



County of Yolo

Office of the County Counsel

625 COURT STREET, ROOM 201 WOODLAND, CALIFORNIA 95695 TELEPHONE: (530) 666-8172
DIRECT: (530) 666-8275
FACSIMILE: (530) 666-8279

ROBYN TRUITT DRIVON
COUNTY COUNSEL

Philip J. Pogledich, Senior Deputy

October 1, 2012

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

Mr. Trent Meyer
24700 County Road 95
Davis, CA 95616

Re: Response to August 31, 2012 E-Mail Concerning Aviation Advisory Committee

Dear Mr. Meyer:

This letter responds to your August 31, 2012 e-mail alleging several Brown Act violations in connection with the August 2, 2012 meeting of Aviation Advisory Committee. Each alleged violation is reviewed in turn.

Allegation (a). The meeting agenda for the August 2, 2012 meeting was not posted 72 hours prior to the meeting at the meeting location.

Response: The Brown Act does not require a meeting agenda to be posted at the meeting location. It requires an agenda to be posted in a location "that is freely accessible to members of the public." (Gov. Code § 54952.2(a).) The County posted the August 2 meeting agenda at the County Administration Building, on the County's website, and sent it to our airport e-mail contact list at least 72 hours prior to the meeting, satisfying this Brown Act requirement.

Allegation (b). Members of the public raised objections to the practice of not posting meeting agendas at the meeting location during meetings held on February 2, 2012, May 3, 2012, and August 2, 2012.

Response: As noted, the Brown Act does not require a meeting agenda to be posted at the meeting location.

Allegation (c): Voting at the August 2, 2012 meeting occurred by a show of hands rather than by roll call.

Response: The Brown Act does not require voting by the roll call method, nor does it prohibit voting by a showing of hands.

Allegations (d)-(e): Handouts of the February meeting minutes were not available for public review. Other handouts were also not made available to the public.

Response: Going forward, the County and advisory committee will take steps to ensure that copies of all meeting materials are (a) available at the office of the County Administrator [or other appropriate public

location] prior to the meeting, and (b) available to the public at the meeting, though the number of copies made will be based on a reasonable estimate of attendance and individual copies for all attendees cannot be assured. Materials will be made available to the public at the same time they are made available to advisory committee members.

Allegation (f) The advisory committee acted improperly by voting to approve the February minutes even though only two members (i.e., less than a quorum) present for the vote were present at the February meeting. Also, the advisory committee improperly denied requests to modify the minutes.

Response: The Brown Act does not regulate voting issues of this nature. However, the Office of the County Counsel generally discourages members of legislative bodies (including advisory committees) from voting on matters that are not within their personal knowledge. In the case of the February 2 minutes, we have been advised the three of the four Aviation Advisory Committee members present on August 2 were among the five present on February 2 (Ferrell, Pelfrey, and Russell). They thus had personal knowledge of the matters included within the meeting minutes and could properly vote on the minutes as corrected. It is inconsequential that one advisory committee member (Hechtl) also voted on the minutes despite being absent on February 2. The three other affirmative votes are sufficient to constitute majority action on the meeting minutes.

Finally, while it is very unusual for members of the public to have an interest in commenting on meeting minutes, it is appropriate for a legislative body to allow public comment on meeting minutes. This office will advise the Aviation Advisory Committee to allow such comments in the future.

Allegation (g): Chair Ferrell indicated that everyone present at the August meeting would not be able to provide comment.

Response: As we understand it, no members of the public interested in speaking were actually denied the opportunity to comment in an orderly and appropriate manner. Generally, this office advises all County advisory committees to accommodate members of the public wishing to speak on agenda items. A committee chair, however, may also set reasonable time limits on individual speakers to ensure an orderly and efficient meeting, and may also direct any disruptive comments to cease (and even clear the room if necessary). We will review these issues with the Aviation Advisory Committee at its next public meeting on November 1, 2012.

Other Allegations: The “cure and correct” request includes some additional issues for consideration: (a) that a vote taken regarding midfield takeoffs should be vacated; (b) that agenda items need to be more fully described in the future, including whether they are intended as purely informational or for action; (c) that members need Brown Act training; and (d) that the structure/function of the two airport advisory committees needs to be more fully defined. As to these issues, our response is as follows:

(a) The August 2 vote taken by the Aviation Advisory committee under Agenda Item 8.F responded to a report presented by the Airport Manager. Generally, it is appropriate for a legislative body to respond to a report presented as part of an agenda item by directing staff (or in this case, the County Airport Manager) to take one or more actions in response. Under the circumstances presented, this office does not believe that the vote constitutes a Brown Act violation. We will, however, encourage the Aviation Advisory Committee to more fully describe agenda items in the future, including whether items are presented for action or merely for informational purposes, and to consider requesting an action item to be brought forward at a future meeting in situations where the committee wants to respond to information presented as part of a report.

Mr. Trent Meyer
October 1, 2012
Page 3 of 3

(b) As noted, this office will encourage the advisory committee to strive to more fully describe agenda items in the future, including whether items are presented for action or merely for informational purposes.

(c) This office will provide Brown Act training will be provided at the November 1, 2012 meeting of the committee.

(d) Issues relating to the structure and function of the advisory committees will be referred to an existing County staff team that is looking generally at advisory committees across the County. That team will consider the structure and function of the committees, review whether any changes are necessary, and work to provide any needed clarification of the structure and function of the two committees.

Altogether, this office has concluded that your letter does not present any Brown Act violations that must be "cured" by action of the Aviation Advisory Committee. We appreciate your effort to bring these issues to our attention.

Please do not hesitate to contact the undersigned at philip.pogledich@yolocounty.org or (530) 666-8275 if you have any questions.

Very truly yours,

Robyn Truitt Drivon
County Counsel



Philip J. Pogledich
Senior Deputy County Counsel

cc: Supervisor Duane Chamberlain
Supervisor Matt Rexroad
Jeff Reising, District Attorney
Pat Blacklock, County Administrator
Wes Ervin, Airport Manager