

**MINUTES OF THE CBOC MEETING:**February 14, 2013  
135 Van Ness Avenue, Room 210

Facilitator: Jim Quadra, Chair

Committee Members Present: Lourdes Garcia Monica Pressley  
Walter Haub Jim Quadra, Chair  
Nancy Mayeda Mike Theriault, Vice Chair

Committee Members Not Present: Yakuh Askew Brian Liles  
Craig Issod (on the phone) Nan McGuire

Interested Parties Present: Leonard Tom Richard PioRoda  
Leonard "Lenny" Danna

Minutes prepared by: Susan Ortega-Resurreccion

**1. Jim Quadra presided over the meeting.****2. Roll call. A quorum is present for this meeting. Craig Issod is on the phone.****3. Approval of Minutes of December 13, 2012 meeting.**

The minutes were unanimously approved by the CBOC members present in the meeting.

**4. Public Comment – None.****5. Discussion/Presentation of 2011-2012 Audit reports by VTD.**

Lenny Danna reported on the audit reports. There are 6 reports distributed to the committee for their review. Bond 2011 started this year and Bond 2003 is expected to roll off in 2013. The 6 reports were comprised of 3 audited financial reports and 3 performance audit reports for Bond 2003, Bond 2006 and Bond 2011.

Lenny reported that the majority of overall expenditures are from Bond 2006. The reports are stamped "draft" at this point pending final approval from the committee. Lenny informed the committee that the performance reports are commensurate to past audit; sampling in the range of 70-80% of total transactions, included payroll and non-payroll transactions. Any expenditure where information needs clarification gets clarified by Bond staff and the auditors are satisfied with this. VTD has no findings with respect to the bond performance audit. On the bond financial audit, there are three (3) separate resources that are within the building fund of the District. As of June 30, 2012, on Bond 2003, a little over a million dollars was left to spend; Bond 2006, almost \$55M left; and Bond 2011 \$112M left out of \$115M bond sale.

There were no issues with respect to the way proceeds of Bond 2011 sale were spent. \$560,000 was spent mostly on underwriter fees and a little over \$2M spent in terms of capital outlay. Lenny added that tests were done on retention releases and concluded this was a very clean audit and all of the numbers tied back to the audited financial statements and the Districtwide audited financial statements.

**6. Action item: Approval of Resolution to accept 2011-2012 audit.**

Jim asked if anybody has any questions and asked for motion to approve the audit reports (Acceptance of the Findings of the 2011-2012 Annual Financial Audit Report of the 2003/2006/2011 Proposition A Facility Bond

Fund". Mike moved the motion for approval and Walter seconded. The audit reports were approved unanimously.

**7. Program Status Reports from:**

- **Chair, Vice Chair Comments** - None.

- **Greening Program status: Green schoolyard report by Nan McGuire**

None.

- **David Goldin – Project review current work progress.**

None.

- **Leonard Tom – 2003, 2006 and 2011 Bond financial report update.**

Leonard reported that there were no significant events regarding Bond 2003. On Bond 2006, a budget was established to spend \$12M on SOTA located at the McAteer campus. The \$12M is going to be combined with the Bond 2011 McAteer campus funds of \$21.7M. Deems Lewis McKinley (DLM) is the assigned architect and will do a project assessment and should get back to us within 60-90 days with information on if we have enough funds to move forward with this project. Questions were raised on the \$12M funds from Bond 2006 and on SOTA location. Nancy questioned the validity of spending money at McAteer for SOTA. Leonard pointed out that McAteer has been home to SOTA kids for a long time. McAteer has not been a very conducive environment for these students and with no definite timeline of when funding for SOTA to move to 135 Van Ness, rehabilitation on McAteer may be the next best thing for the SOTA students. Jim interrupted the discussion and concluded that the money is being used properly pursuant to the bond for this site.

In addition, Leonard informed the committee that the Bond received \$2.9M State funding for the Martin Luther King Modernization. Combining this grant with minor cost savings with the final financial closure for this project resulted with a net of \$3M being returned to the programwide contingency funds. He also noted that a combination of sustainability and greening is going to be implemented at Starr King ES. \$275K of sustainability funds and \$150K of greening were budgeted. They're going after a \$250K grant from SFPUC. SFPUC is looking for sites that are willing to find ways to remove impervious surface to get more permeability and less run off into the sewer system. It has also been reviewed and decided to issue approximately \$186M of general obligation bonds in the 2011 program this coming summer in order to get into the next phase of funding for projects.

Leonard confirmed that Willie Brown MS design-build contract was approved by the school board on Tuesday night. This contract triggered the discussion of local hire policy. He was asked by David to take over the effort for the Bond Program to put together a local hire policy. In early December a proposal was set forth by the board members for a local hire policy. Questions were raised on what are valid and legal in that proposal. He gathered information and data from many entities. Mike Theriault was involved in relation to the contractor's and the union. Questions on enforcement, administrative costs, and legal issues were researched. A report to the Buildings & Grounds committee was rescheduled on Feb 25 wherein a proposal will be presented to the school board.

