



CITIZENS' BOND OVERSIGHT COMMITTEE (CBOC)

MEETING MINUTES

Wednesday, April 26, 2023

Tour: 6:00 p.m.

Meeting: 6:30 p.m.

Evergreen Valley High School (Room P5)

3300 Quimby Rd.

San Jose, CA 95148

The following were in attendance:

CBOC

Got-Lopez, Melissa
Harkins, Cody (Alt # 2)
Hermange, Debbie
Meadows, Abigail
Pefley, Carol (Alt # 1)
Pham, Paul (Khoa)
Roberts, Christopher
Schimmel, Barry
Traynor, Patrick

ESUHSD

Huntoon, Michele
Lucas, Julio
Nguyen, Cathy
Nguyen, Nhu
Nguyen, Sandy
Soto, Moises
Tran, Shelby

Guest(s)/Community Member(s)

Morrison, Alex (Gilbane)
River-Santander, Kevin (Gilbane)
Edelman, Nathan (Eide Bailly LLP)

CBOC Member(s) Not Present

1. CALL TO ORDER/ROLL CALL

1.01 Call to Order/Roll Call

Roll call was taken at 6:39 p.m. by Chair Barry Schimmel.

2. PUBLIC COMMENT

2.01 Public Comment

Chair Barry Schimmel shared his thoughts about how the District bond program has helped turn the schools in the district into homes for the students within a span of 20 years. The facilities and public spaces such as libraries, learning centers, wellness centers, etc. have evolved aesthetically to be more welcoming and moved away from more boxy, prison-like designs. In his opinion, East Side school facilities are equivalent to those of the private schools that people pay fees to attend. He encouraged the community to come out and take a look at East Side schools and give public schools a try.

No general public comments at this time.



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3. APPROVAL OF MINUTES OF PREVIOUS MEETING

3.01 Action to Approve the Meeting Minutes of January 25, 2023 Meeting

Motion to approve the January 25, 2023, Meeting Minutes was made by Christopher Roberts and seconded by Debbie Hermange. Motion was carried (7 – 0). Aye.

4. UPDATED ITEM(S) FROM CBOC CHAIR

4.01 Action to Approve and Adopt the 2023-2024 Meeting Calendar

Motion to approve the calendar was made by Christopher Roberts and seconded by Paul Pham. Motion was carried (7 – 0). Aye.

4.02 Special Election of CBOC Vice-Chair to Fill Vacancy Until the Next Annual Officer Election

Vice-Chair Melissa Got-Lopez is terming out, therefore, a new Vice-Chair needs to be elected to fill her role. Vice-Chair Melissa Got-Lopez reminded the committee that the new Vice-Chair will be assisting the Chair at the July and October meetings, until a new Vice-Chair is elected at the annual officer election in October.

Paul Pham nominated Christopher Roberts for Vice-Chair. Christopher Roberts accepted the nomination. Paper voting was made. Christopher Roberts became new Vice-Chair by seven (7) votes.

- ★ Chair proposed to move agenda item 5.01 before item 4.03 for the guest speaker, the auditor from Eide Bailey, to present first.

5. REPORTS

5.01 Presentation on the Five (5) Bond Audit Reports – Nathan Edelman, Eide Bailly LLP

The auditor provided an overview of what the scope of the performance and financial audits for the bond program includes. The auditor briefly went over the content of the audit reports for all of the measures. He stated that the job of the bond program staff is to ensure bond funds are used for their intended purposes. The auditors will check and verify that funds are expended appropriately. For financial statements, the auditors will check if they were prepared in compliance with the governmental accounting standards. The details are in the body of the reports. In conclusion, the District has accounted for their bond expenditures. There were no exceptions or audit findings. It was a clean audit opinion. Also, there were no deficiencies in internal control.



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Q: If a position does not work for the bond program but gets paid from the bond funds, would that be something that the auditors find out during the auditing process? (Barry Schimmel)

A: Yes, that would be something the auditors would verify and could potentially become a finding. (Nathan Edelman)

Q: Is it the CBOC's role to look at bond expenditure receipts? (Barry Schimmel)

A: Proposition 39 requires a CBOC to be established. However, the auditors have no position on what the CBOC should or should not do. (Nathan Edelman)

C: We have an internal staff that does the auditing; we can ask them questions at any time, and all documents are accessible to the public. (Barry Schimmel)

Q: Who hires the outside auditing firm? The school district or the CBOC? (Carol Pefley)

