



SOLANO COUNTY GRAND JURY
2014 - 2015

Citizens Monitoring Measure Q

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2014-2015 Solano County Grand Jury

I. SUMMARY

OVERSIGHT: Watchful and responsible care, regulatory supervision. The act or job of directing work that is **being** done. Merriam Webster Dictionary. (Emphasis ours)

In order to ensure the \$348M Measure Q funds are spent appropriately and efficiently, the 2014-15 Solano County Grand Jury decided to look into the purpose and function of the Citizen's Bond Oversight Committee (CBOC). Do the members of the CBOC know their roles, duties and responsibilities? What is the relationship of the CBOC to the Solano Community College (SCC) Board of Trustees and to the SCC Administration? How do they function with the Measure Q Program and Project Managers?

II. INTRODUCTION/BACKGROUND

In 2012 Solano County voters approved Measure Q, a \$348 Million bond measure for SCC. Measure Q was advanced in accordance with Proposition 39 which allows for reduction of the percentage of voters needed to pass from two-thirds (66.7%) to fifty-five (55%), in exchange for, along with other requirements, the creation of an oversight committee. The CBOC is a group of Solano County citizens mandated by the Education Code to ensure accountability during the life of Measure Q. The CBOC must include, among others, a representative from the following:

- Bona fide taxpayers organization
- Business organization
- Senior citizens organization
- For a community college district, a student who is both currently enrolled in the community college district and active in a community college group
- For a community college district, one member shall be active in the support and organization of a community college

As set forth in Education Code Section 15278, the purpose of the citizens' oversight committee is to inform the public concerning the expenditure of bond revenues, actively review and report on the proper expenditure of taxpayers' money for school construction, and advise the public as to whether the community college district is in compliance with Article XIII A (3)(b) of the California Constitution. The committee is required to ensure that bond revenues *are* expended (as opposed to "*were* expended") only for the purposes stated in the aforementioned section of the Constitution, and also that no bond funds are used for any teacher or administrative salaries, or other school operating expenses. The CBOC is not limited to those two activities.

The California League of Bond Oversight Committees (CaLBOC) is an informational group that provides training for CBOC members to perform their duties.

III. METHODOLOGY

Documents Reviewed:

- Proposition 39 (Article XIII A of the California Constitution)
- Education Code Section 15278-15282
- Solano Community College CBOC Monthly Newsletters
- CaLBOC Best Practices Operation Standards
- Duties And Authorities Of The Citizens Bond Oversight Committee As Specified By The Independent Citizens Bond Oversight Committee Amended And Restated Bylaws Executive Summary March 17, 2014
- Independent Citizens Bond Oversight Committee Amended and Restated Bylaws 07/17/2013
- Solano Community College District Governing Board Minutes (2010 – 2015)
- Solano Community College Citizens Bond Oversight Committee Minutes (2013 – 2014)
- Measure Q Proposed Planning Matrix
- Measure Q (Solano Community College District Student/Veterans' Affordable Education, Job Training, Classroom Repair Measure)

Interviewed:

- Members of the Measure Q Citizens Bond Oversight Committee
- Solano Community College Board of Trustees
- Solano Community College Administrative Personnel
- Measure Q Bond Team

IV. STATEMENT OF FACTS

Typically, members of a CBOC are appointed by the Board of Trustees and serve a maximum two-year term. As SCC had yet to complete projects authorized by Measure G passed in 2002, rather than form an entirely new oversight committee for Measure Q, the Board of Trustees decided that current Measure G CBOC members could “holdover”, and serve anew on the Measure Q CBOC. Because of this, some of the current members of the committee have held their positions for longer than two years.

Grand Jury interviews of CBOC members revealed that none of them (even those grandfathered in from Measure G) had ever participated in any form of orientation or training regarding their roles and responsibilities. The only documentation any of them could recall receiving at the onset of their term was a copy of the bylaws and a copy of Measure Q. They did not receive a project list or other “roadmap” of SCC’s upcoming plans outlining how bond revenues were to

be spent. Unfortunately, overall familiarity with the bylaws by CBOC members was poor, and most had never read Measure Q in its entirety.

