



**PASADENA UNIFIED SCHOOL DISTRICT (PUSD)
CITIZENS' OVERSIGHT COMMITTEE (COC) MEETING
Meeting Minutes of August 16, 2017**

Location: Pasadena Unified School District Education Center, Room 229, 351 S. Hudson Ave., Pasadena, CA. 91109

Date & Time of meeting: August 16, 2017 at 6:30 p.m.

Present: Clifton Cates, Quincy Hocutt, Camille Dudley, Steven Cole, Francis Boland, Glenn DeVeer, James Vitale, Jen Wang, Leslie Cross, Mikala Rahn, Mike Mohit, Willie Ordonez.

Absent: Diana Verdugo, Gretchen Vance, Joelle Morisseau-Phillips,

Pasadena Unified School District (PUSD) Board Member Liaison: Kim Kenne

PUSD Staff: Miguel Perez, Construction Specialist.

PUSD Staff Absent: Chief of Facilities Nelson Cayabyab

(Abbreviations used in these minutes: PUSD - Pasadena Unified School District and COC – Citizen's Oversight Committee.)

I. CALL TO ORDER

Mr. Cates

The meeting was called to order at 6:32 PM

II. APPROVAL OF MINUTES OF JULY 19, 2017 MEETING

Mr. Hocutt

Mr. Hocutt informed the Committee that the transcript and the first rough draft of the July 19, 2017 Meeting Minutes were received too late from Facilities giving insufficient time to prepare the final Minutes. Mr. Cates asked when the documents were received, and Mr. Hocutt indicated receipt "three hours before the meeting." Mr. Cates noted that this time was not adequate for the preparation of the Minutes, and this puts the COC outside the time limits of the Brown Act, which states that agendas of public meetings and all associated documents should be posted at least 72 hours in advance of the meeting. Mr. Cates also noted that "if we get the draft minutes just hours before the meeting, there is no way we can comply with the law." The Committee unanimously (12-0-0) approved deferring the consideration of the July Meeting Minutes until the next COC meeting.

III. PUBLIC COMMENTS

Mr. Cates

Present at the meeting to discuss current construction conditions at Washington Elementary were Tom Dunford, Peter Loera, Jesse Loera, Aaron Thompson and Robert Smith. These gentlemen represented sub-contractors and the Carpenter's Union and the Labor Management Cooperation Committee. They collectively made several serious allegations regarding the manner in which the Washington Elementary Construction project is being handled, with particular regard to the performance of the Inspector-of-Record (IOR) who also serves as a Project Manager for the PUSD (with both functions being paid from Measure TT funds.) The *(undocumented)* allegations included the causation of unnecessary delays, a conflict of interest, working as an inspector on more projects than allowed and thereby charging excessive fees, winning a low bid competition by excluding necessary

work items, creating the necessity for involvement of a surety company, payment of excessive fees for inspection services, overpayment for architectural supervision due to delays, and non-payment to certain subcontractors. The Carpenter's Union made allegations of prevailing wage violations and coercion and bribery and alleged that perhaps 60 percent of the funds on the Washington project were misallocated. It was alleged that the certified payroll did not match what the employees received in pay. One of the carpenters alleged that the general contractor has been billing for items that have not been purchased, such as carpeting and furniture, and has not been paying the subcontractors. The personnel were advised that allegations of this nature will require proof before anything could be done. The Director of the Western States Drywall Lathing Labor Management Cooperation Committee stated that he was expending a good deal of his staff time to ensure that trust fund contributions were being paid into the trust and that a lien has been placed on the work.

After hearing their allegations, Mr. Cates informed the group that the COC does not have jurisdiction on the matter but that responsibility belongs with the District and in particular the Facilities Department. Several COC Members advised the group to attend the Board of Education meeting and to present their case(s) at this forum. The group was also asked to provide the COC with copies of any documents necessary to substantiate their claims. It was also recommended that the group present their case in the public comment section of the upcoming Board of Education meeting. They were also advised to meet with the Chief of Facilities.

IV. BUSINESS

A. Action taken on Board Reports 114-B and 113-B (legal fees paid out of TT funds)

Mr. Cates

Mr. Cates asked if the Board Of Education had taken any action on the problem of non-construction legal fees being paid out of TT funds, which are restricted to construction usage only.

Ms. Kenne noted that she had found in the Attorney's bills through April 2017 the following charges to Measure TT:

- a. \$44,000 for the 7-11 committee and \$4,000 for Linda Vista disposition
- b. \$228,000 for Washington Elementary, which were legal fees incurred ostensibly due to the issues brought forth in this meeting's prior public comments.

Ms. Kenne stated that she had asked to have the legal fee issues placed on the Facilities Meeting Agenda.

Mr. Boland stated an opinion that the District is "basically robbing Peter to pay Paul."

He noted that they are trying to pay bills and seek funds where they can find them, but that certain expenses were not appropriate to pay out of Measure TT.

Mr. Cates noted that the Board already has received formal notice from the Committee that the Board resolutions --and there are three of them -- would allow the illegal expenditure of TT funds, and there is a strong suggestion that there has been illegal expenditure of TT funds. He stated that the only way to verify this would be to examine the description of the actual legal services provided.

