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Economy & Efficiency Commission Meeting Minutes

MINUTES OF THE REGULAR MEETING ECONOMY AND EFFICIENCY COMMISSION

WEDNESDAY, AUGUST 4, 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

Chairperson Buerk called the meeting to order.

II. APPROVAL OF COMMISSIONER'S ABSENCES

COMMISSIONERS PRESENT:

Gunther Buerk, Chair
George Ackerman
Richards Barger
Judith Brennan
Marshall Chuang
Jack Drown
David Farrar
Louise Frankel
Dr. Alfred Freitag
Jon Fuhrman
Carol Ojeda-Kimbrough
Chun Lee
Roman Padilla
Robert Philibosian
Betty Trotter
Efrem Zimbalist, III

COMMISSIONERS EXCUSED:

Fred Balderrama
John A. FitzRandolph

Dr. Mike Gomez
Daniel Shapiro
Randy Stockwell

VISITORS

Lt. Ben Nottingham, Sheriff's Department
Deputy Jan Johnson, Sheriff's Department
Deputy John Crawford, Sheriff's Department
Sergeant Mike Jones, Sheriff's Department
Mr. Robert Cooper, Professional Risk Management
Mr. Paul Phillips, City Manager, Artesia
Mr. Rudy Alvarez, CAO
Mr. Larry Hunt, Executive Vice-President, Carl Warren & Co.

III. CONSIDERATION OF MINUTES

JULY 7, 1993 COMMISSION MEETING

Commissioner Buerk asked for any amendments or objections to the July 7th Minutes.

Resolved that: the Commission approve the minutes. The motion was moved, seconded, and ordered.

IV. OLD BUSINESS

DEPARTMENT OF HEALTH SERVICES STUDY STATUS

Commissioner Barger reported that UCLA still has not responded to repeated inquiries by the Commission to determine its interest in participating in the DHS Study. Commissioner Barger stated that he would contact USC as well as Pepperdine University and report back in September with the results of these inquiries.

PENSION FOLLOW-ON STATUS

Commissioner Freitag stated that the Pension Task Force had not met since the last Commission Meeting, although W.F. Corroon has delivered a final draft of their report which has been sent to the Task Force members. The Task Force is planning to meet this month.

Chairperson Buerk suggested inviting any affected Departments in order that they may offer input on the recommendations formulated by the Task Force. He suggested that the Task Force report back with those recommendations at the next Commission meeting.

UNINCORPORATED AREAS BUDGETING TASK FORCE

Commissioner Gomez being absent, Mr. Staniforth reported that he has had one meeting with the Urban Research Service which enabled them to begin background work on the project. The Task Force will have a meeting with the Urban Research Service on the project design this month.

Commissioner Brennan requested that this project should take a back seat to both the Risk Management and Pension studies.

COUNTY BUDGET AND ECONOMIC GROWTH TASK FORCE

Commissioner Philibosian reported that the Task Force has not been active since May. The Task Force will be pursuing other legislation and administrative changes to achieve some efficiency in the areas cited in their May Board letter. The Task Force will initiate these actions in September.

Chairperson Buerk thought it would be helpful if the Chair of each Task Force prepare an agenda with milestones for work that needs to be completed by the end of the year. This will provide the Executive Committee with information they can review and will enable scheduling of staff time and resources.

LIABILITY AND RISK MANAGEMENT STUDY STATUS

Commissioner Lee gave a background report on the consultants report and the draft report from the Task Force. The Task Force has put forward 20 recommendations, based upon the consultant's report, and input received from the CAO, County Counsel and RIMA and asked the Commission to approve these recommendations.

Mr. Staniforth stated that the Task Force considered the consultants recommendations in their report. Copies were furnished to CAO/RIMA, and County Counsel in order that they could suggest changes for the final Task Force draft report. Asked when these departments received a copy of the consultant's report, Mr. Staniforth replied that the reports were received on Friday July 30, 1993 and were distributed to the Commissioners, CAO, The Board of Supervisors, and County Counsel when received.

Commissioner Frankel asked if the Task Force report was putting forth recommendations that were consistent with the consultant's study. If this was the case, why is County Counsel disputing certain claims in the report when they had the opportunity to make comments earlier?

Mr. Staniforth stated that County Counsel did not necessarily dispute the findings of the Task Force report, but rather their concerns were directed to the figures used in the consultant's report.

Commissioner Barger stated that the consultant's report was called into question in one area, on page 34, the numbers used in the second paragraph, specifically \$61.5 million dollars. This number has a bearing on the conclusions raised. The consultant's will address these numbers in their presentation.

Commissioner Lee stated the Task Force was assured by the consultants that this number was based upon data received from the County.

