

Measure B Citizens Watchdog Committee
Tuesday, November 27, 2012
Minutes

1. Call to Order/Roll Call

Chair Decker called the meeting to order at 2:00 p.m. All persons in attendance stated their names.

Members Present:

Dave Cameron	Patrick Love
Jane Decker, Chair	Marty Michaels
Dave Fadness, Vice Chair	Cathy Remson-Lazarus
Bob Hagele	Michael Smith
Susan Levenberg	Jessica Zenk

Members Absent: Andres Quintero John Lemes
 Bob Blanchet

Measure B and County Staff:

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

2. Public Comment: None

3. Approval of Draft Minutes from February 7, 2012 meeting:

- Member Smith noted 2 corrections:
 - Item #1, Michael Smith was listed as absent however, he was present arriving late.
 - Item #6, second paragraph reads “Member Blanchet initiated discussion ...” should be corrected to “Member Smith initiated ...”
- Chair Decker asked Mr. Doorley about the posting of audits from the last minutes.
- Mr. Doorley indicated there was a posting in the San Jose Post Record of a truncated statement of the previous five (5) audits with a list of the basic findings with a link back to the County website.

Moved by Member Remson-Lazarus and seconded by Member Levenberg, to approve the CWC February 7, 2012 draft minutes as amended, which passed unanimously.

4. Measure B Financial Audits for FY 2012

a. Review and 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 2012 and provided a brief synopsis of the internal control opinion and financial statement opinion for fiscal year 2012. Mr. Gharaibeh advised that the financial statements were an unqualified opinion, that is, a clean opinion, with no exceptions or adjustments. Financial statements are fairly stated.

- Mr. Gharaibeh directed the Board to pages 3 & 4 to the notes detailing these statements. VTD issued a compliance opinion explaining that based on the testing performed of a significant sample size, these expenses were in compliance with Measure B and there were no findings to report. VTD looks only at the internal control related to Measure B and noted no deficiencies or material weaknesses in the internal control. The audit went smoothly with not too many expenses. Mr. Gharaibeh opened the floor for questions.
- Mr. Doorley directed the Board's attention to page 14 of the audit, which is an area that presented the most discussion last year with the basic question of the responsibility of the Board to make sure fiscal controls are in place on how money is being spent for purposes of which the tax measure was initiated. Measure A projects were amended by future Board action as well as subsequent Measure A, which was funded by the BART link. In addition to the fiscal rectitude of it, that the funds went to projects for which Measure A was intended for and which the Board made conscience direction to fund. The Board came to a compromised language that's represented on Page 14, with key language that 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." Mr. Doorley added that this was the exact language from the previous meeting and ensured that the auditor kept to same standard.
- Member Fadness pointed out on page 5, under **Measure B Sales Tax**, the third paragraph states: "In addition, the County continues to collect residual sales tax revenues based upon amended merchant tax returns or from audits of merchants conducted by the State Board of Equalization." Then on page 6, under **Sales Tax Revenue and Receivables**, the second paragraph states: "Sales tax receivables represent sales tax receipts subsequent to the Program's fiscal year-end relating to the current year sales activity." Member Fadness feels it should say "then current years" because it doesn't relate to this current year's receipts, it relates to fines that are being extracted from people for then current year taxes.
- Mr. Gharaibeh explained that the paragraph is referring to the receivable portion of the sales tax as opposed to the total collection of sales tax. The State takes a month or two after June 30, to pay the County for fiscal year 2011/12, while the paragraph on page 5 talks about why the sales tax, in totality, continues to be collected. They are two different accounts. One is on the income statement of the P/L statement while the other is an account on the balance sheet. Each one is describing a different aspect of the financial statements adding that when VTD writes statements, it adheres to Government Accounting Standards Board adding that the language is not always clear.
- Member Fadness asked Mr. Gharaibeh how much was collected last year and what are VTD's forecasts for the next year and the year after.
- Mr. Gharaibeh responded that VTD cannot speak for what will happen in the future as VTD only looks at numbers in retrospect. What was collected in 2011/12 is noted in the Statement of Revenues on page 4, which is about a half a million dollars, adding that the County will continue to collect on Measure B for an indefinite period of time.
- Mr. Doorley commented that he was expecting to see steeper drop by now adding that it has been close to a half million or more every year for the last three, to which Ms. Jhong said that the last quarter was \$98,000.
- Member Fadness asked how many claims there are against delinquent payers to which Member Cameron said the State Board of Equalization and DOF should be in contact with them.
- Mr. Doorley added that as long as the County is bringing in money, CWC will exist, adding the role of CWC may be different and the level of activity can diminish.