Leonard briefed the committee on his proposal. There are two paths with this proposal. One path, sometimes referred to as "mandatory local hire program", but prefer to use the term "sanction-based program" wherein the District would require the contractors to attain a particular percentage of local labor force participation in the projects, and if not attained would be found to be noncompliant with the goal. If this is the case, as is done in Berkeley and Hayward (which were contained within their project labor agreements), retention payment at end of contract would be withheld until a remedy for the noncompliance is determined. Some remedies include hiring local residents on jobs outside of the District contract or getting disqualified from future District projects. Jim asked if any of these were challenged for its legality. Leonard replied that he does not have this information. He added that Oakland Unified has a local hire policy which is 50% local hire target,

but the program does not have any sanctions. City College of SF has a local hire policy similar to Oakland and City of SF has a pretty proactive local hire policy. Craig asked if there is an economic impact study done in SF of their local hire policy. Leonard replied that the City has a report done in March of last year that covered the first year of operation of their local hire program. Craig wants to see reports based on economic impact, empirical evidence of local hire effect on labor and supply of qualified contractors. Mike confirmed that he himself has not seen these kinds of reports. Jim asked about legal hurdles, as the District is state-mandated. The City can do whatever it wants, it's got a charter. Mike indicated that the District cannot have a mandatory policy, but a mandatory policy can be embodied between us and the unions of the District. Leonard confirmed it is within the project labor agreement. Mike raised the question, "can the District tell us what they want us to have in the project labor agreement?" Jim questioned if there has been a case, statute, or some analysis that says a District can be prohibited from doing that and then folds it into an agreement. Mike recalled 3 agreements that have done it. Jim asked if this was ever challenged and the AG has not weighed in and that before anything is done, should get the AG give their opinion. Leonard added that all 4 of the local hire programs mentioned, City College of SF, Oakland, Berkeley, and Hayward have it contained within the project labor agreements. Mike added that City College has a policy declared by the Board of Trustees, but also has some features in the project labor agreement identical to the features in the 2006 Bond Measure project labor agreement.

Jim asked if proposed changes would affect existing contracts. Leonard presumed we would implement going forward, not retroactively. Richard Pio Roda confirmed this. Walter asked about the second path.

Leonard characterized the second option as an incentive based action. Mike mentioned there is a third way. Achievable percentages are going to vary in the inverse of temporary workforce demand, as temporary workforce demand goes up, percentages achieved go down. As temporary workforce demand goes down, percentages go up. Different percentages are achieved for different trades not because of any efforts the trades make, but because of the nature of the work itself. Some trades can provide workers entirely from SF, like the carpenters, laborers, plumbers, and electricians. Members of other trades have to move around. Most trades are going to be scattered all over the map in terms of residency in this particular market, whereas you may have four trades you can concentrate here in SF. There are different percentages you can achieve per trade as well which makes a percentage based mandate inherently problematic. With this, you can either put a percentage out there and call it "good faith", or you can mandate contractor actions, so that contractors must take certain steps to show that they are actually performing in good faith. You can mandate the percentage and then have set of "relief valves" from those same steps so that contractors, if they take those steps, have actually demonstrated good faith even if the mandated percentage was not reached. The same effect, but with two different approaches. This is the middle path which may be possible. The City moved somewhat in this direction, have some relief valves but not enough.

Leonard added that the City refers to these things as "off ramps" so if a contractor (at the very beginning), knows it cannot meet the target there are alternative paths that can be taken that are negotiated with City staff.

Craig expressed his frustration on not getting all the information to get an economic impact and make any feasible decision. Mike addressed Craig's frustration and indicated one known piece of information; that any effective local hire program will have administrative costs. These administrative costs could either come out of general funds or from bond funds. Leonard indicated that Bond Counsel has said that administrative expense is an allowable within the Bond.

Jim asked as follow up from last meeting that certain information be provided to the committee so that the committee can decide to take action to inform the public on: 1) fleshing out whatever legal options exists and whether additional ones are needed regarding legality of the program, in general and specifically as it is being implemented; and 2) a financial analysis which show the impact of going forward. Craig agreed on Jim's request. For the school board to consider local hire, there should be an economic impact assessment. Jim

added that as an oversight committee, it needs to agree that this is lawfully within the bond even if the economic impact was zero. Craig voiced his strong opinion that no local hire work measure be approved without an understanding of economic impact of not just the jobs in the City of tax base and revenue, but also on the cost of the projects.

Walter asked if the meeting between District General Counsel and Committee Chair and Vice Chair ever materialized. Jim replied no. Walter asked the committee what direction we need to give Leonard as to where we should go.

Jim reiterated that he would like a legal opinion, to see a local hire policy is allowable within the Bond language, and an economic impact analysis. Jim assumed that If the committee requested these analyses, that Bond funds would be available to process the requests. For the next scheduled meeting, the committee would like to see the legal and financial analyses done and will decide if they are sufficient, if not, an action will be taken to get our own counsel and financial analysis.

At this time, quorum was lost, 6:54PM.

#### **8. Proposed Schedule and Agenda for Next Meeting.**

Proposed next meeting – as scheduled/2<sup>nd</sup> Thursday, April 11, 2013.

1) Presentation of legal and financial analyses Re: Local hire policy.

#### **9. Adjournment.**

Meeting was adjourned.