Chairperson Buerk stated that some of the recommendations of the Task Force made sense no matter what the numbers were. The Commission may not want to endorse the numbers brought forward by the consultants, but some of the recommendations can be approved.

Commissioner Brennan was concerned that if the Commission endorsed any of the recommendations, that they would be endorsing the figures in the consultant's report. She felt uncomfortable endorsing the recommendations until the figures were verified with County Counsel.

Commissioner Philibosian asked if Friday, July 30th was the first time that CAO and County Counsel had an opportunity to read the consultant's report?

Mr. Staniforth stated that County Counsel and the CAO were given an opportunity to read the draft of the consultant's report on Wednesday, July 28th. CAO took the opportunity to read the draft; County Counsel was unable to due to work demands in support of budget deliberations.

Commissioner Philibosian stated that he is uncomfortable proceeding with these recommendations. The press does not differentiate between the consultant's report and the report of the Task Force. These reports then become a Commission report. Another concern was the distribution of the consultant's report to the press. All Commission papers bear a legend at the top of the page stating they are working papers. The consultant's report did not have this legend. This Commission should not be in the position of having a consultant's report, paid for by the Commission, being given to the press without Commission approval or explicitly stating that it is a draft.

Commissioner Fuhrman thought that once something is given to all Commissioners, it is a public document.

Commissioner Philibosian stated that this is not the issue. He was disturbed that consultants' reports take on a life of their own, separate from any Commission action. The consultants were hired by the Commission because there is not enough staff to undertake this effort. Outside consultants' reports should not be published independently of the Commission. It should be a staff product. The Commission report should be one report, one item, that may contain the consultants' work and recommendations, but under the Commission's name. He felt that the Commission is losing its independence, deferring power to the consultants and the press.

Commissioner Frankel felt that the Commissioners did not have the direct contact with Department Heads that they had in the past. Information goes through the consultants and then the staff.

Chairperson Buerk stated that this was true. He suggested that the Commission take a step back from the Risk report for a moment and asked if anyone had a motion that would institute a set of procedures to avoid this type of situation from occurring again.

Commissioner Philibosian put forward a motion

Resolve that: Independent consultants prepare reports as a staff draft report for the Task Force and not an independent report with their name and logo. They operate on behalf of the Commission and will be subject to in-house staff procedure in the development and distribution of that report. The only final work product of this Commission is that which the Commission adopts based upon the draft staff report and other information they deem prudent. All products

not approved by the Commission will bear a draft statement.

Motion was seconded.

Discussion:

Mr. Staniforth wanted to clarify several points for the Commission. The submission of a separate report by McGladrey and Pullen was done in response to Commission direction presented in the Request for Proposal.

With the approval of the above motion, the Commission will have to clarify their direction to staff on how to format the upcoming Pension report. This is necessary since the approach is similar to the Risk Management Study.

Consulting firms are governed by their own set of professional standards. This may entail a firm or professional requirement for internal review of the product submitted by their firm. They may also feel the need to recognize their professional independence. The Commission should also be made aware that increased staff time will be required to prepare the document in the requested format.

There have been requests for copies of previous consulting documents from the Board of Supervisors. If these documents had not been distributed to a majority of the Commission members, prior direction and Commission policy has prohibited this distribution. Regardless of the report format adopted by the Commission, the Brown Act requires that when a quorum of the Commission receives a copy of a document it becomes public. The Commission must provide any interested party with a copy.

Motion was voted and approved with one dissenting vote.

V. PRESENTATION

Mr. Staniforth introduced Michael Lynch, Director of Consulting Services, and Irwin Lagusker, of McGladrey & Pullen and Greg Trout, a Principal with Advanced Risk Management Techniques, Inc. They presented their report, Los Angeles County Risk Management and Liability Costs before the Commission.

Mr. Lynch began his presentation by summarizing the origin of the report with the Board motion. The Commission was charged with examining risk management processes in the County and to make recommendations to reduce costs and liability. Recommendations were prepared in three major areas. The first area is overall risk management, second was claims processing and legal defense, third was the administration associated with these tasks.

The report examined tort liability, concentrating on the areas of: auto and general liability, medical malpractice, and judgments and settlements. The County is self-insured in these areas. workers' compensation was not addressed.

There is no centralized source of data which made its retrieval difficult. The data that is available indicated trends in costs, especially increased tort liability cost.

Mr. Trout addressed the risk management issues of the report. There were three elements that contribute to liability costs.

Commissioner Frankel asked who had control of the law firms involved in tort liability cases for the County.

