



Measure J Citizens' Oversight Committee

South San Francisco Unified School District

Meeting Type: Meeting of the Citizens' Oversight Committee (Meeting No. 32)

Meeting Date: Tuesday, May 10, 2016, 6:15 pm

Location: South San Francisco Unified School District Office Board Room
398 B Street
South San Francisco, CA 94080

Notice: Juanita Flores provided Spanish interpretation services for the CBOC members.

1. Preliminary

1.1 CALL TO ORDER – 6:17 pm

1.2 ROLL CALL

1.2.1 PRESENT: Dana Abarca (Clerk)
Martin Romero
John Sanna (Chair)
Paul Formosa
Richard Holt
Julia Lopez (arrived 6:28 pm)
America Gutierrez (arrived 6:24 pm)
Rich Blank (Vice Chair)

1.2.2 ABSENT: Patricia Turpo-Ames

1.2.3 OTHER: Donna Fentanes - SSFUSD (DF)
Juanita Flores
Cindy Alger
Sandy Tidwell
Bill Savidge – SSFUSD (BS)
Kristina Paszek – County Counsel Office

1.2.4 DF performed a roll call. There is a quorum.

2. Approval of Agenda – Agenda approved by John Sanna (Chair). MR commented for the record that OpTerra was not on the agenda as requested. JS said OpTerra had a conflict, had another engagement, hope to reschedule at July Meeting.

3. Approval of Meeting Minutes No. 31 – Meeting Minutes No. 31 were reviewed and were not approved. MR requested the particular questions asked the OpTerra representatives be spelled out in the minutes.

4. Brown Act Refresher –

4.1 Kristina Paszek with County Counsel spoke on John Nibbelin's behalf. KP handed out Brown Act Refresher handout, reviewed attached handout. MR

asked how not being a decision making body is applicable. KP responded CBOC oversight role important for public access, decision making less relevant. KP further reviewed the definition of a meeting, clarifying how information can be discussed. Explained possible violations of communication between CBOC members. Open meetings required, cannot be restricted. Meetings to have a set schedule, agenda posted 72 hours ahead of meeting. MR commented that a direction was given to staff for an item to be agendaized, cited previous meeting where there was a possible violation to Brown Act; however, if we gave staff direction to include in agenda. KP responded that staff should respond to that direction, normally you decide what you agendaize. MR wondered how answering questions was a violation. KP said discussing and deliberating, not taking any action, generally speaking not a violation; however to be very transparent and safe, best practice to have an agenda item.

- 4.2 Agenda requirements: Every agenda has to have public comment, can't restrict public comment. Agendas are disclosable public record. Brown Act has a penalty component, lawsuits could be filed. JS asked if KP had advised on similar precedents, KP had not. MR asked who has ultimate responsibility for what's on the agenda, KP answered each district has different procedures, i.e. chair works with staff. MR commented that if chair says to place an item on agenda & staff disagrees, who prevails? KP hesitant to answer, not knowing the functions. MR said it's an issue here. BS asked if CBOC has by-laws. JS answered boilerplate ones, BS said you can customize them.

5. Measure J Update – Bill Savidge – Bond Consultant

- 5.1 BS updated the Measure J program. MR asked if BS was here full time, BS said only 2 days a week. BS reviewed the actions the Board had taken since last CBOC meeting. At 3/24/16 Board Meeting, four agenda Measure J Moving Forward items were approved by the Board: 1. Recommendation to Board, don't have sufficient funds to finish projects, priority criteria for projects moving forward, finish projects already started, cancellation of Los Cerritos & Sunshine Gardens projects. RB asked if there was any future for these schools, BS said he would say not sufficient funds to do them, reality of where we are. BS cont'd that no longer able to build any new bldgs. at PWY. 2. Short term projects for student safety. 3. Prioritize smaller projects – will take awhile to repackage. Board adopted recommendation to continue with Project Frog buildings. MR asked if that means continuing with USS Cal. BS said no, will bid out work to general contractor who will procure Project Frog kid and will install. MR thought they were joined at the hip. Board also confirmed that they will not continue with LLB delivery method. Board will proceed with CM multi-prime, will go out for an RFP for a CM firm. Board agreed to develop multi projects with multiple contractors. Board also adopted the repackaging recommendation and will retain existing architects.
- 5.2 BS to start to develop set of projects and budgets. Bottom line budget available to complete projects: \$13,445,136. Counsel helping, figure may go up or down. Took this proposal & worked at it with principals, committees, weekly bond meetings, these projects were vetted with sites and staff. BS reviewed small projects for Buri Buri. PF asked if there were any timelines. BS will get them as quickly as we can. Summer/Fall 2016 project will be active when school resumes.
- 5.3 BS mentioned the stored materials that have already been purchased for projects. MR concerned "chasing your losses" by continuing with Project Frog. BS said good point, but if Board said to stick build, then would have to start over altogether, a year before we could go out to bid. PF indicated one of the reasons we let contractor go was quality of buildings, BS said decision based on time and

money savings. Quality of PF classrooms comparable to other California classrooms, don't believe issues were with quality, but with execution issues. Short discussions about the portables, the fields and need for soils testing on Mt. Buri. BS said we'll have to see where everything has been left, essentially contractor stopped working and walked away.

