy to correct this in the future by simply asking the public if there is any comment on the agenda item prior to the vote.

Conclusion

It is hoped that the PCPG will accept these suggestions in the spirit that they can be easily implemented to improve the operation of the body. The Blackwater USA project is a very large one, and it is very important, in the opinion of *COPs* that it be handled with the utmost care. It is our opinion that the issue should be reconsidered, and the testimony of Duncan McFetridge included in those proceedings.

After observing the next meeting, we may submit an official request to the County District Attorney's office.

Respectfully submitted,

Raymond Lutz
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