

RIVERSIDE UNIFIED SCHOOL DISTRICT
MEASURE O CITIZENS' BOND OVERSIGHT COMMITTEE MEETING

WEDNESDAY JANUARY 29, 2020

4:30 P.M.

Highgrove Elementary School
690 Center Street, Riverside CA 92507

Call Meeting to Order:

George Frahm called the Measure O Citizens' Bond Oversight Committee meeting to order at 4:41 p.m.

Committee Chair George Frahm asked that anyone in the public wishing to speak on any particular item to fill out a speaker card and once the item on the agenda came up, they would be able to speak on that item. He informed the public that the committee was going to take a tour of the construction site and the public was welcome to accompany them.

Members Present:

Jason Hunter, Dale Kinnear, Tom Evans, Tina Grande-Field, Terry Walling, Bob Garcia, Keith Nelson, Janice Bielman, George Frahm, David Bristow, Diane Kwasman, Sarah Simpson

Member Absent:

Jose Alcala

Staff Present:

Sergio San Martin, Ana Gonzalez, Mays Kakish, Gaby Adame, Eric Walker, Nadia Zeien

Consultants Present:

Tarana Alam from Key Analytics

Legal Counsel:

David Casnocha from Stradling Yoca Carlson & Ruth

Public Present:

Letitia Pepper, Rich Davis, Rich Gardner, Kevin Dawson

Action Items:

1. Approval of Meeting Minutes of Aug 21, 2019

George Frahm asked for a motion to approve the meeting minutes of August 21 2019. Motion made by Jason Hunter and seconded by Tina Grande-Field to table this action item until after the site tour. Vote taken. Unanimous Yes.

Committee and interested public went on a tour of the construction site. Meeting reconvened at 5:19 pm. George Frahm asked if there were any questions specifically regarding this school. There were not.

George Frahm resumed meeting and again asked for a motion to approve the meeting minutes of August 21, 2019. Jason Hunter made a point of order with regards to the committee's independence from the district. That the committee is created by the state legislation as oversight for the district and that the district school board should not be appointing the committee members. He went on to say the new members who were chosen by the school board should not participate in the meeting or the voting until such time that the issue of independence is resolved.

Tom Evans moved to approve the August 21, 2019 meeting minutes. Tina Grande-Field seconded the motion. Letitia Pepper said she requested time to make a public comment on the minutes before the vote. George Frahm said public opinion comes after the vote. Kevin Dawson stated comment should be heard before as it may influence the vote. Jason Hunter and Dale Kinnear agreed. Tom Evans said that they are voting on what the minutes say happened at the meeting. That can't be changed. Jason Hunter moved that the public comments be allowed before the vote. Dale seconded the motion. A vote was taken.

Vote Taken:

Yes: Jason Hunter, Bob Garcia, Tom Evans, David Bristow, Dale Kinnear, Terry Walling, Keith Neilson

No: George Frahm

Abstain: Diane Kwasman, Janice Bielman, Sarah Simpson, Tina Grande-Field
Motion carries.

Public Comment

Letitia Pepper commented on items 5, 6 and 7 on 8/21/19 meeting minutes pertaining to committee obtaining own legal opinion. Item 5 was related to committee receiving and reading her emails except Mr. Frahm. Item 7 related to issue where she wanted to speak after an item.

Committee Discussion

Janice stated public comments are not required to be in the minutes. Jason Hunter suggested placing public comments after adoption of minutes. George Frahm again asked if there was any more comment on the August 21 minutes. Sarah Simpson asked for clarification of whether or not public comments are required. If they are not, she doesn't want them in the minutes. George Frahm stated that each committee can set up its own rules with regards to their inclusion. Mays Kakish stated that it is good practice to record who made a public comment and that they are included as a courtesy to the public. They don't need to be detailed and all inclusive. George Frahm said that minutes were to accurately reflect action items not every single detail of the meeting discussion.

George Frahm asked for a vote on the August 21, 2019 meeting minutes.

Vote Taken:

Yes: George Frahm, Jason Hunter, Dale Kinnear, Keith Nelson, Terry Walling, Tina Grande-Field

Abstain: Tom Evans, Bob Garcia, Janice Bielman, David Bristow, Diane Kwasman, Sarah Simpson

Motion carries.