A: The district does. Each firm can only go for three years in a row; after that, they either change firm, or change the people within the firm. (Barry Schimmel)

Q: Who pays for the bond audit? (Carol Pefley)

C: Bond audit is generally paid for by the bond. (Nathan Edelman)

Q: Is the audit result available to the public, and how detailed is it? (Carol Pefley)

C: Some of the public comments we received were that we are not independent because we allow the District to choose our auditor. However, to Barry Schimmel's point, there are many internal controls in place that allow qualified people to do their job and the public always have access to that information. (Melissa Got-Lopez)

Q: What is the typical cost of a bond audit? (Carol Pefley)

A: Around \$25,000 - \$30,000. East Side's process is that they go out for an RFP (Request for Proposal) for auditing services. Not all school districts do that, but East Side does. The firms are scored by certain criteria. We had about five to six firms that submitted their proposals the last time we went out for bid. (Michele Huntoon)

C: In terms of the auditors being independent, there are a lot of external auditing regulations to ensure that the auditors are absolutely independent of the [organizations] that they are auditing. (Nathan Edelman)

Barry added comments about the District's process in selecting the auditing firms and stated that an RFP is not required by law for professional services such as auditing, legal, architectural, etc.; however, the District is being transparent by going out for an RFP to narrow down the pricing. With the auditor's expertise, their job is to help guide the District and ensure that the District is in compliance with codes and regulations.

Q: In summary, your final assessment is without exceptions, everything is clean, correct? (Christopher Roberts)



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A: Yes, there are no exceptions and no audit findings. (Nathan Edelman)

Paul Pham raised a question about staff's salary based on his assessment of the report, which seems to be high, with an average salary of over \$190k per employee and \$270k including benefits. Michele Huntoon clarified that the total staff salaries are based on the number of FTE (Full Time Equivalent) being charged to the program, and that they are not getting paid that \$270k. Barry Schimmel chimed in to reiterate that staff is not getting paid that amount. According to Barry Schimmel, in today's market, the true cost of \$1 per employee is at \$1.30 because there are additional costs for retirement and benefits in the state of California.

Q: Who determines the staff salary? (Carol Pefley)

A: There are adopted salary schedules for each classification of employees represented by the union with the exception of administration. What might be helpful is that Michele Huntoon can take a look at the rate average and present it at the July meeting. (Barry Schimmel)

C: My concern is not the rate in which each employee is getting paid but rather those who were not listed as allowable positions or job duties that are not related to the bond. (Paul Pham)

C: Those have already been determined through the annual audit. We have identified that all staff that are paid through bond funds are working on bond projects (in some way or another (Michele Huntoon)). Money is being spent appropriately through the bond audits. (Melissa Got-Lopez)

C: Bond staff have no control over how much money they are getting paid. (Nathan auditor)

Melissa Got-Lopez made a brief mention of SGI, an outside consultant firm that was previously hired to manage the bond program, to explain the transition of the program management from outside to in-house and how the fees got converted to staff salaries.

C: All salary schedules are board approved. Anything out of the ordinary would have been identified. The people in the bond program have no control over how much money people make. The auditors make sure that their pays align with the approved salary schedules and that the duties have a connection with the bond program. (Nathan Edelman)

Patrick mentioned that it will be helpful for him to know the following:

- When a bond was issued, what was the interest rate?
- Of the bonds that were issued, how much has been repaid? The years and the amounts of further repayments
- The range of the interest rates that the bond program is collecting on the deposits

Partrick would like to see the above information in the audit report. Michele Huntoon stated that there are restricted guidelines on the audit report but she will look into it.



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Patrick Traynor also has concerns about the audit compliance with California Education Code 15280 ⁽¹⁾ and 15286 ⁽²⁾, which stated that the CBOC should receive the audit report within 90 days of the date of the report or before March 31. After discussion among the CBOC and district staff, it was agreed that once the board receives the audit report in January, a copy, or a link to the agenda item on BoardDocs will be sent to the CBOC so that they can receive and review the report before the auditor's presentation in April.

Q: Measure I Tech bond expenditures are mainly in supplies and services and very minimal in capital outlay, is that expected for technology projects? (Paul Pham)

A: It is designed to do just that. Tech bond is different and unique in that way and is managed by another director, Randy Phelps, our Chief Technology Office. (Julio Lucas)

C: It goes through the same audit specific to the Measure I Tech Bond and the auditors look at expenditure as it relates to the ballot language and if they are spending the money in the appropriate manner. (Michele Huntoon)

C: The reason why they did it that way is because when Julio Lucas builds something, it is supposed to last 20-50 years, but when technology buys something, the lifespan is about four years. This bond renews itself. They have a program where the equipment gets updated when the network gets upgraded. (Barry Schimmel)

★ Going back to item 4.03 after the auditor's representation.

