

CITIZEN BOND OVERSIGHT COMMITTEE
Measures G & E
“Meeting Minutes of February 3, 2010”

- Call to order by: Jon Reinke (CBOC Chair)
- Time called to order 6:07 PM
- The following were in attendance:

CBOC Members

Jon Reinke (Chairman)
Bill Becker
Bill Jackel
Bud LaMonaco
John Moore
John Sellarole
Rosa Solorzano
Rowena Smith
Ruben Dominguez

District Representatives

Alan Garofalo
Dan Moser
Jerry Kurr
June Rono
Kathy Lanford

Visitors

Elaine Lingard (SGI)
Julio Hernandez (SGI)
Lance Jackson (SGI)
Robert Bush (SGI)
William Derek Grasty

- Meeting adjourned by: Jon Reinke
- Time of adjournment: 8:40 PM

Public Comments

- There were no public comments made.

Review and Approve Meeting Minutes of November 4, 2009

- Chairman Reinke passed out the minutes from the previous meeting and apologized that they were incomplete, covering only the first two thirds of the meeting, and promised to update them as soon as possible. He added that these minutes represent a summarization of key points of discussion and are not intended to be a full transcription, as done in the past. He welcomed feedback from committee members.

Action: Jon Reinke to update meeting minutes of November 4, 2009.

- Jon relayed his plans for the meeting and proposed to present an overview of the committee's work for the coming year which includes accomplishing mandated responsibilities under Proposition 39 and conducting a thorough review of all Bond projects, to ensure that all committee members have a good understanding. Some items will be covered at more depth than others. Materials will be input to

be used in the committee's yearly report. He also presented an overview of the Bond Program including fees, commissions and income. These will be discussed in greater detail at future meeting as well as District and consultant costs, and projects - both construction and non-construction. The intent of today's meeting covers high level matters and a deeper look at the financial aspects will take place at the next meeting. Jon proposed that more meetings be added to the CBOC calendar in order to cover all the work the Committee needs to do during 2010. He suggested that the committee's report be produced in time to be presented at the June 17 Board Meeting and that the CBOC request presentation time at that meeting. If this transpires the committee needs to cover program management, discuss an outline of the report and have a draft ready for review by the next CBOC meeting. If this does not happen the committee will have to wait until the September Board Meeting to make its presentation. Jon suggested sending an email to committee members with a set of suggested dates and requested that each member delete dates that don't work.

Action: Jon Reinke to email committee members with suggested dates.

Project Status Report (Measure G and Measure E Projects)

Bob Bush (SGI) gave a PowerPoint high level overview of Measure G and Measure E projects, together with an in-depth look at two schools: James Lick High School (Child Care Center and Teaching Lab, Fire Service Center, 2-Story Classroom Building, Interior and Exterior Title IX projects) and Silver Creek High School (Multi Purpose Building and Theater) all to be completed using Measure E money. In depth reports on other schools will be given at successive meetings (2 per meeting). Kathy Lanford (District) added more detail. Jon Reinke suggested that CBOC members might want to tour these sites and proposed to pick some dates in the next month and relay them to committee members this week for their input. Alan Garofalo offered to work out the details and set up a tour with a view to limiting disruption to school activities.

Action: John Reinke to relay suggested dates to committee members

Action: Alan Garofalo to work out details and set up a school tour

Measure E passed in 2008 and April of 2010 is the kick-off for the first project of significance. The question was asked what SGI was doing during this interim period. Bob Bush answered that understanding the needs and demands of a project are not easy and involve many aspects of programming. The programming phase needs to be understood before a capital program plan can be put together. John Moore asked if SGI had any input during the Academic Master Plan and if the Bond was billed during this time. Bob Bush offered to prepare a report in answer to these concerns and present it at the next meeting. Jon Reinke also offered to gather answers to concerns expressed by committee members and forward them to the appropriate persons in the District in advance of the next meeting. Alan Garofalo stated that there was a study on what had occurred with Measure G and was expected and planned for Measure E, with the

intention of melding the two together and putting together a design for the spending of E. The school sites met with their community representatives and their priorities were listed and then SGI & Facilities' function was to take that and put a plan in place for the implementation of these projects. All of this was happening during the time period in question. He added that a good deal of work goes into construction projects long before the physical work begins; there is a lot of communication within the community, design, walking the design through Division of State Architects, putting a bid package together, getting it out, going through the bid process. Bill Becker said he didn't have any problem with "melding" the planning of Measure G and E projects and using money from Measures G and E to complete something that wasn't finished. Alan Garofalo replied that he was saying something else; Measure G projects are listed and are very clear as to what the money could be spent on. Measure E is a separate Bond entirely. Bill Becker asked if the accounting was separated. Alan Garofalo replied that it was. He added that this would be clarified by the audits to be presented later in the meeting.