2. Approval of Meeting Minutes of October 30, 2019

Public Comment

Letitia Pepper stated that comments from members of the comment don't need to be detailed, but need to be accurate. She discussed the item about the committee not reading her emails, and clarified she only meant Mr. Frahm did not read her emails. She also stated certified list of schools given to voters as part of Measure O did not include expanded list. She also clarified that the minutes should reflect that the committee has not been given a copy of the certified project list in which Prop 39 dollars can be spent on.

Committee Discussion

Jason Hunter motioned to record Ms. Pepper's comments in this meeting's minutes instead of revising prior meeting minutes. Keith Nelson seconded. After further discussion from Sarah Simpson, Jason Hunter withdrew his motion. Dale Kinnear motioned to approve the minutes as they are. Bob Garcia seconded the motion. George Frahm asked for a vote.

Vote Taken:

Yes: George Frahm, Jason Hunter, Dale Kinnear, Keith Nelson, Tina Grande-Field, Bob Garcia, Janice Bielman

Abstain: Tom Evans, David Bristow, Diane Kwasman, Sarah Simpson, Terry Walling
Motion carries.

Discussion Items

Public Comment

Public comment was heard from Rich Gardner, Letitia Pepper, Kevin Dawson and Rich Davis

1. Chair update on Annual Report to the Board

George Frahm shared that he presented the Annual report to the School Board and that he thought it went well. He thanked Dale Kinnear and Jason Hunter for going to the meeting with him. He said the one question from the board was regarding the committee's requested bylaw changes. They wanted to know if the changes had been submitted by staff to the board. Sergio said yes, they have been made available to the board.

Public Comment

Public comment was heard from Letitia Pepper.

Committee Discussion

Discussion about whether the annual report approval is valid since three (3) of the members voting had expired terms. To be discussed under another discussion item.

2. Measure O Project Update

Nadia Zeien presented the update on the Harrison Elementary School construction project.

Committee Discussion

Questions were raised with regards to project completion date and what this construction was replacing. Jason asked a general question as to how the district safeguards against construction fraud. Sergio explained their method of checks and balances to ensure to the best of their ability that fraud would not happen.

Eric Walker presented the update on Phase II of the Highgrove Elementary School construction.

Committee Discussion

Question raised as to the accuracy of the written report as it differed from the report from Mr. Walker. Sergio explained that the book is a snapshot in time, usually about 2 weeks behind the meeting date, so more progress can be made

between publishing of the book and the verbal report. A question was also raised as to the completion date. Is it completion or occupancy? It was suggested a line item could be added to the report to differentiate between the two. Public needs to be informed so there is no confusion.

Eric Walker presented the update on Phase II of the Jefferson Elementary School and Madison Elementary School.

Gabby Adame presented the update on Sierra Middle School. Major construction is done, the punch list is being worked on now.

Committee Discussion

Sergio explained the next round of schools will start construction next summer. The bidding process will start in February. Kings High School parking lot will start next summer as well. This job has been bid twice. Bidding has come in too high; the project has been revised and will go to bid again next month as well. Jason asked if this project was listed on the 2016 Master Facilities Plan. Sergio said yes, it was. It was included in the scope of work under student safety, expanded parking, travel control and pedestrian safety. It is included in the ballot language. Jason contended that since it was not specifically mentioned on the 2016 Master Facilities Plan, it is an improper use of Measure O funds and proposed a motion stating as such. He then withdrew his motion citing he wanted to do more research and will add it as an agenda item to the next meeting. Tom Evans asked if the King High School parking lot project was made a priority due to its safety issues. Sergio said yes, the board thought the safety issues surrounding this parking lot needed to be addressed. Tom suggested that when a project is moved forward from the expanded list, there should be a footnote in the report stating as such. Tarana Alam noted the requested change.