4. UPDATED ITEM(S) FROM CBOC CHAIR (continued)

4.03 Suggestions for Future Updates to the CBOC Bylaws

¹ **Education Code 15280.** (a) (1) The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee.

(2) The governing board of the district shall provide the citizens' oversight committee with responses to any and all findings, recommendations, and concerns addressed in the annual, independent financial and performance audits required by subparagraphs (C) and (D) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution within three months of receiving the audits.

(b) All citizens' oversight committee proceedings shall be open to the public and notice to the public shall be provided in the same manner as the proceedings of the governing board of the district. The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year. Minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on an Internet Web site maintained by the governing board of the district.

² **Education Code 15286.** Consistent with the provisions contained in subparagraphs (C) and (D) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the required annual, independent financial and performance audits for the preceding fiscal year shall be submitted to the citizens' oversight committee established pursuant to Section 15278 at the same time they are submitted to the school district or community college district, no later than March 31 of each year. These audits shall be conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States for financial and performance audits.



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Melissa Got-Lopez briefly mentioned that the most recent changes to the bylaws made by the previous bylaws subcommittee (Christopher Roberts, Patrick Traynor, and Melissa Got-Lopez) mainly focused on the Membership and Election sections. Melissa Got-Lopez then suggested the next bylaws subcommittee should also review and clarify the bylaws section about the alternate member and their role so that people have a better understanding of what it is and what it is not, and to also avoid potential public scrutiny.

Cody Harkins pointed out that the current bylaws indicate only one alternate member; however, the Committee currently has two alternate members. Melissa Got-Lopez acknowledged that and further emphasized the need for the new bylaws subcommittee to focus on clarifying the alternate member section of the bylaws.

Q: Why do we have alternate members if there is no limit to the number of CBOC members? (Patrick Traynor)

A: Future committee can decide that. We have been very fortunate these past few years to be able to fulfill all positions. That has not always been the case. The law requires you to have seven (7) members that are abided. I think it is prudent to stay with the seven. (Melissa Got-Lopez)

C: The alternate member helps with quorum. (Paul Pham)

Melissa Got-Lopez suggested a standing subcommittee that reviews the bylaws every year. Christopher Roberts concurred and added that regularly reviewing the bylaws would allow new members to get the experience and be more engaged. Melissa Got-Lopez then added that by actively reviewing the bylaws, the CBOC is being proactive in making sure the bylaws are relevant and accurate instead of being reactive when something is brought up. Chair Barry Schimmel asked for three (3) volunteers for the bylaws subcommittee. Patrick Traynor, Debbie Hermange, and Christopher Roberts volunteered to participate. Patrick Traynor agreed to chair the group.

4.04 Review the Draft of CBOC Annual Report Fiscal Year 2021-2022 and Solicit Volunteers for the Annual Report Editorial Subcommittee

Chair Barry Schimmel asked for volunteers for the annual report editorial subcommittee. As the previous year's subcommittee member, Christopher Roberts clarified the process: the District staff prepares the report, subcommittee members review the content, make necessary edits and send back to staff to revise. The Committee will then review the final report at the July CBOC meeting. Patrick Traynor, Debbie Hermange, and Christopher Roberts volunteered for this subcommittee.

Timeline for CBOC Annual Report:

- Editorial subcommittee solicitation – April CBOC meeting
- Final edits submission (to Nhu) – Thursday, June 15
- Committee approval of final report – July CBOC meeting



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- Report presentation to the Board – August Board meeting

4.05 Committee Member Recognitions

Chair Barry Schimmel shared his great experiences and fond memories working with the two terming out members, Abigail Meadows and Melissa Got-Lopez, on the CBOC. He also recognized their contribution to the work of the Committee as a whole. Melissa Got-Lopez briefly shared her experience working with Abigail Meadows on the CBOC onboarding process when they were both newcomers. The process turned out to be extremely successful and helpful to the new CBOC members.

Chair also presented Abigail Meadows and Melissa Got-Lopez with small parting gifts and Certificates of Recognition for their dedication and commitment to serve on the CBOC for three consecutive two-year terms.

