



MEASURE D CITIZEN'S OVERSIGHT COMMITTEE

January 21, 2010

Minutes

The meeting of the Measure D Citizen's Oversight Committee was held at, 6500 Soquel Drive, room 804A, Aptos, CA on Thursday, January 21, 2010 at 10:00 am.

Present: Bob Dills, John Fry, Bud Winslow, Jeff Vella

Absent: Michael Bethke, Diane Craddock, Bob Petersen

Guests: Terri Montgomery, Vavrineck, Trine, Day and Co., Auditors and Victoria Lewis, Director, Business Services

Staff: Paul Anderson, Pegi Ard, Doug Deaver, Rob Ingram

Bud Winslow called the meeting to order at 10:12.

I. Introductions: The committee introduced themselves.

II. Agenda Modifications: None.

III. Comments from the Public: None.

IV. Minutes:

The minutes of July 9, 2009 were approved (Fry/Dills).

The minutes of September 24, 2009 were approved (Dills/Vella).

V. 2008-09 Bond Audit:

Terri reviewed the audit with the committee. In the Financial Report, Terri noted that the audit is presented fairly, that is, it is clean or unqualified and that the cash balance and activity is as of June 30, 2009.

Terri also reviewed the Performance Report and noted that on page 3, #3 is important to this committee: no problems were found, no items were paid that did not comply with the voter approved bond projects.

John Fry asked for clarification in several areas:

- Performance Report, page 3 Item #3
"Our review of the expenditures for the period July 1, 2008, through June 30, 2009, did not reveal any items that were paid from the general obligation bond funds that did not comply with the purpose of the Bonds as approved by the registered voters of the District on March 2, 2004."

John Fry asked Terri to explain this item. Terri clarified that this audit is not intended to present fairly the financial condition of the college District, but to verify that the bond funds were used appropriately to what was presented to the voters.

- Negative Arbitrage. Based on cash flow projections or estimates, bonds are sold as cash is needed for construction projects. As the bonds are sold, the money is put in an account with the county treasurer. The rules for bond sales stipulate that only so much interest may be earned by a District without incurring a penalty. If the District earns more than the maximum allowable interest it is required to pay a penalty to the IRS. Arbitrage is not a bad thing and the risk is minimal now. It is desirable to make just over the cap. For example, if a District earns \$100,000 interest but the limit is \$90,000, the District must pay the IRS a penalty of \$10,000. If the District earns \$75,000 in interest but doesn't pay the IRS anything, it lost \$15,000 in potential interest. The final numbers will be known in 2012 when a specialist will be hired to perform an arbitrage study. This number is an estimate and will come down.

Paul noted that the Facilities Development staff reserves some bond money from interest for arbitrage so that it is not allocated to construction. Victoria noted that it is set up as a liability and removed from the available fund balance.

It was noted that the District is a little over-reserved right now and has set aside \$73,000 for arbitrage rebates should that be needed. The system requires the District to manage cash flow (e.g. how bonds are sold and how the money is spent). While there are some fluctuations, the process is working. Terri noted in the Performance Report, page 2, the cumulative numbers show that \$75,000 interest earned on \$4 million of bond funds is good.

- Representative Sample: John noted that at least 25% of expenses were reviewed. Bob Dills asked Terri to comment on the selection of the 25% (*Performance Report, Invoices Selected for Review, page 4*). Terri replied that standard and best practice is 25%, but actually 77% of Cabrillo's bond expenditures were reviewed. It is a non-statistical sample using auditors' judgment, looking specifically for a random but representative sample from each project, large and small expenses, and spending categories with unusual descriptions, etc. The sample varies from 20-60%. If an issue were discovered, the auditors would consult with an attorney to interpret the language of the bond and report back to the Oversight Committee. Pegi noted that, as is common with other Districts and for the sake of efficiency, the same auditors are used for the District, Bond, and Foundation audits.

Doug summarized the audit findings to be that 1) 77% of bond expenditures were reviewed and determined to be consistent with what was presented to the voters in Measure D and 2) numbers reported match the general ledger. The auditors do not issue an opinion in how the money is managed.

