



COUNTY OF YOLO

Health and Human Services Agency

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Director

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Local Mental Health Board Meeting Minutes

Monday, August 31, 7:00 PM – 9:00 PM

Arthur F. Turner Community Library Meeting Room
1212 Merkley Avenue, West Sacramento, CA 95691

- Members Present:** Bret Bandley; Richard Bellows; Martha Guerrero; June Forbes; James Glica-Hernandez, Secretary; Nicki King; Sally Mandujan; Robert Schelen, Chair; Janlee Wong;
- Members Excused:** Brad Anderson; Davis Campbell; Robert Canning, Vice-Chair; Josh Pozun; Supervisor Jim Provenza; Tom Waltz; Tawny Yambrovich;
- Staff Present:** Karen Larsen, Mental Health Director / Alcohol and Drug Administrator
Makayle Neuvert, Secretary, LMHB Administrative Support
Jennifer Perez, Assistant Deputy to Supervisor Villegas
Sandra Rodriguez, Assistant Deputy to Supervisor Provenza
- Community Members:** Lisa Cherubini; Nancy Schaezlein-Zipse; Judy Deupsey
- Guests:** Philip Pogledich, Yolo County Counsel

This meeting date included a Public Forum beginning at 6:00 PM, followed by a regular meeting from 7:00 PM – 9:00 PM. The agenda reflected the regular meeting agenda items.

Public Forum:

The public forum began at 6 PM on August 31st. James Glica-Hernandez, LMHB Secretary and Communication and Education Committee Chair, facilitated the forum, shared the agenda and Yolo County crisis cards, invited all attendees to introduce themselves, and distributed public forum comment / evaluation cards. Various members of the LMHB shared brief overviews regarding the HHS integration that is in process, the LMHB Legislative Ad Hoc Committee activities, and the jail expansion project.

Public Forum comments, questions, and discussion centered on the following topics:

- **Assertive Community Treatment (ACT) participation thresholds and standards:** Questions on the basic ACT model thresholds and opportunities for modifications were posed. Specific interest in avoiding the connection to criminal justice system was voiced. Suggestions included creating a more indirect therapeutic environment to build relationships around activities and other things beyond talking; also, taking a whole family approach for gathering participant information to customize check-ins or a family survey on the participants to promote wellness

and avoid issues. A request for more information on the ACT model was made to facilitate monitoring.

- Treatment Avenues: Karen Larsen fielded questions in the areas of Laura's Law/AOT and the connection and differences between AOT and ACT. With the new First Episode Psychosis program contact options, concerns were shared that the first contact would still be with law enforcement. The Communication and Education Committee noted this as an opportunity to de-stigmatization and educate the community.
- Evaluation of the Programs: Karen has reached out to Research Development Associates (RDA) for a fidelity assessment of the local ACT team. Interest in any related stakeholder meetings was noted.
- Jail Diversion and Mental Health Court: Currently Yolo County has no jail diversion program as Mental Health Court is post-conviction. There is increasing interest in seeking grants to create a diversionary tract of Mental Health Court. In response to an inquiry, member Brett Bandley confirmed that the costs for Mental Health Costs are not just the normal administrative costs but extra costs for Probation and Mental Health staff hours dedicated to the program.
- Family Member Support Program: Family members of those who are decompensating and mentally ill struggle in a variety of ways. Having options for dealing the stress of the situation and navigating the system was suggested. This could help to limit estrangement between the consumer and the family member and strife between parents. June Forbes noted the Family-to-Family classes held by NAMI, the time limited support groups available through Yolo Family Service Agency, and the Wellness Recovery Action Plan (WRAP). Yolo County HHS has a large number of WRAP trained staff.