5. REPORTS (continued)

5.02 Presentation on the Capital Construction Project Updates – Julio Lucas, Senior Manager of the Bond Program

- **Foothill - Modernization of Building G**

Schedule: Fall 2024 – Estimated Total Cost: \$4,935,054

Area: 6,690 square feet – Construction Team: Gilbane Building Company (CM), TBD

This building is meant for food service type, career tech class. There is a shower for the unhoused student population as well as a counseling area. The project is in motion, trending well, tracking well, on budget and on schedule.

- **Mt. Pleasant - Modernization of Building 500**

Schedule: Spring 2025 – Estimated Total Cost: \$18,444,202

Area: Approximately 11,500 square feet – Construction Team: Van Pelt Construction Services (CM), Rodan Builders/SVA Architects (DBE)

The rendering images show the dining hall facing the learning center (building 900). In the back is the same kind of servery we saw today at Evergreen Valley High School, and what we have all seen in the past at Yerba Buena High School and James Lick High School.

- **Piedmont Hills - Performing Arts Building with Classrooms**

Schedule: Fall 2024 – Estimated Total Cost: \$17,871,012

Area: Approximately 10,500 square feet – Construction Team: Van Pelt Construction Services (CM), Gilbane Building Company/Perkins Eastman (DBE)



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This project at Piedmont Hills will go to the Board for review and consideration for approval. It will be a new performing arts building for music and drama. This project is also trending well, tracking well, and will be on the Board at the end of the month.

- **Oak Grove - Modernization of Building K**

Schedule: Spring 2025 – Estimated Total Cost: \$19,356,870

Area: Approximately 12,000 square feet – Construction Team: Van Pelt Construction Services (CM), Alten Construction/SVA Architects (DBE)

Like Mt. Pleasant, this is another dining hall facility on a spot currently known as building K. We moved a lot of the athletics, cheers practice, wrestling things currently in this building to an old building that is used for other shops. Food service was the last to be considered for a redo. It is the same kind of facility on the slide, same equipment, layout, option, and visual experiences as Mt. Pleasant.

Q: I have never been to Oak Grove in my six years here. How old is Oak Grove High School?
(Melissa Got-Lopez)

A: Oak Grove was built in 1967 (56 years old).

C: We actually did some improvements at Oak Grove. I do remember touring them. (Barry Schimmel)

A: We did the Learning Center on the second floor of the Admin Building, the perimeter fencing, improvement to the synthetic turf, improvement to the tennis court. Right now, we are in motion with installing the new fire hydrant. Over the years, prior to my time here (Julio Lucas'), we did the improvements to the science building and the art building as well. (Julio Lucas)

- **Silver Creek - Building K**

Schedule: Fall 2023 – Total Cost: \$23,200,000

Area: 17,810 square feet – Construction Team: Gilbane Building Company (CM), Rodan Builders, Inc./Cody Anderson Wasney (DBE)

The project is trending very well. It is occupiable at this stage but we do not turn it over until August. It is more advanced than in the photo on the slide. All carpet is in. Water and lighting are working. Sprinklers have been tested out. The elevator is not done yet but we still have some time. Ten permanent classrooms will replace the ten portable classrooms on this campus. Step 2 is to remove the portables this summer and build the landscaping where these portables are sitting.

- **Yerba Buena - Performing/Fine Arts Classrooms and Theater Building**

Schedule: Spring 2025 – Estimated Total Cost: \$25,039,127

Area: Approximately 19,430 square feet – Construction Team: Gilbane Building Company (CM), BHM Construction, Inc/HED (DBE)



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The existing building will be removed entirely. The new performing arts building will have the theater and performing arts classrooms. The project is currently in planning. We have a builder and we are working through the design-build process.

- **Yerba Buena - Ball Field Improvements**

Schedule: Fall 2023 – Estimated Total Cost: \$9,500,000

Area: 298,000 square feet – Construction Team: Gilbane Building Company (CM), Robert A. Bothman Inc./Lloyd Engineering, Inc. (DBE)

This project is also advancing quickly. This is a current photo of all of the turf removed from the baseball/softball area at Yerba Buena High School. For East Side, this is the first synthetic baseball/softball field.

- **Independence - New Student Union**

Schedule: Winter 2023 – Total Cost: \$27,076,792

Area: 35,000 square feet – Construction Team: Gilbane Building Company (CM), Alten Construction/SVA Architects (DBE)

The project is progressing well. The building is growing quickly. It has all the features of the Student Union, including the learning center components. It has a place to make food, serve food, enjoy food and also the administrative staff and adult presence blend in with the student body.

