



## Measure X Citizens' Bond Oversight Committee

Special Meeting Minutes  
April 19, 2022 – 6:00 P.M.  
Zoom Conference Call

<b>Present:</b>	John Gould Gordon Machado Jim Rogers John Flaherty Elvira Robinson Michael Dziuba Cynthia Matory	Community At-Large Business Community Senior Citizens' Organization Community At-Large Support Organization Taxpayers Association Student
<b>Staff:</b>	Dr. Kathleen Rose Graciano Mendoza Rosie Zepeda Ann Kennedy Mike Chegini Carol Anderson	Superintendent/President Vice President of Administrative Services Public Information Officer Financial Manager, AKG Communications Manager, AKG Program Support, AKG

### A. CALL TO ORDER

The meeting was called to order at 6:01 P.M. with a quorum by Ms. Robinson.

### B. ROLL CALL

Roll call attendance was taken.

### C. APPROVAL OF AGENDA

John Gould made a motion to approve the agenda, seconded by Jim Rogers. The agenda was approved as presented by a roll call vote.

### D. COMMENTS FROM THE PUBLIC

No comments were received from the public.

### E. GRAND JURY REPORT

Dr. Rose reviewed the Grand Jury Process with the committee. Dr. Rose reviewed the Santa Clara County Grand Jury website, noting that any person can submit a Grand Jury complaint form, requesting a Civil Grand Jury investigation. She noted that Gavilan is a joint community college district, serving both San Benito and Santa Clara counties. The team that conducted the investigation and interviewed Dr. Rose was from Santa Clara County.

The purpose of the Civil Grand Jury investigation was to look at the execution of Measure X through the oversight of the Citizens' Bond Oversight Committee. The report was meant to educate the public about educational bonds, inform residents about the Measure X bond program and suggest ways to improve bond oversight. There were fourteen (14) recommendations for the District in the report.

Dr. Rose highlighted page nine (9) of the report which outlined the methodology used in the investigation. The Civil Grand Jury:

1. Attended virtual Board of Trustees and CBOC meetings
2. Analyzed the Measure X ballot language
3. Obtained and reviewed past meeting agendas, minutes and supporting documentation in BoardDocs

4. Conducted stakeholder interviews
5. Requested and received supporting documentation
6. Examined the Measure X Oversight Committee website
7. Attended an annual conference of the California Association of Bond Oversight Committees
8. Reviewed best practices of other CBOC's.

Mr. Rogers asked if any CBOC members were interviewed. Ms. Robinson and Mr. Machado responded that they were interviewed.

Dr. Rose wrote a letter to the Honorable Judge Zayner in response to the Civil Grand Jury Report. The letter was prepared and reviewed by bond counsel, A Kennedy Group and Dr. Rose and culminates the District's responsibility to the report. The District was asked to take certain actions but there is not a requirement for a follow-up report and there will not be any more visits. The letter includes responses to, and action plans for, the fourteen (14) recommendations outlined in the report. It is the District's responsibility to take the guidance and recommendations provided by the Civil Grand Jury and use it to better our processes for both the District and the bond, as well as being forthright in all communications regarding Measure X, the oversight of Measure X and the execution of Measure X.

A Kennedy Group prepared a matrix outlining each of the recommendations, the response to each, the status, and any additional actions taken. The District will continue to review the continuous improvement objectives and ensure that the CBOC is well informed about their role and that they have what they need to conduct their roles and responsibilities.

The CBOC reviewed the matrix and had the following questions and/or comments:

1. Finding #2 related to the membership and claimed that the membership fell below the minimum required by law. Mr. Rogers wondered if this is the reason for finding #2. Dr. Rose pointed out that the response to finding #2 was that although we had vacancies, our membership met the legal requirement established by the education code.
2. Mr. Flaherty feels that finding #4 is faulty and doesn't believe that anyone has questioned the CBOC's independence and there is no evidence in the report that anyone has questioned the independence. The report also claims that the oversight committee wasn't aware of the relationship between the contractor and the District. Mr. Flaherty feels that this is wrong, and that the committee was aware of the relationship between the contractor and the District. Ms. Robinson agrees and notes that the committee's function is to follow education code and she believes that is what the committee is doing.
3. Finding #5 indicates that the newsletter has been dormant. Dr. Rose noted that the newsletter has not been dormant and in fact has been very consistent and has been posted as outlined in the District's agreement with A Kennedy Group. The archive page was updated to ensure that any member of the public can access the archive page.
4. Finding #9 claims that the District did not provide the committee with information regarding initiatives to maximize bond revenues using cost-saving measures such as joint-use facilities. Mr. Flaherty does not agree with this finding. Dr. Rose noted that education code outlines examples of cost saving measures that CBOC members can discuss. Dr. Rose also noted that the CBOC members have the opportunity to ask questions regarding any materials brought to them, either operationally or fiscally at every meeting.

Mr. Flaherty had the following comments on the report that he wanted to direct to the Oversight Committee since they are representing the public:

1. Mr. Flaherty doesn't believe that the report is as substantive as it should have been and that Gavilan was done a disservice as a result. The report had overstated conclusions without strong evidence and in some instances they were wrong.
2. The introduction on page five (5) of the report talks about a "lingering mistrust felt by some District residents that were revealed in response to a 2017 survey commissioned by the District". Mr. Flaherty feels that the questions were misleading, and the results were not reflected accurately.
3. Finding #4 claims that the CBOC members were not fully aware of the scope of program management, technical and administrative services being provided by AKG. Mr. Flaherty feels that a number of the committee members are familiar with AKG's role however he wasn't asked if he was aware of the relationship. It is important that the information contained in a Grand Jury report be accurate as it is a public document and Mr. Flaherty feels that the Grand Jury did some misconstruing on this finding.

Mr. Flaherty notes that the District's response to the report is the Grand Jury's best example of what they were trying to show in their report. The District came up short in their response to the report. The committee didn't know there was an investigation going on until they received the report from AKG on December 16<sup>th</sup>, with a note that the response will be sent to the CBOC when it is complete. No one asked the CBOC for help with the response or their opinion. Mr. Flaherty feels that AKG failed the CBOC and that they should have informed the CBOC as soon as they knew about the report. He hopes that in the future AKG understands their responsibility to the CBOC, in addition to its role as program managers.

Mr. Flaherty also feels that the District's bond counsel did the CBOC a disservice by saying there are no best practices for CBOC's. The Little Hoover Commission is a high credibility commission that does oversight public service. Mr. Flaherty referenced a 2009 and 2017 Little Hoover Commission report in which they list best practices for oversight committees and noted that the Grand Jury didn't look at these reports and bond counsel didn't tell the committee about them. One of the best practices listed in the Little Hoover Commission report is for the CBOC to have its own independent counsel. Mr. Flaherty agrees with this as he does not feel that bond counsel was representing the CBOC.

Mr. Flaherty feels that AKG needs to do a better job of responding, pointing to an example of AKG not responding to his question regarding ventilation and the pandemic as well as a question regarding joint use.

Mr. Flaherty does not want his comments to be misconstrued and points out that AKG is doing an outstanding job in program management, Mr. Chegini has provided terrific support on the annual report, the committee has done great work in accepting the audits and providing an annual report, and Dr. Rose has done a good job in running the Measure X program.

#### F. ADJOURNMENT

Meeting adjourned at 6:56 pm.