Regular Meeting:

CALL TO ORDER

1. Welcome and Introductions: The August 31, 2015 meeting of the LMHB was called to order at 7:07 PM.
2. Public Comment: None
3. Approval of Agenda: **Motion:** Martha Guerrero, **Second:** James Glica-Hernandez, **Discussion:** None, **Vote:** Unanimous
4. Approval of Minutes from July 27, 2015: **Motion:** Janlee Wong, **Second:** Martha Guerrero, **Discussion:** None, **Vote:** Unanimous
5. Announcements:
 - June Forbes shared that the mental illness awareness rally will be held this year on October 5th at 5 PM in Heritage Plaza in Woodland. The interfaith worship event will be held on October 6th at 12 noon at St. Martin's Church in Davis.
 - June also shared thanks for Karen's support and response while on vacation in addressing a recent consumer issue.
 - Richard Bellows announced the annual Woodland Stroll through History event scheduled for September 12th and shared flyers.
 - James announced that the Woodland Opera House is presenting Into the Woods Junior beginning September 18th.

6. Correspondence

- August 2015: Final Submitted Yolo County Data Notebook 2015 for California Mental Health Boards and Commissions
Discussion: None
- August 10, 2015: City of Davis Letter of Response and City Council Sub Committee Staff Report Regarding 2100 Fifth Street – Former Families First Site
Discussion: Chair Bob Schelen noted initial dissatisfaction with the response letter and shared brief details about additional conversations he has had with the Davis Mayor and City Council Members separately promoting the use of these facilities for mental health related uses. An additional update is expected in September.

CONSENT AGENDA ITEMS

7. Mental Health Director's Report: The following items were pulled from Karen Larsen's Mental Health Director's Report for additional discussion.

- Housing Project: Inquiries were made as to the noted progress that was reported. Karen shared that the project is preparing for the next steps including a forum which will be posted soon and LMHB support was encouraged. The CalHFA proposal to access the MHS funding is in process. Housing vouchers for all the units are hoped for and we are negotiating with Mercy to increase the number of units. The RFP for demolition of the site (old hospital) is to be issued soon by the County and the overall timeline remains the same. June commented that she would like to see the County more assertive in considering investment options for housing.
- Homeless Services: Karen noted that the County is making progress with building the homeless services team. Housing inventories continue to be a challenge and discussion of options continue with city leaders, and also with developers regarding creating truly affordable units. Permanent supportive housing models are also being encouraged with providers. A resource guide or structure overview for the Homeless Court was requested.

TIME SET AGENDA ITEMS

8. Brown Act Training Presentation: Yolo County Counsel Philip Pogledich shared a comprehensive presentation on the Brown Act and fielded questions from the group regarding committee composition, responsibilities, and noticing requirements.

REGULAR AGENDA ITEMS

9. Chair Report – Bob Schelen

- Reconsider Proposed Amendment to LMHB Bylaws: This topic was proposed to be tabled until further discussion between Bob and County Counsel. A list of potential the options for structuring the committees was shared by James for review and discussion. Members were asked to continue to review the shared information and further consider options.
- Legislative Ad Hoc Committee Report: None
- Board Committee Reports
 - Communication and Education Committee: None
 - Program Committee: None

- Budget and Finance Committee: The July 27, 2015 meeting report was received and reviewed.

A motion was made to have the LMHB accept this report and forward to Supervisor Provenza for the BOS to consider. **Motion:** Richard Bellows, **Second:** Martha Guerrero, **Discussion:** In response to a questions, Karen confirmed that there is no current waiting list for AOT slots and the additional funding requested for AOT is because overages by the Provider incurred for additional unanticipated services. **Vote:** Unanimous

The following members agreed to contact BOS members to share the details of the Budget & Finance Report. District 1: Martha, District 2: Nicki, District 3: Richard, District 4: Bob, District 5: Janlee

- Annual Report to BOS: Bob will prepare an annual report to the BOS highlighting the work of the LMHB over the past year. A draft report will be shared at the next LMHB meeting and the presentation to the BOS is anticipated for September 29, 2015.

ADJOURNMENT

10. Future Meeting Planning and Adjournment – Bob Schelen

- LOCUS Presentation
- Annual Report Review
- CIP Van Tour
- Reduce Committee Workshop from 1 hour to ½ hour

11. The regular meeting was adjourned at 8:45 PM. The next meeting is scheduled for Monday, September 28, 2015, 7:00 PM – 8:30 PM in the Bauer Building, Thomson Conference Room at 137 N. Cottonwood, Woodland, CA 95695. The next meeting will consist of an abridged regular meeting from 7:00 – 8:30 PM followed by Board Committee Workshops from 8:30 – 9:00 PM.