- **Santa Teresa - New Building**

Schedule: Spring 2023 – Total Cost: \$13,477,277

Area: 9,450 and 9,654 square feet – Construction Team: Gilbane Building Company (CM), BCA Architects, DL Falk Construction

The DL Falk team assigned a new superintendent for the project and things are going much better now at Santa Teresa. We are following the process and the project is scheduled to be open Spring of next year.

- **Evergreen Valley - New Student Union**

Schedule: Spring 2023 – Total Cost: \$23,559,518

Area: 33,000 square feet – Construction Team: Gilbane Building Company (CM), Rodan Builders/SVA Architects (DBE)

Phase 2 of the furniture is coming at the end of the month. This building is in the kind of a light duty dining hall format.



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5.03 Information on the Capital Program Budget Adjustment Report – Sandy Nguyen, Construction Bond Program Controls Manager

Sandy Nguyen provided the Board approved Capital Program Budget Adjustment Report for the period of December 2022 thru January 2023. These reports show board approved changes to a project budget within the last three months.

Q: Was there anything that was problematic in moving the money around that creates any issues for you [Sandy Nguyen]? (Barry Schimmel)

A: We usually move the money before the work is being done. So we do this a couple of months ahead of time. (Sandy Nguyen)

Q: Are the incoming bids going down? (Barry Schimmel)

A: They are going down but not by much. (Julio Lucas)

5.04 Presentation and Action to Receive and Approve the Budgets and Expenditures Report – Cathy Nguyen, Capital Budget Manager

Cathy Nguyen addressed member Cody Harkin's question from the last meeting.

Q: Has the creation of the funding breakdown documents, for the benefit of CBOC, helped internally with keeping track of spending or where money is being used? (Cody Harkins)

A: The District has always had a system in place where we can identify and track our project and expenditures. This report has evolved over time from the original version through questions and comments from the previous and current CBOC members. It is now easier for any interested party to read and understand the report without having any accounting background. (Cathy Nguyen)

Cathy Nguyen then presented and provided an update of the Board Approved Budgets and Expenditures on all bond measures (Measure G, E, I, I-Technology, and Z) through February 28, 2023. A summary of the overall budget, including the total current encumbrance balance, total expenditures/disbursements, and total remaining budget balance, was presented.

Q: Measure Z is projected to be spent by 2037, is there an arbitrage law that we have to adhere to? (Paul)

A: You do not want to be selling all bonds and put that money in the bank. You only sell what you need for the projects. (Barry Schimmel)

C: We still have three series left and the next bond sale will be in 2025. We have a schedule/timeline for the sale of the bonds. (Julio/Sandy)

Motion to accept the Budgets and Expenditures Report was made by Christopher Roberts and seconded by Debbie Hermange. Motion was carried (7-0). Aye. The motion passed unanimously.



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6. COMMITTEE COMMUNICATIONS / COMMENTS

6.01 Opportunity for Committee Members to Share Additional Comments

Melissa Got-Lopez shared the CABOC Digest document with the committee. Chair Barry Schimmel commented that the CABOC is doing a good job. Chair encouraged members to read through the recommendations on the document; however, Chair also advised members to not feel like the CBOC has to do everything on the recommended list, but instead, should just stay within their oversight role. Christopher Roberts agreed and emphasized that the committee's role is purely oversight, representing the community and asking questions if needed. Melissa Got-Lopez added that the committee has always been able to ask questions and that the District staff has always addressed their questions and requests, if not at the same time, at the next scheduled meeting.

7. CONFIRMATION OF NEXT MEETING LOCATION

7.01 Confirmation of Meeting Location for Next Meeting: Wednesday, July 26, 2023 @ 6:30 p.m.

The next meeting will be on Wednesday, July 26, 2023 at Independence High School at 6:30 p.m.

8. ADJOURNMENT

8.01 Adjournment

Chair Barry Schimmel adjourned the meeting at 8:32 p.m.

Minutes approved by: BARRY SCHIMMEL *Barry Schimmel*
Print Name Signature
Jul 28, 2023
Date

Barry Schimmel (Jul 28, 2023 10:56 PDT)






3.01 2023 0426 CBOC Meeting Minutes_Final

Final Audit Report

2023-07-28

Created:	2023-07-28
By:	Nhu Nguyen (nguyennq@esuhsd.org)
Status:	Signed
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