The Measure Q CBOC bylaws prevent them from meeting more than four times a year. A typical meeting was described by all as being primarily run by the Bond Manager and Program Manager despite the fact that the law is clear that it is to be an independent committee, and that there is a CBOC Chairman present who was elected by the committee members. The dominant portion of all meetings involves listening to highlights of the accomplishments of the Bond and Program Management teams over the past quarter and reviewing the corresponding report.

Also relevant to this CBOC's lack of independence is the fact that more than one member stated that "the Board" was in charge of creating the agenda. Others seemed to believe agenda items had to be approved by the "bond team". Either way, the perception that they were not in charge of their own meetings was clear.

The Grand Jury was also advised that during several past meetings, the idea of meeting more than four times per year had been suggested, partly in order to stay abreast of current projects. Creating sub-committees had also been discussed. CBOC members reported Bond staff advised them these requests would have to be brought to the Board, and that it would be done. They were subsequently informed that the Board did not want them to meet more frequently, and that subcommittees were not allowed by their bylaws. Moreover, they were told the Board created the CBOC bylaws, and they could not be changed by the members. (Although each of the members had served on other [unrelated] boards and committees, none of them could recall an instance where the bylaws of that group were not written by the group itself.)

In addition to interviewing many CBOC members, the 2014-15 Grand Jury interviewed all elected members of the Solano Community College Board of Trustees, and the Superintendent-President of the College. These interviews made clear that although the CBOC believed their requests and concerns were being transmitted through Bond Staff to the trustees, that was in fact not the case, as none of them were aware of the requests by the CBOC to meet more frequently, or to form subcommittees. None of them had any problem with either request, and essentially encouraged the group to meet as often as they saw fit. This circumstance alone is evidence of the complete undermining of the concept of "independence" when it comes to the Measure Q CBOC.

It was determined that although it was believed a trustee was to be a liaison for the CBOC, no one could recall who that person was, and no one admitted to being the liaison. None of them have attended a quarterly Measure Q CBOC meeting.

It is also important to note that as set forth in the "Measure Q Proposed Planning Matrix" obtained online from the college website, the CBOC reports directly to the Board of Trustees, while the connection between the oversight committee and the Director of Measure Q Projects

is tenuous at best. Neither the bond team nor the Measure Q program director is included within this organizational chart.

In order to fulfill their function and purpose, the CBOC may engage in any of the following activities:

- Receive and review copies of the annual independent performance and financial audits required by statute
- Inspect school facilities and grounds to ensure bond revenues are expended in compliance with the law
- Receive and review copies of deferred maintenance **proposals** or plans developed by the community college district
- Review efforts by the community college district to maximize bond revenues by **implementing** cost-saving measures, including but not limited to:
 - Mechanisms designed to reduce the costs of professional fees
 - Mechanisms designed to reduce the costs of site preparation
 - **Recommendations** regarding the joint use of core facilities
 - Mechanisms designed to reduce costs by incorporating efficiencies in school site design
 - **Recommendations** regarding the use of cost-effective and efficient reusable facility plans. (See Education Code Section 15278. Emphasis ours.)

Despite the above, as indicated, based on interviews with both past and present CBOC members, as well as with Program and Bond Management personnel, the Grand Jury found this CBOC has been presented with reports pertaining to the status of bond projects that are *at least* 3 months old, and often much older than that. That is, rather than receiving front-end information, they are simply informed as to what has already happened. Not only has the Board reviewed and approved it, but ground may have been broken, or land purchased. **This is hindsight.** Neither recommendations nor proposals may be made (or are relevant to) regarding an event that has already taken place.