- 5.4 BS said remainder of funds not adequate to build new buildings, will modernize 10 classroom wing, spend \$3M for new floors, windows, wall surfaces, heat, etc. PF asked about the roof, BS to get roofing consultant. BS cont'd describing work for Parkway, clean up area, finish paving West Campus, do the best they can for a drop off area, maybe an area for a quad, no center for campus, create a spot. Will meet with QKA to review scope of sitework and modernization. PF commented only \$13.5M left, BS after the reserve fund of \$13.8, said there's \$26M in bank, an add'l \$1M when BANs are paid off. Also looking at some credits back to district, unfinished projects and Martin being taken out completely. BS also mentioned Board approved \$10M for Martin, have had three meetings with site & staff, DA said it's a joke, \$10M not enough for Martin.

- 5.5 JS asked if there were any questions. Thanked BS for being very patient, asked to be kept apprised.

6. Review of Measure J Financial Reports

- 6.1 Move financials to next meeting.

7. Newsletter & Messaging to the Public

- 7.1 JS still figuring out best way to put message out, possibly single two sided format, small concise summaries, other CBOC members opinions, will start to hammer out something, will work with other committee members. BS mentioned the CBOC Annual Report, JS reviewed last year's annual report. JS also stated the last 3 years the Measure J newsletter was our message, but really wasn't. Motion to have committee proceed with creation of newsletter. MR motioned, DA seconded.

8. Attendance Report Review

- 8.1 JS said we are within realm of things, need to address attendance of specific members. DF suggested to bring it to MK, JS asked to put it in record. PF asked how many members did we need, JS said 7, but need to maintain representative roles.

9. Meeting Schedule

- 9.1 Next meeting July 12, 2016 at 6:15 PM. MR commented on the schedule and the tour that was cancelled on 3/15. He commented that no attempt was made by staff to reschedule, doesn't understand, they have duty and responsibility, interfering with our duties and responsibilities. Chair should have been notified and tour should have been rescheduled. MR wants tour scheduled ASAP. JS said could happen in June, will get with MK. MR said MK needs to stop interfering, PF agrees with that.

10. Public Comment (10 minutes maximum). Public comments are limited to 3 minutes per person.

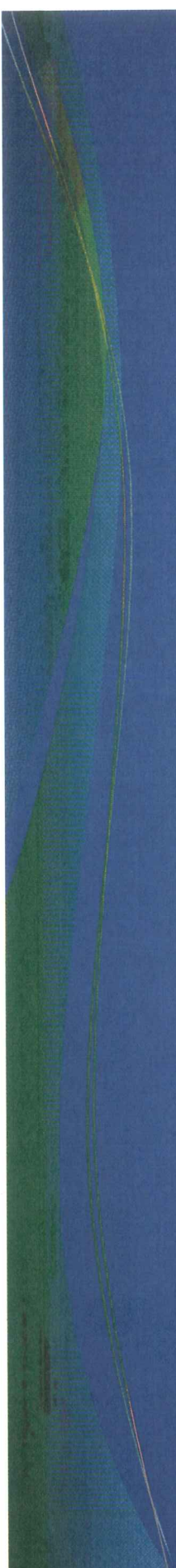
- 10.1 Cindy Alger (CA) thanked BS for trying to fix the mess at Buri Buri, she has been telling the Board, took Forensic Audit to see. CA asked where was the DSA inspector, when did he sign off on this work, inspector said everything compliant, wants to know why shoddy construction was allowed. JS asked what CA gave to CBOC, CA read from a letter with attachments that she'd given to CBOC (attached). CA said last meeting at BB, police were called, she explained what happened. CA also mentioned code enforcement officer's 14 page report of violations, she said MK said fire suppression, hot water and heating were working from Day 1. She said sup't said that also. CA cont'd by reviewing original budget amounts with current budget amounts. Information in what she gave CBOC, made copy for all.

11. Adjournment – JS moved to adjourn. Meeting adjourned at 7:55 PM.

ACTION:

- Set up special meeting to tour sites before end of June
- Newsletter

Please advise the District within 48 hours if there are any errors in the meeting minutes. Provide questions and comments in a written form and address all discrepancies to the Assistant Superintendent of Business Services and South San Francisco Unified School District.



