

Measure B Citizens Watchdog Committee
Tuesday, January 21, 2014
Minutes

1. Call to Order/Roll Call

County Staff-member George Doorley called the meeting to order at 11:03 a.m, and performed duties of Chairperson until election of Chairperson under item 4. Roll Call was conducted by Mr. Doorley.

Members Present: Hope Cahan (late arrival 11:40) Dolores Morales
Melissa Erickson Mary Cheryl B Nacionales
Kevin Maitiski Andrew Nussbaum
Marty Michaels Jessica Zenk

Members Present Via Conference Call: Sharlene Carlson Esther Peralez-Diekmann David Cameron

Members Absent: Betty Duong

Measure B and County Staff:

George Doorley, Administrative Services Manager III, Office of the County Executive; Ahmad Gharaibeh, Vavrinek, Trine, Day, and Company (VTD); Wendy Jhong, Department Fiscal Officer.

Mr. Doorley gave a brief background of Measure B which was created in 1996 and expired in 2006 and is now in a “caretaker” mode focused on fiscal oversight of the close-out of remaining projects. The following organizations have a seat on the committee pursuant to the ballot measure; however, do not have members assigned at this time. These organizations were contacted to request assignment of member, but as of the date of the meeting were not assigned: California Tax Payer’s Association, Chamber of Commerce, Sierra Club and Greenbelt Alliance. The organizations were invited to today’s meeting and sent agenda materials.

2. **Public Comment:** None

3. **Introduction of New Members and Staff:** Each member and staff introduced themselves and provided a brief background.

Mr. Doorley gave a historical context on Measure B Committee: In 1996 there were two (2) ballot initiatives. One was a general sales tax initiative and one was a companion measure that listed out that if the electorate approved the sales tax initiative then they would use to fund specified transportation projects. Both passed. Discussion at prior year’s meeting that the tax portion that can be used for any lawful purpose. It is the good faith and intent of the companion measure to lay out the intended use of the money. Transportation funding changed in the county after the 1996 measure was passed: for instance in 2000 to specifically fund BART to Santa Clara County which meant there a big portion was funded out of this measure to fund the rail infrastructure project. Actions were taken to re-define transportation projects and the resulting changes were codified by action of the County Board of Supervisors. The tax measure expired in 2006 and, the function of the CWC ceased as it was assumed that the measure was completed and no more taxes were being collected. After a couple of years, it was decided from a legal standpoint that as long as there was significant outflows of money; meaning if funds being collected and spent on transportation projects after the 2006 expiration and, money was still coming in from residual sales tax, mostly from corporations, that the CWC should be resurrected. Last year \$200,000.00 came in and the dollar amount is trending lower in the current year. The committee was re-established in 2011 and contracted with the audit firm Vavrinek, Trine, Day & Co. District based representatives serve two (2) year non-renewable terms.

Member Nacionales asked how engaged the committee is in the audit portion phase. Mr. Doorley indicated the conduct of the audit is a technical process with the county fiscal staff and the audit firm. Mr. Doorley said he is not aware of any historical involvement leading up to the final audit by members of the committee. The primary role of the committee with regard to the audit is to review and approve the audit.

Member Michaels asked if it is possible to discuss the wind-down scenario and committee and considering minimal amount of money spent. How do we wind it down and what are the deliveries.

Mr Doorley indicated that he will address the inquiry in Item 7.

4. Election of Chair and Vice Chair: Mr. Doorley open the floor to nominations.

Moved by Member Peralez-Dieckmann and seconded by Member Michaels to nominate Melissa Erickson as Chair or vice chair. Melissa Erickson accepted the nomination for Chair. Discussion: Member Zack asked for Ms. Erickson's role and experience. Ms. Erickson indicated that she was program manager in charge a couple of years ago and was responsible for the formation of the committee. The motion passed unanimously.

Mr. Doorley invited newly elected Chair Erickson to take over the meeting, which she accepted.

Moved by Chair Erickson and seconded by Member Michaels to nominate Dolores Morales as vice-chair. Ms. Morales accepted the nomination. The motion passed unanimously.

5. Approval of Draft Minutes from November 27, 2012 meeting:

1. Dave Cameron noted on page 2, 2nd to the last bullet point reads ...”DOF *is in* contact with them.” It should read”DOF *should be* in contact with them.”

Moved by Member Nacionales and seconded by Member Morales, to approve the CWC November 27, 2012 draft minutes as amended, which passed unanimously.

6. Measure B Financial Audits for FY 2013 and public hearing regarding how Measure B funds are being spent:

- a. **Open Public Hearing** – None
- b. **Close Public Hearing** - Closed
- c. **Approve Audit Reports (Ahmed Gharaibeh, Vavrinek, Trine, Day & Co., LLP)**
 - Mr. Gharaibeh directed attention to the Independent Auditor's Reports and Fund Financial Statements prepared by VTD, for Fiscal Year 2013 and provided a brief synopsis of the internal control opinion and financial statement opinion for fiscal year 2013. Mr. Gharaibeh directed the members to Page 4 of the audit report regarding the statement of revenues and expenses and changes in fund balance indicating that sales tax is winding down and expenses are primarily from VTA billings charged to Measure B. VTD adheres to Government Accounting Standards Board. Mr. Gharaibeh advised that the financial statements were an unqualified opinion, that is, a clean opinion, with no exceptions or adjustments

Member Zenk asked Mr. Gharaibeh if the language in Measure B is checked against the companion measure. Mr. Gharaibeh said that the expenses is 2013 were checked against both.