GET TO KNOW THE BROWN ACT

Office of Yolo County Counsel
August 31, 2015

WHAT IS THE BROWN ACT?

- Guarantees the public's right to attend and participate in meetings of local legislative bodies
- Found in Government Code sections 54950-54962

PURPOSE OF THE BROWN ACT

Increase transparency of local government and prevent secret, informal dealings.

The general idea is that our business is the public's business.

WHO MUST COMPLY?

Legislative Bodies

- ✓ Governing body of a local agency
- ✓ Advisory committees (with exceptions)
- ✓ Citizen volunteer groups, task forces, etc. created by formal action of the governing body
- ✓ Standing committees of legislative body with either (a) continuing subject matter jurisdiction or (b) a fixed schedule set by formal action of the legislative body
- ✓ Multi-member body that governs a private corporation that is created by legislative body to exercise delegable authority; or receives public funds and includes a full voting member of the legislative body.

WHAT IS NOT A “LEGISLATIVE BODY”?

- ⦿ An *ad hoc*, advisory committee composed solely of less than a quorum of the legislative body.
 - ✓ “*Ad hoc*” means that they serve a limited or single purpose, are not perpetual and are to be dissolved once their specific task is completed.
 - ✓ Example: advisory committee composed of less than a quorum created to draft a new record retention policy.

WHEN DOES THE BROWN ACT APPLY?

MEETINGS!

- ⦿ Congregation of a majority of the members of a legislative body
 - ✓ Same time and place
 - ✓ To hear, discuss or deliberate
 - ✓ Agency business
- ⦿ Can include use of technology (email, phone) by a majority of board members to reach concurrence
- ⦿ Meeting requires quorum to get started and stay in business

WHEN DOES THE BROWN ACT NOT APPLY?

- ⦿ Individual contacts & conversations
- ⦿ Conferences open to the public (e.g., annual association conferences)
- ⦿ Open and publicized community meetings (e.g., local service club)

WHEN DOES THE BROWN ACT NOT APPLY?

- ⦿ Other legislative bodies (e.g., members of city council attending meeting of planning commission)
- ⦿ Social/ceremonial events (e.g. football games, wedding, retirement party, etc.)
- ⦿ **BUT.... DON'T DISCUSS AGENCY BUSINESS!**

OOPS! WAS THAT A MEETING?

Serial

- ✓ Hub and Spoke (i.e., a superintendent briefs board members prior to a formal meeting and reveals information about the members' respective views.)
- ✓ Daisy Chain (i.e., Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on until a collective consensus has been established.)
- ✓ Email

OOPS! WAS THAT A MEETING?

Example: Phone call from a lobbyist.

"I need your vote for that south County project. How about it?"

"Well, I dunno," replied Board Member Apple.

"That's a tricky situation. You sure you need my vote?"

"Well, I've got Orange and Grape lined up and another vote leaning. With you I'd be over the top..."

OOPS! WAS THAT A MEETING?

- Ⓢ Collective Briefings
 - ✓ Members cannot meet together with staff in advance of a meeting for a collective briefing
- Ⓢ Retreats or Workshops
 - ✓ Brown Act will apply whether the focus is on long-term agency planning or team building and group dynamics
- Ⓢ Informal Gatherings
 - ✓ Beware of post meeting gatherings

TYPES OF MEETINGS

- Ⓢ Regular
 - ✓ Must set regular time and place by formal action (e.g., ordinance, resolution, bylaws, etc.)
 - ✓ 72 hours notice is required.

TYPES OF MEETINGS

• Special

- ✓ Presiding officer or a majority may call at any time
- ✓ Requires 24 hours posted notice and written notice to each member, to local newspaper if the paper has requested it and on the website.
- ✓ Notice must state time and place of meeting and all business to be discussed.
- ✓ Business is limited to subjects listed on agenda.
- ✓ New Restriction: No discussion of agency executive's compensation

TYPES OF MEETINGS

• Adjourned

- ✓ Regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.
- ✓ If no time is stated, the meeting is continued to the hour for regular meetings.
- ✓ Less than a quorum may adjourn a meeting.
- ✓ If no members present, the clerk or secretary may adjourn.
- ✓ If adjourned for less than 5 days, no new agenda need be posted, but no new business may be discussed. If more than 5 days a new agenda is required.
- ✓ Must post copy of order of adjournment within 24 hours at or near the door where the meeting is held.

