



## Proposition O Citizens' Bond Oversight Committee

### Minutes

October 11, 2012

Montgomery Middle School, Room 508

1. Meeting called to order by Nick Marinovich at 6:00 p.m.

Roll Call:

Nick Marinovich (NM) – Present

Kevin O'Neill (KO) – Present

**David Butler – Absent**

Guillermo Camarena (GC) – Present

Bernardo Vasquez (BV) – Present

Dr. John Grubb (JG) – Present

Terrance McKearney (TM) – Present

**Jim Morris – Absent**

2. Pledge of Allegiance

3. **Approval of Meeting Minutes**

Minutes for September 6, 2012 were unanimously approved.

4. **Public Comment: Stewart Payne**, encouraged group to do the right thing, express his thoughts on 700 form, you are doing what should be done, do not let intimidation deter them.

**Public Comment: Tom Hassey**, a Teacher at CVH; volunteered freely to work for Dr. Brand the next few months, encourages you to sign 700 form. Informed public that Mr. Morris does have two companies' here, he just joined the Chamber of Commerce, donated money in CVH, and has given a lot of money and support for us. Expressed how he hates negativity.

**KO**: Annoyed with classroom set-up tonight, not able to see everyone face to face.

**Public Comment: Ms. Cheers**, Agrees with Mr. Payne, she is relying on BOC to be our watch dogs, this District should promote transparency, the DA is facing the largest corruption cases in the City of San Diego, asked BOC to continue to do what you're doing. Doesn't want to hear that District has no money, when at the last board meeting Dr. Brand was given a two year contract that goes to the age of 60, and will continue to pay his benefits until he is 66, very upset about this.

5. **District explanation of process used for selection of new CBOC members – Sandra Huevo, Assistant Superintendent/HR**. Ms. Huevo explained process, HR received the responsibilities, in terms of making sure we follow the process within the bylaws of the CBOC, recruitment, advertising of vacant positions, followed by review of application received, review process, recommendations submitted to the governing board. Working closing with Planning and Construction, to determine which positions were vacant, with Grants and Communication. Once we received the applications, all materials were submitted to Human Resources, along with supporting documents such as Resume. Additionally a paragraph indicating background and experiences. Then interviews, by District staff, subject matter expert from our neighboring District. Panel then rated the applicants; top applicants were submitted to Ms. Huevo, then from Ms. Huevo, they went to the governing board. Human Resources did receive more candidates in some categories than others, they were told that their materials would remain on file, and in the event we had additional vacancies, we would notify them, and they would be able to make any changes in their applications. Still looking to fill one vacancy which is PTO Parent.  
**BV**, asked Ms. Huevo if she was aware of applications being held and not considered or held back. Applications submitted from March forward, anywhere else the applications may have been submitted to? **PW**, explained old

web had info and forwarded all and any to Human Resources. **BV**, concerned the there was an application that apparently someone else is looking at the applications.

Ms. Huezo explained what has helped in the past was word of mouth, having people talk about the need that exists, people being encouraged to submit a application, has been more successful. **TM**, suggested that the CBOC Chair draft a letter to school site PTA recruiting a person. **KO**, when SGI left not much happened and the ball just got dropped and nothing was done.

**Public Comment: Ms. Cheers**, commented on Ms. Huezo's stellar reputation, Mr. O'Neill, begged to differ SGI did not tell the O what to do, Gandara and the Board, i.e., Ricasa husband, i.e, Ricasa sorority sister. etc. told the District what to do. SD Tax Payer Association, had someone apply and, never considered. 700 Form of intimidation; Concerned about manipulation of committees by District personnel.

**TC**, we trying to put BOC membership recruitment in the same vein as any District position, going thru a very pro-forma Ed. Code required system, making sure it's done appropriately and legally, and is sure Ms. Huezo will do that. **Ms. Cheers**, has been told that there is a committee regarding something else that met and decided on a firm, Superintendent did not like that firm, so that was negated, so asked if that could ever happen here? Just doesn't want Dr. Brand involved, because of history, why should we repeat history if it's bad.