Mr. Doorley pointed out on page 14 of the audit under Compliance and Other Matters, where it says: In addition, we performed specific testing to determine that the Measure B funds were expended for transportation projects specified in Measure A and/or approved by the County Board of Supervisors.

Member Michaels asked that based on the rate of spending, is it reasonable to say that the fund will be depleted in three (3) years. Mr. Garaibeh said the bulk of the fund balance is related to billings from VTA and with construction, can come in in one month and sometimes a longer period of time. VTA would have a better picture of when their projects will be complete.

Member Morales commented about the November 27, 2012 minutes on page 3, 2nd bullet point regarding the county's spending vs. receiving, adding perhaps it could be paired along with Member Michaels comment.

Moved by Member Zack and seconded by Member Morales, the audit report for fiscal year 2013 was approved unanimously.

d. Authorize Administration to Publish Report:

- Chair Erickson indicated that publishing the audit report publicly is part of the requirement and entertained a motion for approval to authorize administration to publish the audit report.

Moved by Member Morales and seconded by Member Maitiski, to authorize the publishing the audit report which passed unanimously.

Member Nacionales asked for clarification on seeking Board of Supervisors approval before publishing the audit report. Mr. Doorley said it's published on-line on the County's website as well as an extract copy of the report in a trade publication adding that copies are provided to the Board of Supervisors.

7. Informational Report on financial closeout of projects:

Mr. Doorley distributed three reports; Transportation Improvement Program Revenues, Expenditures and Changes in Fund Balance. County Roads & Airports Department Projects, Valley Transportation Authority Projects and summarized these reports as follows:

- Transportation Improvement Program: Chart was created based on information available from fiscal years 1999 to 2013. In 1999 revenues were approximately \$150,000,000.00 with expenditures at approximately \$50,000,000.00, peaking in FY 2003 with revenues at approximately \$419,000,000.00 and expenditures at approximately \$460,000,000.00 which has since been tapering down. Bond proceeds increased the revenues a bit however, these bonds were paid off, which is why the revenue and expenditure piece does not sync up as pristine. There has been a drop in last four (4) FY's from \$700,000.00 in FY 2010 in receipts, down to \$223,000.00 in FY 2013.
- VTA report noted close out dates for all of the projects and included additional environmental mitigation projects not called out separately before we could look at the fiscal impact.
- Additional funds in the amount of \$6,200,000.00 were allocated to the County Roads & Airports Department and specifically separated out into each of the five (5) supervisorial districts with the intent to adhere to the intent of the original ballot measure to fund county-wide transportation infrastructure improvement projects. While not yet complete, the projects are underway with funds reserved for completion. As of December 31, 2013, \$743,000.00 has been expended out of that fund with an additional \$5,400,000.00 still to spend on the County Roads & Airports projects list.

Member Nacionale asked that when bonds were activated, did the Measure B tax get put on hold. Mr. Doorley said there were bond issues that up fronted the amount of cash available then the bonds were paid off with the revenue that came in later.

Mr. Doorley added that he believes a three (3) year time frame is reasonable, given the farthest out project is scheduled for completion in 2017, with no anticipation of any shortfalls in funds. An oversight committee may not be necessary given once a diminimus state of funding is reached.

Member Nacionales asked that by the end of the phasing out period, all the monies that Measure B allowed will pay and fund it but, if it doesn't, will it then go to the general County to decide how to continue to fund it? Mr. Doorley said in the unlikely event that occurred, the County general fund would not be required to make up any shortfall.

Member Zenk asked what the timeline for completion of the County Roads & Airport projects. Mr. Doorley will check with County Roads & Airport to see anything deviates differently as they still have encumbered funds.

Member Maitski asked about the Coyote Ridge Butterfly Habitat project and its financial commitment. Mr. Doorley said when program goes away VTA will have the financial responsibility to maintain that ongoing.

Member Nussbaum commented on available balances and ETC's and asked if the contracts firm fixed price type or, are they subject to overrun and would the money come out of the buffer. Mr. Doorley said that the VTA contracts are with the separate municipal entity from the County of Santa Clara and therefore cannot speak to the exact nature of their contracts, adding that the current financial commitment of money is firm but any funding of cost over-runs would be a policy decision by the BOS.

Member Nacionales asked when all projects are complete, will the money go back to the general fund. Mr. Doorley said being these were companion measures, he doesn't believe there was an expectation of a residual balance. When the 2000 Measure was passed, it funded the BART rail extension to Santa Clara Valley. But it took biggest funding piece out and what will happen with the 1996 ballot money in order to honor the intent of the ballot measure.

Member Zenk asked if the intent could be to combine any excess monies with the 2000 measure, and have it go to that program. Mr. Doorley said one was a county general tax and the other was a VTA special tax. Combining funds to a common purpose would a policy decision by the BOS and VTA.

Member Maitski asked if it would be this committee's jurisdiction to allocate any unspent funds. Chair Erickson asked if the committee would be in a position to make recommendations to the BOS. Mr. Doorley confirmed that such a decision would rest with the BOS, but that this committee would be able to make advisory recommendations prior to BOS action.

Adjourn: Moved by Member Maitski and seconded by Member Zenk to adjourn the meeting which passed unanimously. Chair Melissa Erickson adjourned the meeting at 11:55 a.m.

Minutes recorded and prepared by Barbara Crump.