TYPES OF MEETINGS

⦿ Emergency

- ✓ Can hold when prompt action is needed (e.g., work stoppage, crippling disaster, dire emergency, or other activity that severely impairs public health or safety).
- ✓ Special meetings provisions apply, except only one hour notice required.
- ✓ Minutes of the meeting, list of persons notified or attempted to be notified, copy of rollcall vote and any actions taken must be publicly posted for minimum of 10 days after meeting.

REQUIREMENTS FOR MEETINGS

⦿ Agenda

- ✓ Except emergency meetings, all meetings must have an agenda posted in advance (Regular – 72 hours, Special – 24 hours)

Open and public

- ✓ All persons must be permitted to attend, no secret ballots

⦿ No conditions on attendance

- ✓ May not require to sign-in, cannot charge for attendance.

REQUIREMENTS FOR MEETINGS

- ⦿ Accessible
 - ✓ Must provide reasonable accommodations, cannot allow some members of public to attend and others not, can't hold in facility that prohibits attendance on discriminatory bases
- ⦿ Video/audio & broadcasting
 - ✓ Must allow photos, audio/videotaping of the meeting (unless it is disruptive to the meeting)
- ⦿ Voting (New in 2014)
 - ✓ Must report how each individual official votes on any action, and record the vote in the minutes.

AGENDAS

- ⦿ Must post in a location "freely accessible to members of the public" 24/7.
- ⦿ Must state time and place of meeting and a "brief general description" of each item of business to be transacted or discussed, including items to be discussed in closed session.
- ⦿ People should have enough information to decide whether they want to attend.
- ⦿ Notices must be posted on agency's website, if it has one

WHAT ABOUT ITEMS NOT ON THE AGENDA

- ⦿ No action can be taken... except
 - ✓ Majority decides there is an emergency situation
 - ✓ 2/3 of the members present (or all members if less than 2/3 are present) vote that immediate action is needed and the need came to board's attention after agenda was posted. (Regular meetings only)
 - ✓ When an item appeared on the agenda of, and was continued from, a meeting held not more than 5 days earlier
 - ✓ Members or staff may "briefly respond" to comments or questions from public

TELECONFERENCING

- ⦿ Can use teleconferencing to receive public comment, testimony, to deliberate or conduct closed session.
- ⦿ Quorum required in the jurisdiction
- ⦿ Teleconference location must be available to the public
- ⦿ Must identify teleconference location in meeting notice and agenda
- ⦿ Agenda must be posted at each teleconference location
- ⦿ Agenda must allow public to address the board at each teleconference location
- ⦿ All votes must be by roll call

LOCATION OF MEETINGS

- Ⓢ All meetings must be held within the area over which the board has jurisdiction

RIGHTS OF THE PUBLIC

- Ⓢ May address Board:
 - ✓ Matters on the agenda
 - Before or during consideration of the item
 - ✓ Other matters within the subject matter jurisdiction
 - Regular meetings only
 - ✓ Brief response, but **NO ACTION!**
 - ✓ Cannot prohibit public criticism, but there is no immunity for defamatory statements
 - ✓ Reasonable time limitations and other regulations are permitted (be consistent)

CLOSED SESSIONS

- ⦿ If situation meets one of the specific exceptions to the open meeting rules, may hold in closed session
- ⦿ Not enough that it is sensitive, embarrassing or controversial
- ⦿ Meeting is either open or closed. Cannot invite selected members of public

CLOSED SESSION GENERAL PURPOSE

- ⦿ Generally used to avoid revealing confidential information that would prejudice legal or negotiating position of the body or compromise privacy interest of employee or student

