

Sonoma County Civil Grand Jury Report

July 20, 2022



Sonoma County Civil Grand Jury

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Civil Grand Jury Findings

- **Finding 1:** The Board of Directors lacks adequate input from the Citizens Oversight Committee.
- **Finding 2:** The Citizens Oversight Committee reports to SMART management rather than directly to the Board of Directors.
- **Finding 3:** The public has expressed concern about the Board of Directors strategic decisions made without the input of a citizens' oversight committee.
- **Finding 4:** A well-informed and responsive citizens' advisory group has the potential to positively influence the final terms of crucial actions prior to the vote of the Board of Directors.
- **Finding 5:** The SMART Strategic Plan of 2019 did not adequately address the addition of freight operations and was not updated for consideration by an advisory committee and the public.

Civil Grand Jury Findings

- **Finding 6:** The Citizens Oversight Committee has not fulfilled its oversight role as represented in Measure Q election materials and it has failed to serve as a fully independent advisor on important SMART issues.
- **Finding 7:** The Board of Directors and the Citizens Oversight Committee have maintained the responsibility of the Citizens Oversight Committee at what was defined loosely in the 2008 Expenditure Plan of Measure Q—addressing only the minimal responsibility of reviewing the five-year strategic plan—despite recommendations from former Sonoma and Marin County Grand Juries and members of the League of Women Voters to expand the advisory role.
- **Finding 8:** The requirements of Measure Q and its associated 2008 Expenditure Plan are not sufficiently detailed to provide for a well-trained, well-informed, well-regulated, and suitably responsive Citizens Oversight Committee.

Civil Grand Jury Findings

- **Finding 9:** Measure Q does not prohibit or limit the development of committee roles or additional committees to provide the Board of Directors with informed and independent public opinion.
- **Finding 10:** The Board of Directors response to the Grand Jury reports of 2014 indicated that comment periods in Board of Directors meetings are sufficient to obtain public input but failed to recognize the importance of well-informed advisory committees.
- **Finding 11:** The Board of Directors responded to prior Grand Jury reports that the Citizens Oversight Committee fulfilled the Measure Q requirements with regard to the five-year Strategic Plan, but failed to recognize their responsibility to provide suitable public feedback and oversight,
- **Finding 12:** The lack of required formal reports from the Citizens Oversight Committee to the Board of Directors has created an environment where input from the Citizens Oversight Committee is not required or generally expected prior to decision making.
- **Finding 13:** Bylaws for the Citizens Oversight Committee do not exist and if developed could provide structure and a set of rules to guide the Committee's operations and activities.

Civil Grand Jury Findings

- **Finding 14:** The undefined term of service in the Citizens Oversight Committee has the potential to allow Committee members to remain for long periods of time or permanently, which could lead to stagnation of ideas, and to leadership and committee fatigue.
- **Finding 15:** The ultimate financial and management impacts of taking on the freight business are very difficult to predict, and accepting the freight business creates the potential risk of distraction from SMART's primary purpose of implementing and operating a passenger rail system.
- **Finding 16:** The lack of district-wide public discussion of the LPG storage facility in Schellville contributed to the hasty closure of the facility rather than a phased or delayed closure that would have given the SMART management an opportunity to mitigate the financial loss.
- **Finding 17:** Implementing accounting best practices would separate the Measure Q monies from freight or other future ventures into separate bank accounts in addition to their separate bookkeeping accounts.
- **Finding 18:** Committee members who were interviewed by the Grand Jury could not provide requested documents because there was no central information repository.

Civil Grand Jury Recommendations

- **Recommendation 1:** By January 31, 2023, the Board of Directors expand the role of the Citizens Oversight Committee beyond the minimal requirements of the Measure Q Expenditure Plan to achieve expectations of citizen oversight and accountability.
- **Recommendation 2:** By January 31, 2023, the Board of Directors consider additional advisory committees to generate informed, independent advice on important matters under consideration, including but not limited to increasing ridership, building public trust, new lines of business, sale of assets, finance, and other significant decisions.
- **Recommendation 3:** By January 31, 2023, the Board of Directors reassess the SMART organizational structure such that the Citizens Oversight Committee and any future advisory committees report directly to the Board.

Civil Grand Jury Recommendations

- **Recommendation 4:** By January 31, 2023, the Board of Directors require Citizens Oversight Committee analysis and recommendations prior to all major strategic decisions whether or not incorporated in the five-year Strategic Plan.
- **Recommendation 5:** The Board of Directors define and implement advisory committee bylaws for the Citizens Oversight Committee, by January 31, 2023.
- **Recommendation 6:** The Board of Directors define the length of term for Citizen Oversight Committee members, by January 31, 2023
- **Recommendation 7:** By January 31, 2023, the Board of Directors develop suitable training programs for new and existing members of the Citizens Oversight Committee regarding their newly defined role and proper public committee protocols, such as the Brown Act rules.

Civil Grand Jury Recommendations

- **Recommendation 8:** By December 31, 2022, the Board of Directors direct the Citizens Oversight Committee to prepare written recommendation or reports to be presented at or entered into the record of the Board of Directors meetings.
- **Recommendation 9:** The Board of Directors direct the General Manager to provide a timeline to evaluate the financial viability of freight services by March 31, 2023.
- **Recommendation 10:** The Board of Directors and the General Manager establish separate bank accounts for the monies associated with passenger transit (Measure Q, et al.) and with freight or other future ventures, by December 31, 2022.
- **Recommendations 11:** The Board of Directors direct advisory committees to develop and implement a policy to keep documents and information related to their advisory role centrally located and remotely accessible, by January 31, 2023.

Citizens Oversight Committee Suggestions

- Quarterly meetings
- Semi-annual report to the Board of Directors
- Financial review on a quarterly basis from the CFO
- Annually review SMART budget and any updates to the strategic plan
- Establish term limits, appointment criteria and number of members
- Determine which user groups would be represented on the COC
- COC to receive input from the Executive Team Advisory Committee (ETAC) at each meeting

Citizens Oversight Committee Suggestions

Executive Team Advisory Committee (ETAC)

- **Role**
 - Advisory group to meet with SMART management
 - Provide benefit to both management and community
 - The goal is to improve SMART service to the community
- **Regular meetings with management**
 - Monthly or quarterly meetings
 - Meetings held prior to the COC meeting
 - Meeting results reported to the COC

Next Steps

- Respond to Sonoma County Civil Grand Jury by September 8, 2022
- Determine if/when the Board wants to implement accepted recommendations

DISCUSSION