Summary Minutes
SECIAL MEETING
OF THE
CITIZEN STREET OVERSIGHT COMMITTEE

Monday, July 27, 2009, 7:00 p.m.
El Cerrito City Hall
Conference Room A
10890 San Pablo Avenue

Roll Call at 7:15 p.m.

Present: Committee Members Kessler, Al Miller, Thomas Miller, and Roberton.
Absent: Ozselcuk

Other Attendees: Staff Liaison Jerry Bradshaw
Finance Director Mary Dodge
Amy Meyer, Maze & Associates, City’s auditor
Gerardo Avila, Avila Project Management, City’s Street Improvement manager

1. Staff Liaison Report
Liaison Bradshaw apologized for not scheduling a May meeting, and not following up with members to confirm yes or no on meeting.

Committee member T. Miller opened discussion on the lack of rules by which the committee is to function. He distributed a draft document entitled El Cerrito Street Oversight Committee Standing Rules. Staff and Chair Miller explained that, pursuant to the Brown Act, the committee could not deliberate or take any action on this item because it was not published on the meeting agenda. Committee members T. Miller and Roberton stated that many committees they have served on included a “New Business” item on the agenda and didn’t understand why this would be different. Chair-Miller explained that discussion of items not on a published agenda would deprive members of the public a chance to decide ahead of time whether or not to attend a meeting. It was recommended that the item of standing rules be agendized for a future meeting.

Chair Miller stated that while the City Council must observe strict procedures, committees often operate on a more casual basis. However, the Brown Act must still be observed.

Discussion ensued on how to put items on the agenda, and this, too, was an item for discussion and inclusion into any standing rules the committee wished to adopt at a future meeting. In the meantime, Bradshaw suggested that any member could agendize any item simply by notifying staff or the chair. Committee member T. Miller asked if it could be vetoed by staff or the
Chair. The answer was given as “No, it couldn’t be vetoed.” It was suggested, too, that a draft agenda be sent out to committee members ahead of time as a way to solicit ideas for items to discuss and possibly take action on at an upcoming meeting. Bradshaw said that would be done in the future. Chair Miller also requested that each agenda have an item to discuss what items to put on future agendas.

2. Comments from the Public
   None.

3. Approval of Minutes
   Committee member Robertson stated that she felt that action minutes did not reflect the often lengthy discussions taking place when only the action taken was reported. Committee member T. Miller added that the minutes need to report who moved and seconded an item, and how each member voted. Liaison Bradshaw asked if the newest draft minutes, which were much more detailed, were adequate. He also stated that an audio recording would be made of the meetings to assist staff in developing the minutes.

   Director Dodge explained that it was recent City policy to utilize summary action minutes, and that’s why they were used at first. She cited the Financial Advisory Board, which she serves, had also decided to keep more detailed minutes.

   Chair Miller suggested that the type-of-minutes discussion should be included in procedural item on a future agenda. He also asked that the Committee should consider appropriate use of staff time. Committee member T. Miller responded that the enabling Ordinance promises to provide secretarial service regardless of staff resources. Committee membership is serious, and the minutes should be commensurate with that serious obligation.

   Committee member Robertson stated that it looks like the minutes are now fleshed out adequately. We can discuss further at next meeting.


4. Review of Auditing Procedures
   Sales Tax Confirmation.

   Finance Director Dodge passed out examples of sales tax statements from State. There were two separate statements: one for regular sales tax (Bradley Burns Tax); the other for Measure A sales tax (Add-On Tax). The state cannot withhold any of the local “add-on” tax – it was voted on by El Cerrito voters and the state has no discretion.

   Statements show a monthly disbursement (example was dated 6/26/09). Disbursements are made monthly, however there is a lag of about two or three months. Each monthly disbursement is an advance (based on estimates of actual revenue), and then once every three months the disbursement includes a “true up” amount for the preceding quarter. Because of
this, the monthly disbursement statements are complex and the amounts vary from month to month.