Action: Bob Bush to prepare a report in answer to concerns regarding SGI's activities during the Academic Master Plan.

Action: Jon Reinke to gather answers to concerns and forward them to the appropriate District personnel.

Jon Reinke confirmed that Measure G projects were funded with Measure G money. More projects were suggested than could possibly be completed with Measure G money. Committee members wanted to know if Measure E funds were "cannibalized" to make up for the Measure G shortfall, perhaps resulting in Measure E funding being spent on something that the voters had not approved in Measure E. Alan Garofalo said no. Measure G is coming to an end with approximately \$20 million left over. Once these funds have been spent on Measure G projects, Measure G will come to an end, but Measure E will be ongoing. There was over \$1 billion dollars of need for Measure G but only \$298 million was raised under the Bond. This money was spent on priorities as listed under the Bond language, the same being true of Measure E. He added that some projects are listed under Measures G and E with the same theme or idea, with a "melding" of ongoing projects (like HVAC units) because things wear out and need to be renovated. Therefore, some projects listed - but not completed - in Measure G were also listed and are now being completed under Measure E. Mr. Becker asked if this was reflected in the Measure E ballot language. Mr. Garofalo replied that it was. Discussion ensued. Mr. Moore indicated that he was not concerned that Measure G and Measure E funding had been co-mingled, but instead he was concerned about why project needs known in 2006 and 2008, and preliminary planning under Measure G, were not started during the two years between the existence of the [Measure E] bond and commencement of work on the project. The Academic Master Plan might account for one year of this, but some of these projects could have been started in 2008 or 2009, and he was concerned that voter dollars may have been wasted by the delay. He stated that the information he had so far was not sufficient to confirm or refute this. Mr. Becker asked again if Measure E money was being spent to complete Measure G projects without informing the voters. Mr. Garofalo replied that this was absolutely not the case.

In conclusion, Jon Reinke recognized members' concerns regarding Measure G and Measure E spending and proposed revisiting this subject at future meetings. He summarized that there is a perception on the part of committee members that there was a two year lull in initiation of construction projects. Committee members want to know:

1. to what extent is that perception reality;
2. to what extent were there increased costs to the District;
3. what portion was due to the Academic Master Plan, and
4. what portion was due to other activities that the committee does not yet understand.

Old Business

1. *Foothill Library Project*

There was discussion on the funds (approximately \$1.7 million) that were taken from Measure G to fund the Foothill Library Project and the justification for this action, since the rebuild was not included in Measure G. Jon Reinke summarized that the fire at Foothill High School Library took place in August, 2006. Funds were transferred from Measure G to the School Facilities Fund to cover the rebuild of the library and those funds were then repaid to Measure G on November 16, 2009.

Some committee members expressed concerns over the quantity of supporting documentation given out at the meeting and asked if there was a more environmental, cost effective way of disseminating this information, or if it was needed at all. While some members wanted only an overview and basic facts, others wanted complete detail because of the history of the item under discussion. Lance Jackson (SGI) stated that Bob Bush included in the package every invoice and back-up document sent to the District. Jon Reinke stated he had asked for a thorough level of detail and took responsibility for the amount of paper involved in the package of information. Lance suggested that in future one or two hard copies could be reproduced with the rest being distributed electronically. The package now becomes part of the record and will help clarify the issue. Jon Reinke concluded by saying that Measure G projects that were unfunded are now able to be funded because the funds for the Foothill High School Library have been repaid. One of the questions for the next meeting is which Measure G projects may now be able to proceed. With the committee's consent Jon Reinke declared the matter of the Foothill High School Library now closed.

2. *District Employee Costs Related to Measure G and Measure E*

Jon Reinke offered an update on District employee costs funded out of the Bond program which are allowed because of an opinion from the Attorney General's office. Jon Reinke stated that the intent for this meeting was not to drill into the details of the spending, but to answer questions that several committee members had. The committee was given a list of FTE's (full time equivalents) and job titles,

but members still do not understand what those people do, and how the decision is made that these costs can be allocated to the Bond program. Jerry Kurr addressed the statistics in question, which were based on staff timesheets submitted while working on Bond matters. Several committee members asked what the costs for these FTE's added up to. Jerry stressed that he was asked to focus on work the staff perform and not the dollar amounts charged to the Bond program. Jon indicated that this was all he had asked Jerry to present at this meeting, and that the dollar amounts involved will be presented in detail at the next meeting.