**Public Comment: Mr. Payne**, it is safe to say the process now is much different than years ago, not sure is how it includes filling out a 700 Form required for appointed to the committee, if yes, at what point, date and time, who of the current committee members fall under that requirement. Feels this committee now is more qualified than any committee in the state. Confused about Mr. Morris, does he own a business?

**Dr.G**, appreciates all these comments from community, would like to know parliamentary procedures, for the agenda and how we are to follow that, are we to allow continued public comments on every item, or is there a specific time and place to make these comments.

**NM, Chair**, explained how it got committee where it's at today, is getting very upset when he found out Mr. McKearney's applications was sitting there, positions needed for month, why aren't those positions filled, called a special meeting and surprise, surprise we get three new positions. When someone is selected should be given a letter whether yes/no, handed the 700 forms day one, this will be due in 30 days.

**NM, Chair** made motion that we recommendation to 1) bond committee applicant be notified of acceptance or rejection 2) there should a clear letter to committee applicants should be given a due date and instructions for submission of 700 forms 3) there should be some type of formalized or structured training for new members 4) there should monthly status to the Committee on filling of positions. The motion was seconded by **DB**.

TM made an amendment to the motion seconded by JG that Processing of applications take more than 30 days for CBOC web site. **BV** made a motion to add that the Proposition O Web site have instructions and specific expectations and status of filling positions. Amendment was seconded by **Dr. G** and the motion with amendment passed unanimously.

**Dr. G**, appreciated the insight from Ms. Huezo, and the idea of where committee stands.

## 6. **Reports from CBOC Chair**

**NM**, informed that along with Mr. O'Neill, have been selected to represent this committee as members of California League of Oversight Committees, met with executive director, Hercules, California, talking about performance audits; our situation, CALBOC is doing, how we can collaborate and informed committee he has been appointed to be on a board of directors, and going to a meeting in Sacramento on November 9, 2012, Mr. O'Neill is on the board of policy advisors of the CALBOC. Check out their website.

## 7. **CBOC Sub-Committee Update**

### a. **Annual Report Sub-Committee Update.**

**TC**, this is the one Mr. Vasquez is the member of sub-committee, informed Chair that 2010-11 Annual Report draft final completed provided to you to review, any changes can be provided and post to the website per your approval. **BV**, felt that since report was so late issued, it's so late and it should be approved post haste so we can get it published on website, since it's a year and a half behind. **Mr. Vasquez** feel that since he was the only one on the committee, **KO**, mentioned that being old news, asked that if Mr. Vasquez was comfortable approving it on his recommendation, moved to approve, 2<sup>nd</sup> by **NM**. **KO**, made motion to approve the 2010-11 Annual Report as submitted to us by the sub-committee, 2<sup>nd</sup> by **NM**, passed unanimously.

- b. **Best Practices**, covered conference call made with Mr. Morris, McKearney, Dr. Grubb and himself, forming a committee to look and see what other bond oversight committees are doing in performance audit, selection process and thing that we can do internally.
- Mr. Morris, has suggested that there be an informal questions and answers after the meeting with the public. **TC** had indicated that he already does that.
  - When a memo goes out from the chair, it should have a joint signature, of another member so it's been reviewed, like that big no confidence memo.
  - Adopting CALBOC best practices, a lot of discussion about that.

**Dr. G**, added when taking about best practices, embraces all of the things, when looking at the agenda what we will be talking about, what are the proper proceeding of this committee; what should be expected from support from the District, accounting and/or legal, those are the kind of thing you look at when you're on a committee, and that what your doing is the right thing. **KO**,

c. **Master Plans**

d. **Sub-Committee formation**

**BV**, we talked about creating a committee, on a as needed basis kind of an adhoc committee, would like to make motion of a sub-committee go out and walks the schools and all projects completed, a few of us from this committee, just so we are making sure that, site being maintained and utilized for their intended purpose, reviewing areas where prop O money is spent and being used appropriately. To remind ourselves why we all are doing this. **BV**, motion for School Review Sub-Committee seconded by Chair **NM**. Have all members go and do this, **Dr. G**, asked staff if there is already a committee or organization that goes out and looks at maintenance of these individual buildings.

