

Citizens' Oversight Projects (COPs) Committee

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CitizensOversight.org

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December 5, 2010

Grossmont Healthcare District
Board of Directors

Please accept this submission to your December 6, 2010, board meeting, and include this document in the meeting minutes.

I. Public Comment

The following comment is submitted primarily as a response to your action and comments made at the prior meeting.

Former Director Stieringer was allowed to speak for over 11 minutes during the public comment period while the policy is five minutes, a time frequently strictly enforced. I respectfully request that you fairly allow all points of view and maintain a consistent policy, and for that reason, I request that you afford me, and other speakers, up to eleven minutes if they should so desire.

Responding to Mr. Stieringer, I was disappointed that he did not have the courtesy to refer to me by name, but instead uses terms like “unsuccessful congressional candidate” or “political gadfly,” and avoided thanking me for the initial objection to the closed session, and instead thanked Terry Franke. This is a common attempt to denigrate oversight by citizens to continue his disdain for public involvement.

He made eight specific points, and I will respond to each.

1. Mr. Stieringer said that the project liaison monitor position was not established for a particular person, and he had no part in establishing it. On the contrary, Stieringer was a member of the board when the position was established, and therefore, he did have a part in establishing it, since he voted on it. Originally, I understand it was a “CEO Assistant” position, and later, it was redesigned as “projects liaison monitor.” Since the change was approved by Mr. Stieringer, he therefore had a part in creating it, contrary to his comments. According to REGULATIONS OF THE FAIR POLITICAL PRACTICES COMMISSION, TITLE 2, DIVISION 6, CALIFORNIA CODE OF REGULATIONS § 18702.1 “Determining When a Public Official is Making a Governmental Decision”

(a) A public official "makes a governmental decision," except as provided in 2 Cal. Code Regs. section 18702.4, when the official, acting within the authority of his or her office or position: (1) Votes on a matter; ...

2. Mr. Stieringer said that it was legal for former board members to enter into employment contracts with their agency, and he quotes an anecdotal example of a city council member taking the position of fire chief. However, according to "Conflicts of Interest" by California State Attorney General (<http://ag.ca.gov/publications/coi.pdf>)

Once the board member retires, the district may enter into an employment contract with the former board member, so long as no discussions concerning such employment took place between the board member and his or her colleagues or staff prior to the date of retirement.

Mr. Stieringer admitted that he discussed his intentions with the other board members. Therefore, if the board were to select him for the position, a lawsuit would be likely to stop this unlawful action. Clearly, Mr. Stieringer would not be able to accept this position.

According to FPPC code § 18747. "Influencing Prospective Employment."

(a) No public official shall "make," "participate in making," or "use his or her official position to influence" any governmental decision, as defined in 2 Cal. Code Regs., sections 18702.1, 18702.2, 18702.3, 18702.4, if the decision directly relates to a prospective employer.

This section brings up the inherent conflict, since the district itself is a prospective employer. Clearly, Stieringer would not be able to be selected for the "project liaison manager" position.

3. Mr. Stieringer said he was not promised the position. In this case, actions speak louder than words. He obviously expected to be selected because he resigned from his position with the expectation that not only would he have been considered, but that he would be selected for the position, and further, he expected that once the position was not available, he could un-resign and get his board seat back. There was apparently an implicit promise that if he resigned, he would very likely get this job.

4. Mr. Stieringer said it was a fiction that he voluntarily retired. This whole notion is absurd. He resigned so he could apply for the position, and there was no coercion for that action other than his own desires. He knew that he could not both keep his seat and apply at the same time. Mr. Stieringer's resignation was voluntary.

5. Mr. Stieringer admits that he sought the position to improve his financial position and to buttress his pension. He says it was not the primary motivation, and I wonder what other motivation there could be, and frankly, I am worried that kickbacks or favors with other contractors or grant recipients maybe involved.

6. Mr. Stieringer says he did not conduct a serial meeting of board members. He admits, however, that he did contact them and discuss this issue, an issue that was within the purview of the board, and conducted a serial meeting. I hereby request that Mr. Stieringer be reprimanded for this violation of the Brown Act.

More importantly, this admission would make his employment a violation of the standards of conflict of interest, as previously mentioned. (FPPC code § 18747.)

7. Mr. Stieringer said he did not threaten to sue the district. His statement is accepted as further evidence that the closed session meeting was invalid, as the board as since admitted. However, it was clear that Mr. Stieringer made a number of threats that he might sue for slander instead. I would invite Mr. Stieringer to discontinue such threats regarding nebulous statements he claims are slanderous, as none have ever been made, since such accusations are slanderous unless substantiated with evidence that such slander has occurred.