Brown Act Refresher

May 10, 2016

Office of the County Counsel

Kristina Paszek, Deputy

Purpose and Scope of the Brown Act

- To give the citizens of California access to government agencies and to prohibit governmental decisions from being made in secret.
- To require that the actions and deliberations of the governing boards of local public agencies shall be taken openly and in public.



Definition of Meetings

Subject to the Brown Act

- A meeting is defined as any congregation of a majority of the members of the legislative body at the same time and place to hear, discuss or deliberate upon any item.



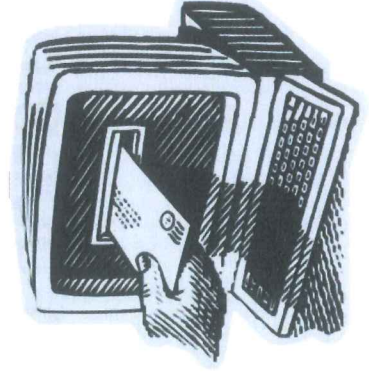
Definition of Meeting

- A majority of the members of legislative bodies shall not, outside a meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.



Definition of Meeting

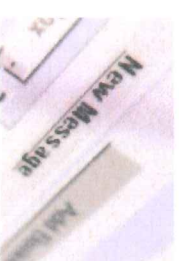
- Separate conversations or communications outside of a meeting with members of a legislative body are permissible so long as the person does not communicate to other members of the committee the comments or positions of any other member of the board.
- Board members should limit their communications, particularly e-mails, to a single committee or staff member





Example of Prohibited Communications

- As soon as a majority of committee members participate in a series of communications of any kind to discuss, deliberate or take action on any item of business that is within the subject matter jurisdiction of the legislative body, a violation of the Brown Act has occurred.



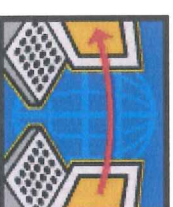
The Problem of Email

- Committee members should not copy other committee members or forward e-mails they receive from committee members to other committee members (the e-mails may be forwarded to staff), since this might result in a majority of the board members receiving e-mails and thus violate the Brown Act.



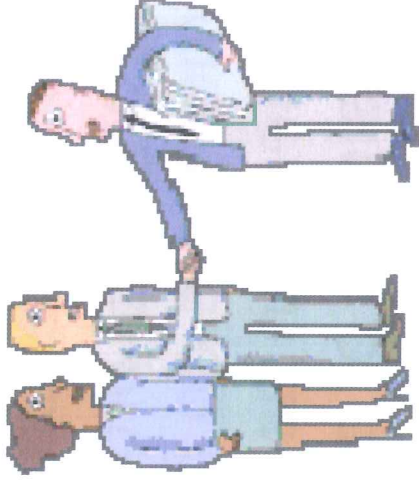
Example of Prohibited Communications

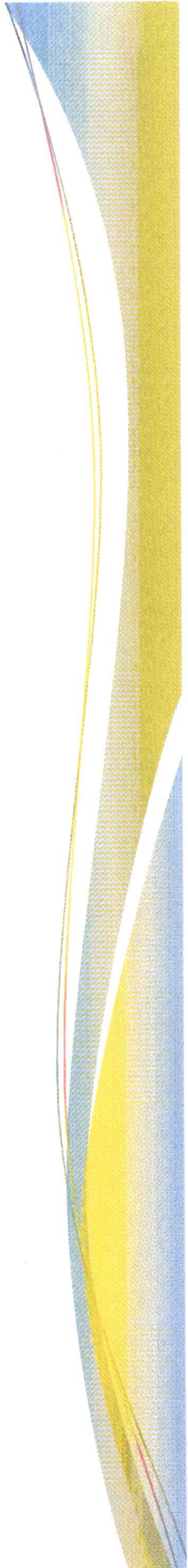
- Daisy-chain: Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated or taken action on an item within the legislative body's subject matter jurisdiction.
- Hub-and-spoke: a staff member (the hub) communicating with members of a legislative body (the spokes) one-by-one for a decision on a proposed action, or a chief executive officer briefing a majority of agency members prior to a formal meeting and, in the process, information about the members' respective views is revealed.
- Each of these scenarios violates the Brown Act.



Exceptions to Definition of Meeting

- Individual contacts or conversations between a member of the legislative body and any other person are not prohibited.



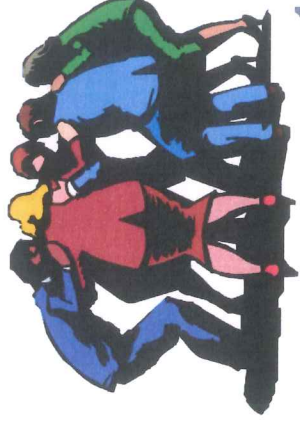


Exceptions to Definition of Meeting

- The attendance of the majority of the members of the legislative body at a **conference** or similar gathering open to the public that involved a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body are not prohibited provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency.