**Dr. Grubb** suggested it would be more appropriate to think about a little bit, discuss with staff, come back with a recommendation at next meeting here with what to do, rather than taking valuable time here to do business rather than discuss issues on agenda. **Dr. G**. Suggested that the District staff come back with a plan to conduct the site tours. The motion was withdrawn. **KO** commented on the important need for review of schools so we can make sure the project is maintained appropriately. **Dr. G** recommended we come back on a process.

**NM** will talk to Tom and Paul at his weekly Monday meeting he has, and will get back to committee. **KO**, mentioned that committee should maybe not give staff so much more since working on skeleton, let's work with them and build to that, **TC**, mentioned to Mr. O'Neill, that a couple of those thing are already being looked at Educational Facilities Standards Committee, to look at tech specs, and design guidelines, will talk with Mr. Marinovich in Mondays meeting. **TM**, reminded about committee voted to have a financial sub-committee, and sub-committee didn't do what needed to have done, suggested that financial sub-committee work with staff a bit better in getting financials earlier, and on website now.

**TM** said the Finance Committee need to meet and that we need to get financials earlier. Ms. Cheer suggested that there be a Construction Committee be formed due to the amount of money involved particularly with change orders. **KO** suggested we have staff submit significant change orders large to members with a Construction background. There was never a vote on whether there should be a Construction Committee.

**Public Comment: Ms. Cheers**, requested all to look around the room, concerned about the janitorial staff and impact schools will have, ask if there is a committee that reviews change orders and understands construction, change orders. If not, why not. Concerned that bids coming in from someone ends up not being their bid at the end because of change orders. **KO**, spoke about this, how they work, what actually happens at times. Maybe staff can give a monthly list of 4 or 5 and take a look at them (Mr. O'Neill & Camarena)

**Site Staff Comment: Kevin Willard, AP, MOM**, also at CVH for Prop BB, Liason thru construction project and explained on change orders, their bid in years prior to actual time u break ground, than difference when new administration comes in after, then talks to architects for new changes they feel that need to be done, and if cost wasn't too high.

**Public Comment: Mr. Payne**, suggested that change orders go to get ratified when work has already been done, process should be done before the work gets done.

8. **Bond Project Updates**

- a. Project Status Report
- b. **PW**, GA Dominguez Construction at CVM, portables painted, restrooms been installed and interior work being done; HH, problems with foundation will have to put a new one, on the restroom portables; MOH, Contract has been signed with County. MOM work progressing, SUH track and field still in design; closed out Prop BB project HTM shade structure.

- c. Project Status Summary (Financial)
- d. Board Items Report

**PW**, On the Board for September will be heard Monday, change order to 3D Enterprise final change order for \$18,779, District pleased with their work. The GA Dominquez saving/allowance, change order on SUH, SDCOE ratified amendment on contract, provided additional consulting services with SUH, SOH TV Studio, Contract agreement MOH Gym project 2, adopting Resolution #4169 prequalified for contractors lowering threshold from \$5million to \$1million.

**9. Consideration of CBOC position on District refusal in providing requested resources – 7:00 p.m. time certain. Initiation of Performance Audit Process – RFP Review**

Chair Marinovich, report, prop 39 pass, condition on that was to have a citizen oversight, our tools 1) The media, by telling people how we're doing, 2) Primary key is the performance audit, went up to the California League of Bond Oversight Directors and spoke with them on what's needed to be done. Strongly felt after reviewing all the information, if we are provided the resources to get what we need to really provide oversight, is money going to be provided, and performance audit can be funded by Prop O funds. This needs to be done by 3/31/13.