In order to “actively” report on expenditures and compliance, as required by the California Constitution, the CBOC must be in position to do so. “Review” following completion of projects serves no purpose. The Measure Q ballot itself promotes both the importance and the independence of the oversight committee by providing in bold print and all uppercase letters the following:

FISCAL ACCOUNTABILITY. THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS IS SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. BY LAW, PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS’ OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND SPECIFIED. THE CITIZENS’ OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAX PAYERS ASSOCIATION, A

BUSINESS ORGANIZATION AND A SENIOR CITIZENS ORGANIZATION. NO DISTRICT EMPLOYEES OR VENDORS ARE ALLOWED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE. (Italics ours)

Legislative intent here is clear, as the words "are spent" are utilized instead of the words "were spent". Moreover, it is difficult to reconcile the phrase "stringent financial accountability" with action taken after money has been spent.

Along those lines, Education Code Section 15264 indicates *specific* legislative intent that all of the following are realized:

- Vigorous efforts are undertaken to ensure that the expenditure of bond measures are in strict conformity with the law;
- Taxpayers directly participate in the oversight of the bond;
- Members of the oversight committees **promptly** alert the public to any waste or improper expenditure of school construction bond money;
- **Unauthorized expenditures of school construction bond revenues are vigorously investigated, prosecuted, and that the courts act swiftly to restrain any improper expenditures.** (Emphasis ours)

Again, none of this can be accomplished by the current Measure Q CBOC because their involvement is limited to information pertaining to past activity in direct contravention to the explicitly outlined purpose of the committee.

Interviews with oversight committee members also made clear the fact that there is a serious problem with attendance at the quarterly CBOC meetings, which results in a failure to obtain a quorum, and therefore the inability to hold an official meeting.

Finally, interviews ascertained that the annual report to be prepared by the CBOC for release to the public was, at best, "approved by" the CBOC. Although a very few minimal changes were made, it was almost entirely prepared by the company hired to serve as the program manager. This, too, calls into question the independence of the CBOC.

V. FINDINGS AND RECOMMENDATIONS

Finding 1

There is little interaction and sharing of information between the CBOC and the Board of Trustees.

Recommendation 1

CBOC send a liaison member to the Board of Trustees meetings to get more current information as well as (and conversely) have the Board of Trustee member who is the liaison to the CBOC attend the CBOC meetings.

Finding 2

CBOC members have not participated in any form of orientation or training to explain their roles, duties, and responsibilities.

Recommendation 2

Members of the CBOC attend the CaLBOC training sessions held annually in Sacramento. The expense is minimal and should be borne by SCC. A presentation can be made at subsequent CBOC meeting for those members who were not able to attend. The information conveyed at the CaLBOC seminar regarding the roles, duties and responsibilities of the CBOC should also be presented at a Board of Trustees meeting.

Finding 3

The "Board" or the "Bond Team" creates the agenda for the CBOC meetings and control and run these meetings.

Recommendation 3

The CBOC create its own agenda for its meetings. The Board and/or the Bond Team would still be able to request items be put on the agenda at the discretion of the CBOC Chairperson. The CBOC Chairperson should also facilitate the flow of the meeting.

Finding 4

The Board of Trustees created and wrote the Bylaws of the CBOC and the CBOC was told those Bylaws could not be changed.

Recommendation 4

CBOC Bylaws be re-evaluated and written by the CBOC itself to properly represent their functions, duties and responsibilities. The new Bylaws should then be presented to the Board of Trustees.

Finding 5

The mandated CBOC annual report to the Board of Trustees and to the public is developed by the company serving as Program Manager.

Recommendation 5

The CBOC annual report be developed and written by the CBOC members. The SCC Administration provide the proper clerical staff to finalize the report.

COMMENTS

Since beginning the investigation of the workings of the Measure Q CBOC, the committee has started its transformation. They are becoming independent and proactive in monitoring the Measure Q funds. At their own expense, two members attended the May 19, 2015 CaLBOC Training Seminar. They realize that if you take on a job (elected or volunteer) you should educate yourself on your duties and responsibilities and they are acting accordingly. We commend the members of the CBOC on their initiative. They are becoming an independent watchdog.

REQUIRED RESPONSES

Solano Community College Board of Trustees (Findings All)

COURTESY COPIES

Clerk, Solano County Board of Supervisors
State Board Governing Community Colleges
State Chancellor's Office for Community Colleges
Solano Community College Chairman CBOC
Solano Community College Superintendent-President