Mr. Trout stated that there seemed to be a disparity in the number of law firms involved with tort liability cases cited in the McGladrey report and the number of law firms cited by County Counsel. The McGladrey report cited 49 law firms, which appear on the general litigation defense panels for general and auto liability, sheriffs and confidential cases. County Counsel lists over 100 firms used by the County, in matters involving child care, dependency, and other areas that the McGladrey report did not address. 49 firms are contracted by the County that are involved in the type of liability cases that this report covered.

These 49 firms are monitored by three different entities. County Counsel has responsibility for certain oversight of Sheriff confidential cases and in-house cases. Oversight of medical malpractice cases are covered by a contract administrator, PRM. Carl Warren & Co. oversees the defense panel of general liability and auto liability. Centralizing responsibility for tort reform could improve the system. This situation is not unique to Los Angeles County.

Commissioner Philibosian asked if there were comparable data from other counties, such as, number of claims filed per capita or year to year percentage changes in filing.

Mr. Trout stated that this type of information was difficult to obtain and the study did not delve too deeply into that aspect of liability costs.

Commissioner Philibosian felt that this information was important. If the County has higher defense costs due to a greater number of cases filed on a percentage basis, costs will be higher. These costs will have to be controlled through means other than controlling the costs of defense firms. Methods such as tort reform, and faster settlements of cases should be explored. No relationships between different sets of information were being drawn in the report. The report contains raw data, but no interpretation of that data.

Mr. Lynch stated that the Board requested Justice Arguellas to report on tort reform and therefore was not included in the scope of this study. McGladrey & Pullen was addressing loss control. There is relatively little loss control in Los Angeles County.

Commissioner Philibosian responded that loss control was not the issue he was addressing in his previous remarks. There are two related issues he was addressing. The first issue is to develop an understanding of the reasons for Los Angeles County having a higher percentage of claims than other comparable entities; and the second issue of asking the Commission which aspect of the problem of higher percentage of claims does it wish to target? For example, does the Commission primarily want to target how much law firms are charging because their costs are out of control, or does it wish to target managing risk at the front end with loss prevention, tort reform, and higher limits and shorter time frames for settling claims? To be able to target a certain aspect of rising costs, the Commission needs to understand why there is a large number of claims filed in the County and whether it is disproportionate to other counties. The Commission does not have this information.

Commissioner Barger asked if they found one area of exposure, such as auto liability, that had a disproportionately higher level of claims than the other areas of liability or resulted in higher awards against the County.

Mr. Trout replied that Sheriff's claims are the largest. They have more claims but fewer settlements than medical malpractice or auto liability. Law enforcement generates 80% of liability costs to the County according to County Counsel.

One of the deficiencies in the County's system is the lack of loss control and prevention. There is inadequate support given to the departments to perform loss control and prevention. Many of those functions were transferred to County Counsel, although some of it still remains with RIMA. There is no coordinated approach in the County to provide loss control services. The County may be on the right track by decentralizing loss control programs, initiated under RIMA with Board support. This action gives more responsibility to department heads to implement loss control. Centralizing this function in the CAO's office may not be an efficient approach to this problem. Existing resources should go to liability cost containment and monitoring those costs once they occur. Also the data needs to be centralized.

Commissioner Philibosian stated that in the appendix of the report, there is a CAO report to the Board dated January 7, 1992. Other than the recommendation of aggressive support of tort reform, are the consultants in agreement with the action plan laid out in that 1992 report and are they included in the consultant's report?

Mr. Trout stated that in one way or another, the CAO recommendations are addressed in the consultant's recommendations and it is in agreement with the plan laid out in the 1992 CAO report.

Commissioner Philibosian asked if any of the CAO's recommendations have been implemented and if not why? The consultants report reiterates and refines recommendations made 18 months ago. This Commission sees the same things happening again and again. Repetitive recommendations are made and nothing happens.

Mr. Lynch, in responding to this question, speculated as to why this has occurred. Some factors have lacked emphasis on this matter, the transfer of oversight of risk management from one entity to another, lack of funding and resources, organizational confusion, responsibilities assigned in different areas that may or may not be complementary and in some cases are redundant. County Counsel was not given the staff to handle this program when the responsibility was transferred earlier this year.

Commissioner Philibosian asked if County Counsel under this system is responsible for monitoring risk containment in departments over which they have no control?

Mr. Trout stated that there is some confusion in this area. It is divided between RIMA, which still has a function for risk control, and County Counsel, which has the data for settlements. County Counsel is trying to educate the departments on loss control and prevention.

Chairperson Buerk asked if the Board directed County Counsel to educate the departments and take steps to control losses?

Mr. Trout found no evidence of that.

Mr. Lynch stated that none of the agencies have the means to record, compile, or report data to the interested parties. The management information systems are fragmented and inadequate for compiling the data to let the department heads know what is happening.

