



Public Works Department

Summary Minutes

SECIAL MEETING OF THE CITIZEN STREET OVERSIGHT COMMITTEE

Monday, January 25, 2010, 7:00 p.m.

El Cerrito City Hall
Hillside Conference Room
10890 San Pablo Avenue

Roll Call at 7:03 p.m.

Present: Committee Members Thomas Miller, Ozselcuk, Kessler, Al Miller

Absent: Committee Members

Other Attendees: Staff Liaison Jerry Bradshaw

1. Staff Liaison Report

Liaison Bradshaw announced that Committee member Robertson had submitted her resignation from the committee.

2. Comments from the Public

None.

3. Approval of Minutes

Chair Al Miller asked whether the minutes in Item 5 (paragraph 2) should clarify that the Committee's job relates to Measure A monies. It was decided that was understood as the context for all Committee responsibilities. No corrections to the minutes were required.

Action taken: Approve minutes. M/S Kessler / Ozselcuk. Approved 3 – 0 – 1 (Thomas Miller abstained due to not being present at the previous meeting).

4. Election of Committee Officers

Chair Al Miller reviewed the ordinance on election of officers. He adds that there is no stipulation on re-electing or serving consecutive terms – something he does not personally subscribe to – in order to give all members a chance to serve.

Action taken: M/S Thomas Miller/Ozselcuk to re-elect the current officers (Al Miller for Chair, Lynne Kessler for Vice Chair). Approved unanimously.

5. Committee Standing Rules

Chair Al Miller stated that the draft standing rules were discussed at the November 2009 meeting, but action was deferred since two committee members were absent. The draft standing rules were not changed significantly from the initial draft submitted by Committee Member Thomas Miller.

Action taken: M/S Thomas Miller/Kessler to approve draft standing rules as presented in the packet. Approved unanimously.

Liaison Bradshaw stated that the standing rules (which were now adopted) include a regular meeting schedule. Accordingly, the meetings from here forward will be considered “Regular” meetings instead of special meetings as in the past. Per Rule #4, Special meetings may be scheduled by the chair at any time or by a majority vote of the committee at a previous meeting. Chair Al Miller - it goes without saying that the chair would avoid scheduling a meeting unilaterally and would try to coordinate with committee members to find a date that works for most members.

6. Review Fiscal Year 2008-09 Audit and Auditor’s Report

Liaison Bradshaw reminded the Committee that he had copies of all preceding documents that were reviewed by the Committee in their September and November meetings for reference if needed. Finance Director Dodge indicated that the September 2009 draft expenditure report totals agree with the report being presented.

The City’s auditor, Amy Meyer from Maze & Associates, was present and was available to answer any questions about the Agreed Upon Procedures report. Foundational documents include the enabling ordinance and various bond documents.

Question: What is a Parity Obligation? It means all bonds have the same standing – none are senior or subordinate to others. Second question: Can additional bonds be issued before the first ones are paid off? Yes. Depending on the structure, the second bonds could be issued at parity or as subordinate to the first ones.

Maze & Associates were not hired to perform an audit specifically for Measure A. Rather, they were hired to audit the City’s entire financial structure (CAFR). For Measure A they are performing “agreed upon procedures” that rely on the overall audit, but are over and above the CAFR. Question: Should the Agreed Upon Procedures reference the City-wide audit? Yes, that would be a good addition to the report. Maze will add such a statement to the first paragraph. Since the report was issued as final, all copies of the report will be collected and revised. All copies were in the room.

Thomas Miller: The Committee’s primary function is to ensure that Measure A proceeds go to accounts that pay for street improvements. That very limited subject should be set forth in some audit report. The auditor stated that the Report these issues in Section 3 including reconciliation with State Controller’s report of revenues and testing that expenditures are in compliance with the bond and other documents.

Section 3. f. states that excess funds, when all projects are complete, can be transferred to the City for any lawful purposes. That seems contrary to what the voters were told (street improvements). That provision is found in the bond covenant as a use of funds accepted by the purchasers of the bonds. However, the enabling ordinance does not allow the Measure A funds to be spent on any other purpose other than what is specified. In summary, the purchasers of the bonds have given permission to spend excess funds on other purposes, but the El Cerrito Municipal Code does not allow it. Bond proceeds are expected to be fully spent in FY 09-10.

Section 3F needs a verb. Auditor will put a clarifying note in.

Section 11 a. states that the State Controller's Office confirmation of revenues reconciled with the City's general ledger total of \$1,348,938. This represents the amount for FY 08-09.
Question: When did the revenues actually start? Answer: On July 1, 2008 – the beginning of the FY. The only revenues prior to that were the bond proceeds. The sales tax revenues are recorded on a when-earned basis. The State takes 3 months to close out a fiscal year, so the City's draft report from last September was missing the last increment of FY 08-09.