CLOSED SESSIONS – AGENDAS AND REPORTS

- ⦿ Legal authority for closed session must be on the posted agenda with the same kind of brief description
- ⦿ Brown Act supplies a series of fill-in-the-blank samples that provide a safe harbor from legal attacks
- ⦿ Must disclose the item(s) that will be discussed in closed session (can just refer to agenda item)

CLOSED SESSIONS – AGENDAS AND REPORTS

- ⦿ If take action in closed session, must report out on certain actions taken and the vote of each member present. Required content specified in Government Code section 54957.1
- ⦿ May keep a confidential minute book to record actions taken in closed session,
 - ✓ Minutes are open to a court if lawsuit claims an open meeting violation and
 - ✓ Board members may inspect.

PERSONNEL CLOSED SESSIONS

⊙ Personnel

- ✓ Appointment, employment, evaluation of performance, discipline or dismissal of a public employee or to hear complaints or charges brought against the employee
- ✓ Restricted to discussing particular employees, not general personnel policies
- ✓ Must give employee 24 hours notice – they have a right to a public meeting. Failure to notice makes any action void.
 - Exception: no notice required to consider performance evaluation, as opposed to specific complaints or charges

PERSONNEL CLOSED SESSIONS

⊙ Who is not “personnel”

- ✓ Elected officials and appointees to the governing body are not employees for the purposes of the personnel exception
- ✓ Action on people who are not “employees” must be public.

PERSONNEL CLOSED SESSIONS

- ⦿ CANNOT discuss in closed session:
 - ✓ Proposed compensation, except disciplinary reduction in pay or as part of a labor negotiation
 - ✓ Reclassification of a job

PENDING LITIGATION CLOSED SESSIONS

- ⦿ Existing litigation
 - ✓ May discuss existing litigation with counsel, approval to settle, etc.
- ⦿ Threatened litigation
 - ✓ Legal counsel can inform body of exposure to litigation
- ⦿ Potential litigation initiated by the agency
 - ✓ May seek legal advice about whether to initiate litigation

REAL ESTATE NEGOTIATIONS CLOSED SESSIONS

- ⦿ Real estate negotiations
 - ✓ Discuss purchase, sale, exchange or lease of specific real property by or for the agency
 - ✓ Must identify negotiator and the real property involved
 - ✓ Discussion of potential sites not allowed

LABOR NEGOTIATIONS CLOSED SESSIONS

- ⦿ To instruct bargaining representatives on employee salaries and fringe benefits
- ⦿ Before or after negotiations
- ⦿ Prior to closed session, must identify designated representatives

LABOR NEGOTIATIONS CLOSED SESSIONS

- ⦿ School Districts governed by the Rodda Act
- ⦿ 4 types of meetings excepted from Brown Act
 - ✓ Negotiating session with recognized or certified employee organization
 - ✓ Meeting of a mediator with either side
 - ✓ Hearing or meeting held by fact finder or arbitrator
 - ✓ Session between board and its bargaining agent, or the board alone, to discuss employee working conditions and to instruct its agent

OTHER EDUCATION CODE EXCEPTIONS TO BROWN ACT

- ⦿ Student disciplinary meetings.
 - ✓ May hold closed session to consider student suspension or discipline
 - ✓ Parent may request an open meeting
 - ✓ Final action on K-12 students must be taken at a public meeting and is a public record

Reporting Out of Closed Session

- Not all decisions must be reported – some examples of items that must be reported:
 - Real estate agreement
 - Approval of lawsuit initiation or intervention
 - Settlement of litigation
 - Agreement with labor union
 - Actions affecting employee's status
- Some reports won't be made until issue is finalized (i.e., termination not reported until administrative remedies are exhausted.)

RECORDS & PUBLIC ACCESS

- Ⓢ General rule: agendas, minutes & writings distributed at board meetings are public records.
- Ⓢ Documents pertaining to an agenda item distributed to board members less than 72 hours prior to the meeting must be made available to the public.