**KO**, asked how Mr. Calhoun felt about what he feels is proper transparency thru District to have relative to oversight funds. **TC**, commented he fully supports the performance audit, as per chapter in constitution requires a performance audit, the specific scope issues, we have developed the scope, and this has been done ever since prop 39 passed, under bb, prop o, last year was a five year retrospect., etc.

**NM**, suggested that committee use what was recommended to chair by the experts CALBOC as the upper baseline, and figure out what we don't need, as the overall context of the performance audit, bullet items on page five, audit committee review it, come up with a scope, and give to District and let them know what we as committee want to do, letting them know this is what we want as a committee. **Dr. G**, hearing that push-back from District relative to funds being available, if no push-back, why wouldn't we (committee) support this.

**NM**, Dr. Brand, wrote him a letter that there was no resources to provide these resources.

**TC**, clarified that chair asked Dr. Brand on committees behalf for money for legal and financial services, independent of what District has available thru Christy & White thru our own legal use. District has always paid for the performance audit. No kick-back, we'll do it and pay with prop o funds to do it.

**NM**, explained that in forensic audit resources were requested and District said no funds were available, he expressed that was not happy with District driven scope items in the Hall Report. District drove the scope and we as a committee want to drive the scope, committee should tell the District what the scope should be.

**Dr. G** Spoke on wanting clarification thru conversation with committee and staff, were we stand with this, as a new member hearing some things on one side and some things on another side, if committee is responsible, if committee didn't do job correctly, in looking at how funds were spent internally, how this impact compared to the CALBOC guidelines.

**TM**, commented on CALBOC document, e thru i, lot of staff disagreement in who get the audit.

**TC**, explained the constitution prop 39, say the District do a performance audit, in Ed Code says BOC may engage in the following activities, section c, receiving and reviewing copies of the annual audit, after the District. Problem is with specifics of whose audit is it? It's the District's audit! And it's the District auditing itself under the California Constitution, yes you receive it and you benefited and it's for the citizens and it protects the citizens of Prop 39. The District enters into the contract with the auditor; we receive the audit, approve and then pay the audit. Then is provided to you the committee as part of your duties to review it.

**TM**, went over the sections on page 5 of 6 of the CALBOC document. May need to be discussed separately with staff, and come up with a consensus with everyone in participating in the scope of the audit. **TM**, thinks we should have a separate auditor do the audit, and be part of the time line, negotiate order, and scope. **BV**, proposed that three members meet with the District, hammer out the details, District sound flexible. **Dr. G**, agreed with Mr. Vasquez to meet with District staff to meet and confer and come back with a recommendation to the full committee on how we will approach this and made that a motion seconded by **Mr. O'Neill** discussion of motion and motion carried.

**TC**, commented he has stipulated that the bullet items scope within the purview of the auditor are clear and to the point what is being talked about is who gets it first! We can start the audit, begin the process.

**Public Comment: Ms. Cheers**, Barry Dragon worked for the Eric Hall, Barry Dragon worked for this Districts, Barry Dragon is a good friend of Dr. Brands, 2) David Randolph who did audit, called her personally, he had worked for SGI in the past, concerned and wants to educate those new members, and why she is so concerned.

**10. Review and comment on ByLaws – CBOC policy on political endorsements by members**

**KO**, recommends committee as a group should not endorse any candidate for the board, as individuals should have a right to personally endorse, and no committee member be introduced as a member of the CBOC at any political rally. **BV**, agreed it's a good idea to policy, which would be good governance and good policy. Committee should not willing lend our title on this committee to any political party. **KO**, motion to impose this policy to upon themselves seconded by **NM**, subject to implementation to the bylaws in January 2013, seconded by **BV**, passed unanimously.