There was a lengthy discussion with many comments from the members in regards to the best format and strategy and forum to pursue, and Mr. Cates stated that four COC members would convene a strategy session to discuss the issue. He noted that under the COC bylaws, individual members other than the Chair do not have the right to represent the Committee before the Board or anyone else.

B. District responses to outstanding requests for information *Mr. Cates*

Mr. Cates noted that there are several outstanding requests for information:
Information for Project Budgets and Project Construction Status Reports.
Information pertaining to Norma Coombs and reconciliation of its budget numbers.
Board Reports ending with a suffix other than “F” requesting expenditure of Proposition TT funds, e.g., Board Reports 114-B and 113-B.
Bills from the District’s law firm showing the nature of the legal services rendered.
Timely provision of Board Reports to the COC.
Attendance of the Chief of Facilities at COC meetings.

Mr. Cates noted that to receive this information a Public Records Act Request had been filed with the District and that replies should be received by the September meeting.

C. Review of new Board Reports *Mr. Hocutt*

Mr. Cates noted that the Board Reports had been received by the COC only two days before our meeting.

After discussion of the Board reports, the following actions were taken:

- a. With a 12-0-0 vote, the COC approved BR1228-F, BR1229- F, and BR1231-F
- b. With an 8-4-0 vote, BR1230-F was approved.
- c. With a 12-0-0 vote the Committee recommended to the District to postpone consideration of BR1203-F. This was the newly revised Priority Listing of projects to be built with remaining TT funds and it was decided there was not sufficient time to properly vet such a last minute proposal before a Board vote.

During the review of the Board Reports, Mr. Vitale mentioned that the District is not using the standard AIA Contract forms for their contracts with the consultants, and that he is of the opinion that the District should use them because it would be to the benefit of the District. Ms. Cross agreed with Mr. Vitale in the use of an AIA Contract as the only contract form to be used by the District. Mr. DeVeer noted that the AIA Contract forms “after 150 years of use have been tossed out of the window by the District”, and that these days they are been modified on a job-by job basis. Ms. Cross noted that the use of an AIA Contract seems just like a best practice that should be used across the board, and that the AIA standard form should be the only one the District can use and that no other firm could bring in their own forms. Mr. Cates noted “we will recommend to the Board that all these contracts be changed”.

There was an extensive discussion in regards to the appropriateness of the use of TT funds for design. In the opinion of the COC and their independent legal counsel, TT funds should not be used for design of a project wherein it is known up front that funds to complete that particular project will not be available.

Further discussion brought forth the opinion that the Facilities Committee of the Board was not properly examining the spend-out proposals coming to it and making properly vetted recommendations to the full Board.

D. Report by Chief of Facilities

Mr. Perez

Mr. Perez informed the Committee that upon direction from the Chief of Facilities, he (Mr. Perez) would henceforth be the person in charge of the Facilities Reports, rather than the Chief of Facilities.

Mr. Perez distributed a proposed version of the August 16, 2017 Construction Status Report and showed a pictorial presentation of issues associated with the ongoing construction projects included in that report. Mr. Perez promised the Committee that he would provide the Committee with a list of the inspectors on each project.

E. COC website

Mr. Cates

Mr. Cates asked the members to check it from time to time between meetings and especially a day or two or three before meetings. He also noted “we're posting lots of information there”.

F. COC subcommittees

Mr. Cates

Mr. Cates proposed to defer this item in the interest of time, but not without noting that help is needed on the Public Outreach Committee, and that “we need to get our message out to the public”

G. Report by Board liaison to the COC

Ms. Kenne

Ms. Kenne thanked the COC for all its efforts in its work on a Construction Status Report, and noted that she would like to get a Project Status Report, showing if projects are in design, at DSA, if they have been delayed in DSA, etc. Ms. Kenne noted that she is unhappy that an up-to-date Budget Report is not available yet.

Ms. Kenne provided a report she had developed representing funds budgeted for 2017-18, and showing that there is approximately \$20M left in Measure TT, after currently committed funds are accounted for

Ms. Kenne informed the Committee that the Chief of Facilities has sent to the Board a list of the potential sites that would be eligible for the 60/40 State funding for modernization.

H. Report by COC liaison to Facilities Committee

Mr. Cole noted that this COC meeting had already covered the Facilities Committee related issues.

I. Report from Site Council Representatives

Ms. Verdugo

Ms. Verdugo was absent, therefore there was no report presented regarding Site Council activities.

Mr. Cates asked if anyone had contacted the Pasadena Star News or The Outlook to discuss the Committee's oversight activities. The answer was yes, that The Pasadena Independent and Pasadena Now had been contacted, but neither had responded. Mr. Cates requested that they be approached again and asked to contact him, as he intended to speak with them.

There were no comments or objections to this intended approach.

V. NEXT MEETING DATE:

Mr. Cates

The next COC meeting will be held on Wednesday, September 20, 2017 at 6:30 p.m. at the PUSD Education Center on Hudson Avenue.

VI. ADJOURNMENT

Mr. Cates

The meeting was adjourned at 9:36 PM.