Discussion on the STEM school. Board is exploring sites, doing due diligence for the school on the UCR campus. Measure O funds have been spent on this investigative process. School is being designed for a capacity of 800 students, but 1200 students will be served, part time and full time and needs to be clarified to public. It is a contained property independent from UCR. Expenses were discussed, specifically communication consultants. It was questioned if that was a proper expense for Measure O. It was discussed that communication is not part of a capital expenditure. It was explained that this project has received a lot of attention and the district feels communication to the public is very important. Jason Hunter feels the committee needs a framework to judge if a line item expense is proper or not.

Mays stated the framework is the law. David Casnocha, the Board's legal counsel clarified what is considered a capital expenditure. Gathering information and contributing to the design of a project is a capital expenditure.

Keith Nelson said he received some flyers in the mail with regards to the STEM school. Mays stated that the flyer was not paid with Measure O dollars.

David Bristow reiterated to the committee that the committee is a function of the Education Code, and that their specific duties are set forth in the code. That they should be given a financial audit and a performance audit to review so they can ensure that bond funds are being spent correctly, that what the board says is happening is what is actually happening and that the spending of the funds complies with what the Constitution mandates and the committee then informs the public of their findings.

Continuing discussion on the discrepancies in the reporting in the book between the individual school page (overview) and the line item expenses in the back of the book. This difference creates the impression of uncertainty and the two should be consistent. Dale added that the overview page should reflect what is in both the 2016 master plan and the extended ballot language for further clarification. Staff needs to supply the committee with the information to clarify these expenses. Sarah volunteered to revise the overview page to reflect what the district intends and help the committee close the gap between what the two reports convey.

Tom circled back to the financial audit and asked if during this audit the auditors determined if expenses incurred should be capitalizable and covered under Measure O or if they should be expenses and paid for by the general fund. David Casnocha said that auditors have been known to challenge expenditures as not capitalizable or not authorized by the full ballot text of the bond measure. Terry then asked if the committee can submit questions to the auditors to get clarification on expenditures when they have questions.

Mays said yes and went on to explain how the district prepares a budget. That they only have facility dollars to work with, not general fund dollars. There can be multiple projects going on at the same time. Each project can have multiple stakeholder group committees working months at a time to determine the cost of that project. Collecting this data is costly and has to be paid for out of some sort of facility dollars. Either Measure O, developer fees dollars, CFD funds.

Keith asked about the protocol to inform the public. Would like it added as an agenda item to the next meeting so it can be discussed.

Jason circled back to the discussion on the financial and performance audits asking what legal counsel these auditors used when they had questions on the validity of an expense. Mays said they have their own legal counsel. They are an outside audit firm and therefore have their own legal counsel to advise them. So again, he asked, why this committee doesn't have its own legal counsel. He

questioned why the committee has to turn to the district's legal counsel which is a conflict. George Frahm interjected that this is a separate agenda item to be discussed at a later time.

Discussion on East Side School expenditures and progress on acquiring property to build school; how the need for Spring Mountain Ranch School was determined; discussion on how the future student need is determined.

Tarana provided further clarification on the financial documentation and how it was accumulated and displayed. Questions on specific line items were addressed.

Break.

Terry Walling left the meeting.

Meeting reconvened at 7:51 pm

Public Comment

Public comment was heard from Letitia Pepper, Rich Davis, Kevin Dawson

Continued discussion on individual line items.

Jason made a motion that the expenditures for Casa Blanca, East Side, Spring Mountain, King High School parking lot and the STEM school at UCR are inappropriate expenditures of Measure O money because they are not included in the 2016 master plan. He also brought up a point of order that the three new members should not be in attendance because the committee has not come to an agreement as a committee as to who can appoint new members. He further stated that the existing committee has sat on its hands with regards to this issue and that the three new members participate in the voting process votes could be considered invalid. Motion was clarified. Keith seconded the motion for discussion.

Sarah said that this committee's job is not to decide which projects are funded. It is to decide what expenditures are allowed on the projects the board has selected to fund. She questioned why the committee is allowing a motion and a second on something that under our bylaws is not allowable to do. She made a counter motion to cease the discussion on this as the motion was breaking the rules of the bylaws. Bob Garcia seconded the counter motion. Jason read from the Education Code that it is allowed. Keith again brought up the lack of protocol on addressing the communication of this to the public. He also felt that each one of these schools should be addressed separately, that each should be a separate item for discussion.