**11. Adoption of California League of Bond Oversight Committees Operations Standards**

**KO**, made motion to adopt the California League of Bond Oversight Committees Operations Standards, as written with two caveats 1) line item on ranking who gets to see what report first, will be negotiated successfully between District and finance committee, and 2) that the CALBOC standards if adopted, require the completion of the 700 Form, and everyone would complete form and turn into chair before next meeting, Motion seconded by **Dr. G. TC** asked about a third caveat to require board of trustees to adopt the Standards, agreed by Mr. O'Neill.

Discussion by Mr. Vasquez, still having a problem with 700 Form, and mentioned the fact that after being on committee for six years this was never required. **BV** mentioned that there is no real legal reason why we should have to fill out the Forms.

**TM**, transparency needs to be addressed and resolved, specifically within this District and to this area of the bond, thinks it should just be signed and not let personal conflict come into this. **Dr. Grubb**, believes it is important for all of the staff, Dr. Brand; The Board of Trustees and this Committee work for the common good of the students and the public and it's never anything good when you get heavy handed threats, and is perfectly amenable laying out a 700 Form, because he doesn't have anything to hide. **GC**, also says he is not comfortable filing this form out yet. Motion passed.

**KO** commented that by adopting the Standards this is something of a good compromise. We do not have to fill out the Forms.

**Public Comment: Ms. Cheers**, the members of the community have gone before the board this year, limiting campaign donations from the contractors, and first time died for lack of motion, and never brought up, the 3<sup>rd</sup> person that put it in, board passed a new bylaw if it died for lack of motion or had been voted on previously it could not be brought up again for a year. Referenced that it was a Brown Act violation, continued discussion on this. **SP**, has been watching District for 6-7yrs and how it operates, feels that committee should not be quick to trust superintendent or board members.

**Dr. G**, commented on how the 700 Form came about, when Dr. brand came in and said throw these out, no written documentation for us to fill them out, no date mentioned on when they were due, except email sent by Mr. McKearney that we were in violation by not signing form by September 30<sup>th</sup>. Communication, paper trail is extremely important, and works both ways. Supporting motion now and will wait to see what happens before making judgment. Motion passed 4-2 abstentions.

**BV** still abstaining from vote. **TM** commented that we do not look if we do not adopt.

**NM**, looking at the big picture, by not adopting the standards and 700 Form we are losing the battle. Continued discussion, Motion to reconsider, we adopt CALBOC standards, recommend that the board take them at the earliest possible and put together 700 forms and give to chair at next meeting, some of the issues on who owns what document be fine tuned for negotiations.

**Dr. G**, motion to withdrawal to adopt the CALBOC operating agreements and seconded by **NM for discussion**, **TC**, referenced By Laws, rules and procedures. **Dr. G**. political questions, important to send clear message, totally and completely aligned and united in this issue, and if committee is not transparent, and not willing to show finances for public consumption we can't ask anybody else to do the same. **KO**, then referenced government code, does allow, if desired can fill out an affidavit that we have no conflict of interest, since in the code for BOC, so feels committee should just sign and submit it, and should all be together on this issue. **Dr. G** said we should really be united on this issue and it needs to send a clear message. **KO** said we should all be unanimous on the Calboc Standards.

**GB** motion to reconsider the motion. **Dr. G.**, seconded by **KO** passes unanimously (this nullified the previous vote). After considerable discussion of the importance of a unanimous vote the Committee voted to approve the Standards and they be forwarded to the Board of their consideration and adoption. The motion was passed unanimously. There was a discussion and understanding that individual members could decide to not fill out the 700 Forms.

**12. Committee Members Reports**

Annual report shall be presented to the governing board, it's done and attached.

**13. Legislative Agenda**

**NM**, commented on moves in state, legislative changes to law to give more power/oversight than there is now.

**14. Staff Announcements**

- a. The next CBOC meeting is scheduled for Thursday, November 7<sup>th</sup>, Professional Development Center, Suite "C", 680 "L" Street, Chula Vista, CA 91911

15. The meeting was adjourned at 9:08 p.m.