John noted on the Performance Report Management Letter page 3, Summary of Past Adjustments, that the “Cash in County” has a fair market value that is different from the cost. Terri replied that the difference eventually comes through as interest earnings and the difference is in timing. To an auditor, if the variance is in the 5-10% range it becomes material and there is a need to change the report. For Cabrillo, the variance is low, under 1%.

John asked about the \$23,000 settlement amount to Hammel, Green & Abramson in the Summary of Past Adjustments. This is the remaining balance from an arbitration decision. He asked if the District has any recourse against District counsel or a District consultant. Doug answered no.

Terri noted that the official part of the report is bound separately from the letter. The action of this group is to accept this audit, not to approve it. It was moved and seconded to accept the audit (Dills/Vella).

VI. State Approval Process: Efficiencies under Consideration

Doug distributed information about the state approval process. There is a lot of discussion among community colleges about this issue, (Reference DSA bulletin 09-07). Community Colleges operate under the Field Act, a restrictive set of codes specific to K-14 schools. These codes are more restrictive than the one used for CSU and UC. There has been a lobbying effort to remove community colleges out of the realm of DSA approval; however, the Chancellor’s office was unable to get the change passed into legislation. Nonetheless, changes are being made to the approval process with regard to the structural portion of the plans, which would make the standard for community colleges similar to those of CSU and UC. From a personal safety standpoint, there is no difference between the codes; from a building damage standpoint, however, there is risk of greater damage during an earthquake using the less restrictive standard used by UC and CSU. The gap between the Field Act and Title 24 requirements is shrinking.

Bob Dills noted that even under Title 24, the plan check still goes to DSA and the impact on projects is unclear. The new process would have saved money on VAPA for construction costs, but would not have improved the timeliness of the plan check process.

DSA and the Chancellor’s office have initiated a collaborative process whereby a District can work with a DSA representative prior to plan check in order to review the project and save time in the overall approval process. Our projects are too far along in the planning process to take advantage of the collaborative process.

It was noted that Fred Harris, the Assistant Vice Chancellor for College Finance and Facilities Planning in the Chancellor’s office, worked hard on this process. Jeff asked what would be an appropriate way to lobby the legislature so that community colleges are on equal standing with the UC system. Should it be address at a general assembly? Bob Dills noted that he is familiar with the spirit of this process. The advantage is the ability to discuss what issues arise in the plan checker’s mind ahead of time.

The committee raised the issue of “Design Build.” This process is only approved for those projects not requiring state or federal money. Cabrillo has no projects that would qualify at this time. John noted that the design build has its own challenges with regards to selecting the entity to manage the process.

VII. Project Status Updates:

Doug reviewed Facilities Master Plan (FMP) that was submitted to the Board in January, 2010. Semi-annual report will be distributed in March.

- AEC: Classes are being held in all the buildings. The punch list is in the project close out stage. Water leaks and sound issues are to be resolved. We are in the claim process with eight of the contractors and money is set aside for claims. The District is not initiating new projects other than the Building 300 remodel and the Watsonville project until the claims are resolved. The District hired Farella Braun + Martel to assist in managing claims on two major projects. They will begin the process of schedule review and analysis now. By the end of the calendar year we will have a good sense of remaining bond funds available for future projects.
- Allied Health Classrooms: The project is 93% complete and will be ready to occupy in March. The project, funded by state and bond funds, is under budget by \$1 million. An invitation will be sent to the community about the opening of that facility and classes will begin this summer.
- Watsonville Industrial Technology Education Center (ITEC): Plans are currently at DSA; the goal is to bid this summer. Bob Dills clarified that this is the remaining large project with federal funding and LEED certification. It was noted that the savings in Allied Health is not yet being applied to this project.
- Building 300 Renovation: Staff went to bid on renovating twelve classrooms and offices. The state budget was \$3.2 million, the engineers estimate was \$2.7 million and the low bid is \$1.6 million plus \$100,000 of asbestos work.

Next meeting: April 15 or 22. Tatiana will confirm date by email.

The meeting adjourned at 11:25 am.