3. *Subcommittees*

Jon Reinke stated his intention to call subcommittee members in the next two weeks and set up subcommittee meetings to kick off the work for the year. He distributed 4 audit reports, representing the financial and performance audits at the close of the fiscal year on June 30, 2009. There were 2 sets of documents – one each for Measure G and Measure E - consisting of one financial annual report validating Measures G & E Bonds and the other an agreed upon procedure report which looks at the language in the Bonds and states that the projects completed are in accordance with the Bond language. He added that these are preliminary documents not yet approved by the Board. Jon Reinke asked committee members to read them over the next few weeks.

Action: Jon Reinke to call subcommittee members and set up subcommittee meetings.

New Business

1. *Benchmarking – Program Management Costs*

Bob Bush distributed “The Benefits of Program Management” to help committee members understand what the program managers are doing and why. A program manager manages projects that the District does not have the personnel or resources to manage by augmenting the Facilities Department staff. He gave a definition of a program manager’s activities.

Bill Becker brought up the subject of the bidding process as highlighted in an article in the San Jose Mercury News (2/3/10 issue). Bob Bush stated that the program manager is subject to costs and has to take the lowest possible bid offered by pre-qualified licensed contractors. He explained the bid process. Jon Reinke stated that the article in question referred to the FCMAT Report, which will be on the agenda for the next meeting.

Ruben Dominguez acknowledged that SGI has helped the District and expressed his appreciation.

Bob Bush presented “Bond Program Management Staff by Position” which accounts for 10 ½ FTE’s (full time equivalents) and added that SGI presence at

CBOC meetings was at the prerogative of the District and does not cost them anything (i.e. no overtime). It was stressed that SGI employees are paid by SGI and not the District or from taxpayer funds. There are specialty consultants who provide special services to the programs - as required in the field - in support of the projects. Bringing them through SGI is timely in that the services can be packaged and fees negotiated, and the best people hired in order to complete the job. John Moore asked if these expenses are marked up as SGI management fees. Bob Bush stated that there are administrative fees and costs associated with this process. Providing these services through SGI provides a risk mitigation or firewall to the District. SGI uses qualified contractors and pays them, and passes the expenses through the District with a mark-up according to the contract between SGI and the District. If there is an issue later on, SGI would be the first line of defense. Jerry Kurr added that under the contract between SGI and the District, the District is responsible for office expenses incurred by SGI and provides them with office space.

A discussion followed regarding the “comparative program management fee basis”. Compared with other school districts the program management fees being charged to East Side Union High School District are below the industry average. Jon Reinke suggested that since this is the first time this has been discussed at a CBOC meeting it may be a suitable subject for deeper investigation by a subcommittee. He further suggested that if the committee wants to go deeper, it might be appropriate to seek information from sources other than SGI. He asked members for their feedback. Bud LaMonaco asked if SGI’s management fee was negotiable. Jon Reinke interjected that the CBOC is forbidden to negotiate with contractors but can make recommendations to the Board, who would then decide whether to keep SGI or find another contractor as mandated by Proposition 39. Alan Garofalo stated that under Measure G, the program management fee as negotiated under the contract was 4½% while under Measure E it is 5%. The reason for the increase is that additional services were negotiated under the Measure E package. Measure G was capped at \$298 million and Measure E was capped at \$229 million. Alan Garofalo clarified that SGI presents a monthly invoice to the District detailing the hours billed and based on their hours worked but he doubted if it would ever reach 5%.

Bob Bush distributed “Agreement for Program Management Services” and Chairman Reinke requested that committee members read it and be prepared for discussion at the next meeting. Anyone with specific questions can contact Jon Reinke.

Action: Committee members to read “Agreement for Program Management Services”.

John Moore requested that documents be sent out one week prior to the meeting – preferably electronically - so they can be studied and members be prepared for discussion.

Additional Items

- *Committee Members/District Staff Communications and Comments*
FCMAT Report – Jon Reinke stated he would send an email to committee members with a link to the website where they can access and read about the FCMAT Report. Comments about total school solution will be added to the next agenda.

Action: Jon Reinke to email a link to the FCMAT Report to all committee members.

- The next meeting will be held on Wednesday, March 17, 2010 at 6:00 p.m. in the District Office. Jon Reinke to send out an email with reminders and requesting feedback from members on the way the meetings are conducted.

Action: Jon to email members with reminders and request feedback.

Action: Jon to contact subcommittees separately.