Local tax is accounted for completely separate from the regular sales tax, including administrative charges. The two types of sales tax go into two separate funds: regular tax to General Fund, and the local tax into the Street Improvement fund.

Fiscal year 2008-09 is the first fiscal year for the tax, and we won’t know until September if we will meet our projected revenue goal. Dodge passed out a financial printout of revenues to the city by month. The year-to-date revenue (after 10 months) is at $1,180,205. Projected revenue for the year is $1,290,000. Staff believes we will be very close to projections despite the economic downturn. The City’s conservative estimates were credited for making up the difference.

**Auditing Procedures** – reported by Amy Meyer of Maze & Associates

The auditors examine a sampling of transactions and perform various tests on them. If no inconsistencies are found, they will report that. If they find inconsistencies, they will expand the scope of their audit to determine the extent of the inconsistencies. Ultimately, they will report on what they find. In general, the auditors can only report that there is no problem with what they looked at, but they cannot report “no problem” with what they didn’t look at. This follows current auditing standards. Maze & associates is the largest municipal auditing firm in Northern California.

The auditor receives a statement directly from State and compares to our records. This is called third party audit confirmation – it goes straight to auditor’s office so City cannot influence how the state reports. The state’s report is compared to the City’s records.

For the prior fiscal year (2007-08) the auditors sampled a high percentage (over 50%) of transactions due to the low number of transactions conducted in that year. In future years, there will be much more activity and the sampling will be a much lower percentage as is normal.

Reporting – the comfort letter format was used last year; it is the form required by the Master Installment Agreement. However, the Trustee (the institution holding the bond proceeds until the City calls for them to pay for expenses) has now agreed to accept the “Agreed Upon Procedures Report” format (instead of a Comfort Letter). This won’t change the audit work done; it is simply a different reporting format.

The audit reports must satisfy this committee, but they also must satisfy the Trustee (Union Bank of California). The bond covenant specifies how the money is to be spent, and the trustee must be comfortable that we are spending the money in accordance with the covenant before they disburse bond proceeds to the City (to pay our bills). The trustee’s first obligation is to the bond holders.
Committee member T. Miller asked where to find information on the net bond proceeds, interest rates on the bonds, etc. The City’s annual financial statements (reviewed at the January 2009 meeting) contain that information.

Committee member T. Miller asked if the committee would be reviewing detailed lists of expenditures. Staff will provide a detailed listing of all fund activities when the fiscal year activity is completed.

Committee member Roberton asked if the economy is affecting the revenue and if we have to adjust our construction activity to avoid overspending the revenues. Staff answered that the construction is being funded from the large pool of funds generated by the bonds so far, which will take us into 2010 construction. At that point, construction will have to be monitored much more closely to stay within the revenue stream. Staff also explained that the monthly revenue stream from the State doesn’t have much bearing on the pace of construction. Construction is planned on an annual basis (construction season), and relies on the annual revenues. Actual cash flow has not been a problem for the City.

**Action taken:** no action.

5. **Overview of 2009 Workplan**

Liaison Bradshaw presented some slides with a map of the city showing streets in the current year’s projects: RAC Overlay project, AR Cape Seal Project, and the federally funded RAC Overlay project. This included storm drain replacement work at 40 – 50 locations. He then added to the map the resurfacing work done last year (two projects), then the work done in 2007 and other some minor work done since 2004. Finally, he added the work that is planned for next year 2010, which will be the conclusion of the Measure A bond program. At that point the City will have resurfaced approximately 87% of the street surface in town. The last 13% aren’t being touched because they are in really good condition.

Expenditures were shown by year, and add up to nearly $15 million for the three year Bond program. That figure includes other pre-Measure A work and funds not included in Measure A.

The program as presented will be complete in 2010. The original plan presented to voters in 2008 showed bond program work through 2011, but the City has accelerated the work pace to conclude it in three years instead of four. The maintenance portion of the street improvement program will commence in 2011.

The benefits of accelerating the work include lower asphalt prices in 2008, and lower bid prices in 2009 due to the slow economy. Conversely, the slow economy has forced the City to divert other paving monies to daily operations.