Section 3 e. "Whether" should be changed to "that".

The auditor suggested that she will change the process around next year for the January Committee meeting. They will issue a draft Agreed Upon Procedures report for discussion, then issue the final report to the City after the meeting. Nothing stipulates the order of items in the report. If the Committee would like, the primary items of interest could be pulled to the front of the report. For instance, Item 11 (confirmation of Sales Tax Revenues) could be moved to the front of the report. Specifically, she proposed that Section 3 would come 2nd, Section 11 would come 3rd, then a couple more positive items (pay bills timely, made these payments) could be 4th and 5th, and the rest could be after that under a heading something like "other things we looked at in compliance with bond requirements".

Chair Al Miller: A lot of categories of different transactions such as no parity obligation, no supplemental or subordinate, no terminal payments, etc. When & if those things get issued, does it make a difference to the Committee? Those would come into play if, for instance, somebody in the future put a claim in against the proceeds or something similar; that would show up in this report.

There was general discussion on how the committee could approve a final version of the Agreed Upon Procedures report when the auditor will be making several changes after the meeting. It was clarified that the Committee does not need to approve the report. This report is provided as a document for their reference as they consider their annual report to the City Council – a separate and independent report. They may rely on the Agreed Upon Procedures report as they deliberate their actions. Since the content of the report will not be changed (only format changes and clarifying language are being proposed) the Committee may choose to proceed without seeing a final version.

Other questions and comments on Pages 6-1 and 6-2 of the agenda packet (excerpts from the City's CAFR)

A request was made to make the font bigger.

Question: what is an encumbrance? It is a commitment to make future expenditures. It sets aside funds in the amount of a contractual obligation.

Question: Withholding - is that an encumbrance? No. As money is paid to a contractor during the course of his work, ten percent of each payment is withheld per State law to cover the City against any possible claims from subcontractors or suppliers. Once all work is done and claims cleared, the withholding is released to the contractor.

Question: Page 6-1, Cash with Fiscal Agent. Who is that? The Fiscal Agent is the trustee, who is holding bond proceeds because we haven't asked for it to pay our bills yet. It earns interest while with the trustee..

Question: What is Note 3? This refers to the cash investment statement in the CAFR – Note 3 details all the City's investments.

Question: What is the line "Due to Other Funds" (\$114,349)? On June 30th (the end of the year) the City had not yet received enough money from fiscal agent to cover expenditures. This represents the amount that the general fund has fronted the Street Fund until funds are moved from trustee.

Question: Revenues – Do these include funds other than Measure A revenues? Yes. \$99,000 is interest; \$642,000 is from state/federal grants. The last \$9,660 is rent we collect from consultant and proceeds from selling plans and specs.

Question: With other funds comingled, how does the committee know what funds they are certifying? The Street Improvement Fund has funds from sources other than Measure A sales tax or bond proceeds. These are comingled with Measure A funds, so the Committee cannot know the difference. This was done to enable the various fund sources to supplement Measure A funds. The alternative was to split all invoicing against various funds, which is difficult and problematic. Although the City brings in other funds, the Committee does not need to take domain over those funds over which they have no authority. As long as all the funds are spent on Measure A work, the committee should be able to certify that all Measure A funds are spent on appropriate work. The non-Measure A funds would not interfere. To use an analogy: A glass has orange juice in it. Someone pours in a little grape juice. When you drink all the juice in the glass, you can say with certainty that you drank all of the orange juice.

Question: Is there a similar requirement from the grant funding sources to similarly certify the use of those funds? Yes, actually they are much more restrictive. Not only are we limited to use the money on street-related work, but it is limited to a specific work scope, i.e. specific predetermined streets. The City cannot use it on another street that was not included in the grant scope.

Chair Al Miller stated that he feels comfortable with certifying this mixed-money process. Committee member Thomas Miller liked the orange juice analogy.

Regarding the Annual Report to the City Council and Citizens of El Cerrito: Two changes have been made to Annual Report in packet –the FY reference was corrected, and Al Miller’s name was typed in as Chair (as elected at this meeting). A third change was made: in the last line in paragraph 1, “who” is changed to “whom”.

Question: From earlier Committee meetings, is it sufficient for only the Chair to sign the annual report? Answer: Yes. That was resolved at a prior meeting. By signing, the chair is vouching for the action taken by the Committee. The committee agreed with this resolution.

Action taken: M/S Thomas Miller/Kessler to approve draft annual report as corrected. Approved unanimously.

All bound copies of the report were collected and handed back to the auditor.

7. Future Agenda Items and Meeting Schedule

The next regular meeting is the 4th Monday in September (27th). The agenda would include:

- Review draft revenues and expenditures for FY 2009-10.

8. Adjourned at approximately 8:40 p.m.