EXEMPT DOCUMENTS

- Ⓢ Preliminary drafts not regularly kept
- Ⓢ Records pertaining to pending litigation
- Ⓢ Records pertaining to personal privacy or privilege
- Ⓢ Special election documents
- Ⓢ Contents of real estate appraisals

Enforcement, Penalties & Remedies

- Invalidation
- Civil Action
- Costs and Attorneys' Fees
- Criminal Complaints

Enforcement, Penalties & Remedies

- Invalidation
 - Any person may seek to invalidate an action that violates the Brown Act
 - Board first has a chance to cure

Enforcement, Penalties & Remedies

- Civil Action
 - District Attorney or any interested person may ask court to:
 - Stop violations
 - Determine applicability of Brown Act to certain actions
 - Compel Board to tape record closed session

Enforcement, Penalties & Remedies

- Costs and Attorneys' Fees
 - Someone who successfully invalidates an action or enforces one of the Act's civil remedies may seek court costs and attorneys' fees.
 - Award is only against the local agency, not individual members

Enforcement, Penalties & Remedies

- Criminal Complaints
 - Within District Attorney's discretion to file
 - A violation done with improper intent is a misdemeanor
 - Requirements:
 - Overt act. Board must have taken action. Not just deliberation or a vote, but a collective decision.
 - Intent. Must have intended to deprive public of information to which the Board knew or should have known public is entitled.

Enforcement, Penalties & Remedies

- Informal Resolution
 - Always have the opportunity to re-notice and re-hear items
 - Best solution is prevention!

Yolo County Local Mental Health Board
Standing Committee Meetings

James C. Glica-Hernandez, Secretary

August 31, 2015

A proposed amendment to the Yolo County Mental Health Board (Board) bylaws would change the creation of Board committees such that the committees are not obligated to the Brown Act in the same way as standing committees would be today.

As they stand for our current assignment of committees, the following is a summary of the most basic requirements for standing committee meetings which are compliant with the Ralph M. Brown Act

For each scheduled meeting, the event must include the following components:

- 72 hour notice must be given to the public of the meeting;
- Each venue in which the committee members are located must be accessible to the public, whether committee members meet in person or by videoconferencing or teleconferencing call;
- Originating venues must have agendas posted on the door to notice the public that they may enter to attend the meeting;
- Minutes must be taken and subsequently submitted to the secretary for the LMHB for record maintenance.

The change would move the assignment of committees from the Board-at-large to the chairman in what would be considered *ad hoc* committees. These *ad hoc* committees, though, would maintain a consistent membership and have ongoing responsibilities. Because of this, we received this assessment from Philip Pogledich, Yolo County Council:

“Unfortunately, the proposed amendment is not a valid Brown Act workaround. The committees described in the amendment sound like standing committees, meaning they each have continuing jurisdiction over a particular set of issues. An ad hoc committee, by contrast, is a committee with authority over a discrete issue for a defined period of time.

I guess the idea behind the bylaw is that by having the Chair create the committees, rather than the Board, the standing committees are not “legislative bodies” under the Brown Act. As this bylaw is drafted, however, it directs the Chair to create certain committees. The Chair has little discretion except in deciding whom to appoint to the committees. I don’t think that’s enough.

The bottom line, in my opinion, is that a Board bylaw directing creation of a committee by the Board chair is functionally the same for Brown Act purposes (or nearly so) as the Board itself creating the committee.

I can’t think of a different approach to suggest that would avoid this result. That said, complying with the Brown Act is relatively straightforward in most instances and the committees can meet by teleconferencing (subject to certain limitations that I’ve advised on separately) if in-person attendance is an issue.

Phil”

First, the Board may wish to address why this amendment was suggested so that we know how to respond to the issues at hand, the remarks of the County Council, and our goals and objectives for these committees.

The following are discussion points for consideration:

1. All standing committee meetings can be required to be held in person to prevent noticing and access issues for the public;
2. Teleconference meetings can be set up by the Board secretary and publicly noticed at least 72 hours in advance of the meeting;
3. *Ad hoc* committees can be set by the chair as needed for specific activities, and disbanded when those activities end. This would mean that membership could change depending on the activities assigned to that committee;
4. A mix of standing and *ad hoc* committees can be developed to facilitate flexibility in implementing actions;
5. A set date and time for all standing committee meetings can be permanently established so that all noticing is completed at the same time.