Mr. Lagusker detailed the administrative aspect of risk management programs and ways that it could be improved. This focused on the accounting of information, both financial and non financial, and the information flow.

There are different systems in each department that are not necessarily compatible, and which cause some duplication of information. The information is out there, just not in the right place at the right time. There is no information plan in place.

Chairperson Buerk asked if any of the Task Force's recommendations conflict with the recommendations of the consultant's report.

Mr. Lynch saw no conflicts between the two sets of recommendations.

Chairperson Buerk stated that there may be more questions but a decision has to be made on what action must be taken.

Commissioner Fuhrman felt that the Commission should move to adopt the consultant's report.

Resolved that: the Commission approve the report prepared by McGladrey & Pullen.

Motion was seconded.

Discussion:

Commissioner Barger stated that before the Commission approves the report, he wanted to know from the consultants the basis of their figures, since they were called into question. He felt that County Counsel should be given a chance to respond.

Commissioner Farrar stated that last month there was pressure to finish this report due to budget deliberations. Now that has passed and he would like to take further opportunity to consider the report, with input from County Counsel, CAO, and the Sheriff's Department, and have them present at the next Commission meeting.

Commissioner Fuhrman stated that there is an issue of urgency. The Board asked this Commission to look into this matter in October, 1991.

Chairperson Buerk stated that to adopt the Task Force report, it is necessary to go through each recommendation and there is very little time today. Given the number of questions raised about the consultant's report, it may not be wise to proceed until all of the underlying issues have been examined and the questions have been answered. This should be done by the Task Force. Departments may offer input to the Task Force. He suggested that the Task Force return next month with various questions resolved and no remaining controversy.

Commissioner Philibosian stated that he would amend the current motion in the nature of a substitute motion:

Resolved that: the Commission send the report back to the Task Force, have them meet with concerned departments, and return next month with the issues resolved.

The Amended motion was seconded, voted and approved. Commissioner Padilla abstained.

Commissioner Fuhrman asked that County Counsel be invited to the next Commission meeting.

Commissioner Farrar felt that the Task Force and Commissioners are not engaged in the process as much as they could be.

Commissioner Padilla offered a motion to amend the Task Force report. He distributed a memo that demonstrated why the recommendations should move away from language such as "review and report" to "implement." He offered the following reasons for such a proposed change:

- The 22 October 1993 Board motion directed this Commission to "study risk management measures that may be instituted to reduce escalating costs to the County";
- The responsible departments have not adequately implemented County policy, as demonstrated by the consultant's study;
- The Commission recently employed decisive language in its recommendation on County economic growth;

- The consultants received significant input from the Commission into the formation of the report; and
- The 3 August 1993 L.A. Times piece heightened the necessity that this Commission take solid action."

Resolved that: Insert the word "Institute" in place of "Review and Report" in the report recommendations.

Motion was not seconded.

Chairperson Buerk suggested that the place to offer those recommendations is at the Task Force Meeting.

Chairperson Buerk asked if the representatives of the Sheriff's Department would like to add anything.

Lt. Ben Nottingham stated that he works in the area of Risk Management. This report is very timely and interesting. He and his staff were involved in the consultant's report being presented today.

Chairperson Buerk invited the Sheriff's Department to pass on any ideas or comments they have to the Task Force.

Commissioner Frankel asked the Chair to request the Pension Task Force to present their report at the next Commission meeting.

Mr. Staniforth asked for clarification. Given the previous motions, should the Pension report be presented as one document? He stated that the final draft of the consultant's report has arrived. To turn that into one document would take considerable time. Does the Commission desire a Task Force Report stating the Commission's position, as has been the practice with past reports?

Chairperson Buerk suggested that the process proceed as it has been up to this point. He asked that a draft statement be placed on the consultant's report.

Chairperson Buerk called for an Executive Committee Meeting to take place on Wednesday the 18th of the August at 11:00 a.m.

VI. NEW BUSINESS

None

VII. PUBLIC COMMENT

Dr. Waddell reported that the Productivity Commission received a request from the Board to investigate the consolidation of the Departments of Beaches and Harbors and Parks and Recreation. The Chair, Donald Landis, reviewed the Economy and Efficiency Commission report issued in 1988 dealing with that subject.

Commissioner Ackerman stated that this would be his last Commission meeting and thanked the Commission for their encouragement to contact the Grand Jury Association of Los Angeles to continue the work he had started while on the Grand Jury. He has been appointed to the Planning Commission.

Chairperson Buerk thanked the Commissioner Ackerman for his work with the Grand Jury and keeping the Commission apprised of its actions.

VIII. ADJOURNMENT

Upon a motion and approval of the Commission, the meeting was adjourned at 12:40 p.m.

Respectfully Submitted,



Bruce J. Staniforth
Executive Director

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