8. Finally, he said he did not contact Californians Aware. Indeed, I made the original objection to the closed session meeting, and reporter Ken Stone researched the issue and asked CalAware for their opinion. Stieringer was not involved.

I will reassure Mr. Stieringer that I bear no malice against him, but I will say that during the last several years of providing oversight for this body, Mr. Stieringer blocked, obfuscated, denigrated, and attempted to intimidate at every turn. I hope the future board member will be more open to citizen oversight and embrace contributions from the public.

II. Consent Action Items E-1 & E-2

1. There are no minutes for the emergency meeting of Nov. 23. provided. COPS requests that if you don't have time to prepare them, that there is a line item on the agenda stating that a meeting was held and the minutes are not available yet for approval. This is very important to provide complete background for any member of the public that may read the agenda.
2. I request that the summary of public comment period be improved. Currently, the description is disrespectful to speakers and incomplete. For example, the summary in the Nov. 15 meeting went into great detail regarding “complaints” although these are better characterized as “requests” and then no summary at all was given regarding statements about Mr. Stieringer, even though these comments were provided in writing.
3. I request that any written contributions provided to the body be reproduced in the minutes by attaching them instead of summarizing them.

III. Items F-3 – Resolution to confer title of “Director Emeritus” to former board member Stieringer.

This action is unlawful and must not be approved.

The Grossmont Healthcare District exists due to state law, “California Health and Safety Code” (DIVISION 23. HOSPITAL DISTRICTS) which defines the structure of such districts, how they would be formed, how boards are elected, and so forth.

Code section 32000 defines the board:

32100. The elective officers of a local hospital district shall be a board of hospital directors consisting of five members, each of whom shall be a registered voter residing in the district and whose term shall be four years, with the exception of the first board. The first board of directors shall be appointed, upon the formation of the district, by the board of supervisors of the county in which the land or a greater part of the land in the district is situated. Upon appointment, the first board shall, by lot, designate two members who shall leave office when their successors take office pursuant to Section 10554 of the Elections Code, and three members who shall leave office two years thereafter. Any vacancy upon the board shall be filled by the methods prescribed in Section 1780 of the Government Code.

Obviously, there is no provision for “director emeritus” and the creation of such a position would require a change in state law. Furthermore, such a title is a violation of Fair Political Practices Commission (FPPC) rules and amounts as an attempt by Mr. Stieringer to acquire a title that he can use in a future run for office. Directors of the district are elected to their seats. Providing someone with a permanent title which implies that he is permanently affiliated with the district is a violation to fair political practices.

Many people look to term limits to reduce the favors and kickbacks that may result from elected officials

occupying their seats for an extended period of time. This attempt to provide a permanent director position to Stieringer is a wholesale perversion of democratic values and will only serve to exacerbate the tendency that such favors and kickbacks may persist.

IV. Items F-4 – Resolution to name conference center after former director Stieringer.

1. No resolution was provided in the agenda package. Therefore this cannot be approved at this meeting due to inadequate publication.
2. Naming buildings after persons can be an effective way to raise money by selling naming rights. A typical standard, used by Stanford University, for example, is that naming rights can be given to an individual if they contribute at least 1/3 to 1/2 of the cost of the building. If the board decides to grant naming rights to Stieringer, they will eliminate the possibility that the building could be named to honor a full-fledged donor. Such an action would be a violation of propriety by the board.
3. Stieringer has suggested that although he clearly resigned, that he would like his seat back. Therefore, it is improper to name a building after Stieringer until his death, or at least until after the expiration of enough years to demonstrate that he no longer is interested in the seat.
4. Board members are already honored with their names on buildings, and additionally naming the building after a board member, who is simply acting as a representative of the public.
5. The recent actions by the district to offer the projects liaison position, and at least implicitly promise this seat to Mr. Stieringer smacks of insider favoritism. Naming a building after Stieringer immediately after this other event illustrates to the public that indeed, there is a great desire on the part of the board to reward Stieringer by providing him with a larger pension. Therefore, COPS advises the board to avoid this action, especially at this time.
6. COPS recommends that the district, if it does not already have it, establish an exhibit honoring all prior board members. Although the tenure and accomplishments of Mr. Stieringer are impressive, they are perhaps no better than other board members. Such an exhibit may best be realized as a hallway with pictures, and as a set of pages on the website which describe the significant actions of each board member to support the district.

I appreciate the opportunity to improve the operation of the district and to root out waste, fraud and abuse.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ray Lutz', with a long horizontal line extending to the right.

Raymond Lutz
Coordinator, Citizens' Oversight Projects