Program expenditures are divided into two categories: soft costs and construction costs. Soft costs have been running at 10% and may end up at 12 – 13% at the end, and include engineering, inspection, program management, and other miscellaneous expenses.
Committee member T. Miller asked if the sales tax ends at some point in the future. Staff answered, No – it continues indefinitely. The committee would continue as well. The bonds run for 30 years.

Chair Miller reminded the committee that the paving program is using other funds besides Measure A. Staff added that this year there was only grants as other funds. Liaison Bradshaw passed out the CIP documents saying that as we went through them, the Committee could see how to discern non-Measure A from Measure A funds.

Bradshaw showed a graphic that illustrated the complexities of capital program budgeting in an annual budgeting framework where the construction season is on a calendar year basis and budgeting/auditing is on a fiscal year basis. It showed a three-year window and included the annual budgeting times, the design and planning phases and the construction phases and how they spanned and overlapped the fiscal years.

Bradshaw handed out the CIP tables 11-1, 11-2 and 11-3 and provided an explanation of the various information contained in them.

Chair Miller pointed out that there are two Measure A funds: one is the Swim Center bonds, and the other is the street improvement program.

The CIP is a 10-year program. Only the first year is acted on by Council in their budget appropriations. The other 9 years are included for planning purposes only.

Bradshaw also handed out copies of the Capital Improvement Project Information sheet for the Street Resurfacing Program.

Gerardo Avila, the City’s Street Improvement Program manager, spoke about how the primary objectives from Measure A are constantly in the forefront of all actions taken in the field and in the program management function. He insists that all his staff is aware of our core mission, and that the contractors are made aware of the objectives of this program.

Liaison Bradshaw added that much of the details of the design for these projects are being done in the field as work is being scheduled and executed. While we did enough planning, set criteria, and quantified the work to bid and contract the work, we allowed ourselves enough flexibility to adjust to conditions found in the field. To that end, we asked the City Council to authorized larger-than-normal contract contingencies to support that concept and to take advantage of the favorable bid prices we are experiencing.

Contingencies include some modest increase in scope of work including some curb and gutter work and sidewalks. Committee member T. Miller asked why the program would pay for sidewalks if the homeowners can be held responsible. Bradshaw answered that sometimes we do draw the line there, but other times the city is responsible – e.g. street tree damage – and other times the grades for the street and curbs change enough to necessitate work on the sidewalk, too, through no fault of the home owner. Additionally, there are times when minor sidewalk work is warranted, but the pace of the City’s work doesn’t lend itself to having
homeowners abate sidewalk concerns. The work is either left behind or included in the city program.

Chair Miller asked where the revenue of $1.29 million shows up in the CIP documents. Staff explained that would be shown elsewhere in the budget document – not in the CIP chapter. The CIP simply works with the funds available for the construction program.

Action taken: no action taken

6. Meeting Schedule
Chair Miller recommends that we have a set meeting after all the audits are complete. Staff recommends that happen in January.

Committee member T. Miller asked if the reporting was required by December 31st. Answer: There is no deadline in the ordinance.

Committee member T. Miller recommends more frequent meetings. Committee member Robertson recommends regular time for meeting.

Bradshaw recommends 4th Monday in January for the annual audit review meeting.

It was agreed to have a meeting well before the January meeting to discuss procedural items. That date was set at the 4th Monday in September (28th) at 7:00 pm.

Other Procedural items to discuss include the length the Chair serves his/her term.

Draft agenda is to be distributed 2 weeks ahead of meeting time.

Committee member T. Miller stated that reviewing a tabulation of expenditures for a given period is a core task. He is interested in looking at every expenditure for the fiscal year. He stated that simply approving the auditor’s work would render the committee meaningless – let the auditors do their work. The committee should look beyond the summary documents; once a year is adequate.

Bradshaw stated that the list of expenditures won’t be overly long. It will be provided well before the January meeting. It was agreed to have it provided at the September meeting.

7. Adjourned at approximately 9:18 p.m.