David Casnocha stated that the committee's duties do include reviewing expenditures for proper use of Measure O funds and agrees that the committee can decide if a project is or is not a Measure O allowable project. The confusion here is that the 2016 master plan is being confused with the full ballot text that was submitted to the voters. The 2016 master plan is not the beginning and the end of what is authorized. The ballot text makes reference to the master facility plan, but it also makes specific references to STEM high school and building parking lots and building new schools, and acquiring land. And, if after reviewing expenditures and comparing to the statutorily required ballot text, it is felt there are inappropriate expenses, it is the committee's responsibility to report them to the board.

Review of Sarah's counter motion, then vote called on counter motion: to dismiss discussion on Jason's motion as committee has no jurisdiction to make those decisions.

Vote Taken:

Yes: Bob Garcia, Janice Bielman, George Frahm, Diane Kwasman, Sarah Simpson

No: Tina Grande-Field, Jason Hunter, Dale Kinnear, Keith Nelson, Tom Evans, David Bristow

Motion Defeated.

Jason Hunter's motion was repeated. Vote called.

Yes: Jason Hunter

No: Tina Grande-Field, Dale Kinnear, Keith Nelson, Tom Evans, David Bristow, Bob Garcia, Janice Bielman, George Frahm, Diane Kwasman, Sarah Simpson

Motion Defeated.

Keith Nelson motioned to separate the 5 projects be considered individually on their own merit. Jason seconded the motion.

Sarah asked what the committee intends to do since the committee does not have the power to decide if a project is to be funded or not, citing the attorney's previous explanation as to the committee's purpose. Keith said that it is their responsibility to inform the board when they think an expenditure is inappropriate and that is what they would be voting on.

Jason stated the responsibility, is first to the public and then to the board. He again cited the attorney's position as the board's attorney and not their independent counsel. That the committee is responsible for overseeing the board and listening to the board's counsel is a conflict of interest. That they should be able to have their own legal counsel if they so ask under the education code.

David Casnocha introduced himself. He wrote the bond language and said the 5 projects in question are authorized expenditures of Measure O dollars covered by the text of Measure O. The 2016 Master Facility Plan is not to be referenced at all in reaching that decision. Those are the types of projects Measure O describes. Sergio reminded the committee that in a prior meeting, 2 legal opinions were presented, both confirming that the projects were a legitimate use of funds.

Keith Nelson tabled his motion until the next meeting in order to review the prior two (2) votes and bring members up to speed.

3. Re-Appointment of CBOC Members

Several committee members are working on expired terms. Keith Nelson, Bob Garcia and Tina Grande-Field. Jason made a motion to extend the term of Tina Grande-Field. Keith Nelson seconded the motion and asked Tina Grande-Field if she wanted to continue. Sarah was under the impression that the members were appointed by the board, not voted in by the committee. Tom Evans said that the committee recommended his reinstatement to the board and the board makes the decision to extend the term or not. Jason said, No, that was not the case. The committee motioned to extend Tom Evans' term for 2 years and the motion was seconded. A board representative was in attendance and there was no objection to the re-appointment.

The district's counsel stated that the committee's actions to self-appoint to extend their own terms was void. The statute says the independent oversight committee shall be established and the members appointed by the governing board of the school district. This includes original appointment and reappointment. When someone's term is up, they can be asked if they would like to continue. If yes, their original application will be resubmitted and reviewed along with any new applications received. It is not an automatic reappointment. Since it is sometimes difficult to get people to serve on the committees, the bylaws say a member can continue to serve on a committee in an expired capacity until a replacement is found. The board apologized for the delinquency of the reappointments and will try to respond in a timelier manner going forward.

Again, Jason stated that by the board appointing the members it is not allowing them to be an independent committee. Keith said the nonconformity of the timeline of reappointment is lessening their capacity as a committee.

Jason's motion to reappoint Tina Grande-Field to the committee is on the table. George Frahm deemed the motion invalid. The committee does not have the authority to perform that action.

Keith revisited the topic of the board reviewing their bylaw changes by mentioning that this action is among the bylaws that the board asked to review.