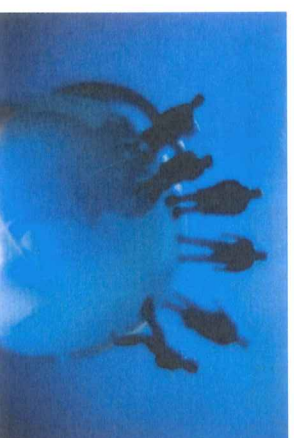
Exceptions to Definition of Meeting

- The attendance of a majority of the members of a legislative body at an **open and publicized meeting** organized to address a topic of the local agency is not prohibited provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.



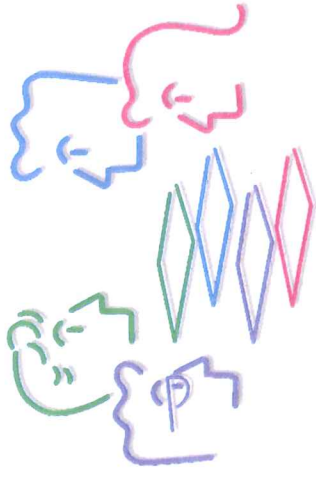
Exceptions to Definition of Meeting

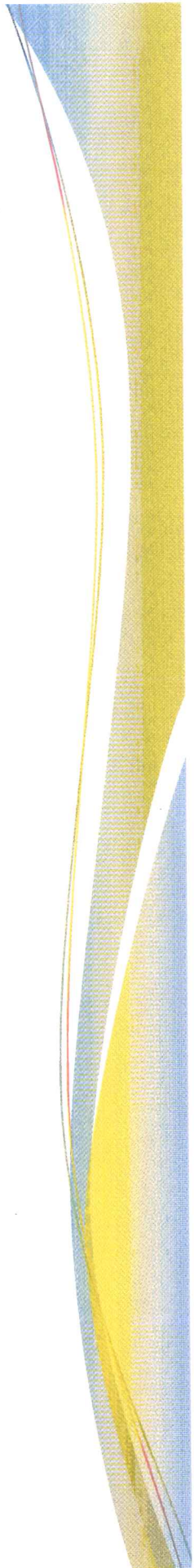
- The attendance of a majority of the members of a legislative body at a purely **social or ceremonial occasion** is not prohibited.
- The attendance of a majority of the members of a legislative body at an **open and noticed meeting of the standing committee** of that body is not prohibited.



Open Meeting Requirements

- The Brown Act prohibits taking action by secret ballot.
- Members of the public may record board meetings.
- Legislative bodies of a local agency cannot restrict the broadcast of open and public meetings unless it is disruptive.





Attendance at Meetings

- All meetings of a legislative body of a local agency that are open and public must meet the requirements of the Americans with Disabilities Act.
- A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.



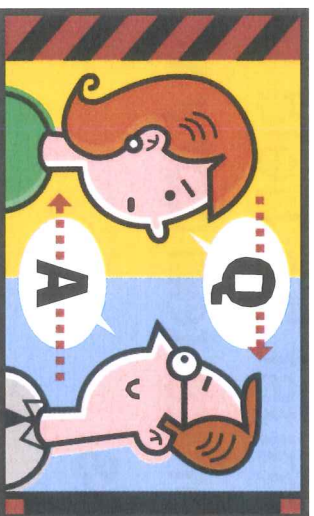
Notice and Location of Meetings

- The legislative body is required to set the time and place for holding regular meetings.
- At least 72 hours before a regular meeting, the legislative body must post an agenda.
- Regular and special meetings of the legislative body must be held within the boundaries of its territory with limited exceptions.



Agenda Requirements

- Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public within the agency's jurisdiction before or during the board's consideration of the item whether in open or closed session.



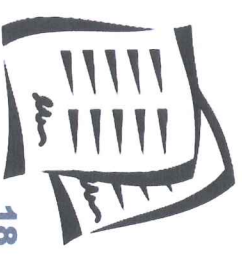
Agenda Requirements

- Reasonable time limits are permissible, i.e., limits on the total amount of time for a particular issue, or for each individual speaker.
- Legislative bodies may not prohibit public criticism of the policies, procedures, programs, or services of the agency.



Distribution of Agendas or Other Writings

- Agendas of public meetings and any other writings, when distributed to all, or a majority of all of the members of the legislative body by any person in connection with a matter subject to discussion or consideration at a public meeting, are disclosable public records under the California Public Records Act.



Penalties for Violation of the Brown Act

- The District Attorney or any interested person may commence a lawsuit in court for the purpose of stopping or preventing past violations, ongoing violations, or threatened future violations of the Brown Act.