- Ms. Reynolds added Measure B requires the County to have a CWC to audit and report on how the funds are being spent. As long as funds are being spent, CWC has to be in place adding if the funds get to a diminimus level, the Board can discuss.
- Member Fadness commented if the County is spending \$10 to audit a \$1 receipt, then CWC is not doing its due diligence. Mr. Fadness said it's reasonable for the Board to look into this in depth at our next meeting and decide whether the Board can make a recommendation to the Board of Supervisors that they dispense with this effort, and put the remaining money into transportation, such as County roads.
- Member Hagele commented there still are expenditures and Measure B projects yet to be completed.
- Mr. Doorley said there is still a half million coming in and, a fund balance to be paid out. When CWC was resurrected, the County knew its role would be different than at its inception, with an annual meeting to look at audits and administer things properly and bringing things to a close.
- Member Hagele added there's no real idea when the authorized expenditures will be completed.
- Ms. Reynolds indicated part of it is completing projects and part is additional sales tax revenues are still coming in, adding that the County is getting more revenue than anticipated with some projects (VTA) coming in under budget.
- Member Hagele asked to whom the Board could ask as to the status of existing projects.
- Mr. Doorley responded he would look into it and email the information to Mr. Hagele.
- Member Cameron commented whatever the fund balance, it is an internal projection they can give and perhaps Finance can contact State Board of Equalization for projections.
- Member Smith commented neither Proposition 39 nor Measure B specifies an end point. Member Smith said he chaired the San Jose Unified Oversight Committee regarding Proposition 39 and when it reached a point when construction was done, all that was left was cleaning up the paper work and getting State approvals, the Oversight Board proposed it dissolve when remaining funds were one half of one percent of the total projects which were done, and which was approved. One additional audit was conducted at 6 months & money that was left went to deferred maintenance.
- Ms. Reynolds commented the CWC did the same a few years ago but it was disbanded because no record could be found of County involvement adding that neither the Board of Supervisors nor CWC has the ability to override what's in the ballot text, adding the only way is to go to court for a declaratory relief action.
- Chair Decker was not clear what was being referred to on page 8, note 4, which says "In June 2006 the Board of Supervisors adopted a Revenue and Expenditures Plan," because the revenue plan was adopted before 2006.
- Mr. Gharaibeh indicated it was referring to the last amendment to the expenditure, adding the wording can be clarified to reflect that.
- Member Remus-Lazaus pointed out two corrections. On page 1, at the end of the first sentence it says "listed in table of content." It should be corrected to *contents*. On page 2, at the end of paragraph, a period needs to be added.

Moved by Member Madness and seconded by Member Michaels to approve audit report as amended, which passed unanimously.

b. Authorize Administration to Publish Report (Doorley)

Moved by Member Fadness and seconded by Member Remus-Lazarus to approve as amended, the report to be published which passed unanimously.

Discussion:

- Member Michael inquired where the audit report is published and how to acquire a copy.
- Mr. Doorley responded the audit report was published with a two paragraph extract, in the San Jose Post Record, indicating full copies of the audit can be found on the County website and can be obtained from the address of the clerk of the Board.
- Ms. Reynolds said the publication must have a circulation of a certain amount to qualify.

5. Future meetings/Farewell to departing members (Decker/Doorley)

- Mr. Doorley thanked outgoing Members Chair Jane Decker and Dave Fadness, District 1; Vice Chair; Patrick Love and Andres Quintero, District 2; Bob Blanchet, District 3; Michael Smith and Bob Hagele, District 4; Susan Levenberg and John Lemes, District 5, for their service to Measure B CWC.
- Ms. Remson-Lazarus commented she thought she was in District 5. Mr. Doorley said she was listed under the League of Woman Voters & would like to discuss further about future service.
- There was discussion among the members about recruiting new members and assuring a smooth transition to which Mr. Doorley commented although there will be a big change in leadership, the process will be smooth one.
- Chair Decker indicated that she and Mr. Fadness would be happy to come to a meeting and provide information to the new Board.
- Mr. Doorley said that he would inform the CWC of the next meeting date once it is set.

5. Adjournment

Member Fadness moved to adjourn the meeting in honor of the outgoing members, at 2:38 pm.

Respectfully submitted,

Barbara Crump
Recording Secretary