The board asked to see the proposed bylaw changes even though he committee themselves voted them down.

Sarah asked why the board would want to see them. George said he thinks they wanted to see what recommendations the committee was making to their current bylaws.

Keith Nelson explained the back story to the bylaw issues. Jason said this committee has never adopted bylaws, that all they have are recommendations. Again, reiterated the lack of independence the committee has.

Tom Evans motioned they conclude this discussion on item 3. David Bristow seconded.

Vote Taken:

Yes: George Frahm, Diane Kwasman, Janice Bielman, Bob Garcia, Tom Evans, David Bristow, Dale Kinnear, Tina Grande-Field, Sarah Simpson

No: Jason Hunter, Keith Nelson

Motion Carries.

4. Appointment of Legal Counsel for CBOC

Jason said that members of the school board approached members of this committee about getting legal counsel on their own. The offer was withdrawn when they realized they would have no control over whom the committee chose. Jason said they need a legal counsel who can practice law in California and who has knowledge of prop 39. He asked if anyone in the room would be willing to be legal counsel for the committee. Sarah asked why it had been an ongoing issue when the bylaws state the committee will not have legal representation independent from the district. Jason said that since the committee did not adopt bylaws, they couldn't have discussed that change at that time. Jason Hunter motioned to appoint Letitia Pepper as their independent legal counsel.

Public Comment

Public comment was heard from Letitia Pepper, Kevin Dawson

Committee Discussion

Sarah stated she felt each member of the committee is acting independent of the school board. She resents the insinuation that she is not acting independently. Tina Grande-Field agreed. They acknowledged that the same questions keep coming up. The committee voted NO on revising the bylaws and NO on independent legal counsel, but it keeps coming up again and again.

George Frahm says that appointing Letitia Pepper as outside legal counsel is an inappropriate motion, not under the preview of the committee. Jason said that was ridiculous. Sarah says bylaws say they can't have independent counsel. Doesn't understand why this issue keeps coming up. Keith does not interpret the sentence the same way.

Mays again addressed this issue. The board has no interest in paying for a separate legal counsel. At one time they would have entertained getting a third opinion on the legality of the 5 projects in question, but they will not supply the committee with an independent counsel. They withdrew the offer when Jason Hunter would not compromise.

Tom Evans made a substitute motion to reaffirm George Frahm's determination that Jason Hunter's motion is inappropriate and outside the committee's jurisdiction. Sarah Simpson seconded.

Vote Taken:

Yes: George Frahm, Diane Kwasman, Janice Bielman, Bob Garcia, Tom Evans, Dave Bristow

Tina Grande-Field, David Bristow Sarah Simpson

No: Jason Hunter, Keith Nelson, Dale Kinnear

Motion Carries.

Tom Evans asked if item 5 could be moved to the next meeting. Jason agreed.

Next Meeting

George Frahm would like to meet at a different school site next time and look at the construction. Next meeting is scheduled for April 29, 2020. Sergio to find a school site to meet at to observe construction.

Committee Members Comments

Diane Kwasman doesn't understand why some of the items are being brought up. She felt the bylaws and the Measure O text are very clear and self-explanatory. She also felt her job would be to review expenses and decide if they are proper. Doesn't understand all the extraneous items being discussed.

Janice Bielman - new member David Bristow has legal talent, wants to ask him if he would be willing to act as counsel.

Bob Garcia - Would like meeting condensed down; too long.

Dale Kinnear - Also interested in talking to David Bristow about being outside counsel. Wants to learn how to put items on the agenda. Also asked about trainings for new members and Ad Hoc to review and maintain website. Also asked about committee receiving reports on deferred maintenance proposals or plans.

Keith Nelson – Asked for future discussion to define communication and protocol. Define meeting vs outside visits for projects. Thinks overall that their discussions are constructive.

Sarah Simpson – Thanked everyone. Also, mentioned possibly making meetings shorter.

George – Would like input on website content. What is the orientation process for new members? Committee and district input.

George Frahm adjourned the Measure O Citizens' Bond Oversight Committee meeting at 9:27 p.m.