

**MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT
INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE
("MEASURE G-OVERSIGHT COMMITTEE")**

AGENDA

**Tuesday, December 18, 2012
6:30 P.M.**

**Board Room
750-A San Pierre Way**

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| 6:30 p.m. | 1. Welcome |
| 6:35 p.m. | 2. Call to Order and Review Agenda |
| 6:45 p.m. | 3. Public Comment: Opportunity for Public Comment for Items Not on Agenda |
| 6:50 p.m. | 4. Review and Discussion on Committee Bylaws |
| 7:10 p.m. | 5. Overview of Brown Act |
| 7:30 p.m. | 6. Review and Discussion of Measure G ballot language and full text |
| 7:50 p.m. | 7. Future Agenda Items |
| 8:00 p.m. | 8. Adjourn |

Members

Juan Aranda

Jeremy Burns-Vice Chair

Greg Coladonato-Chair

Dana Doctorow

Charlie Durand

Jessica Gandhi

Christi Opitz

Peter Pirnejad

Fiona Walter

CC: Board of Trustees
Craig Goldman, Superintendent
Principals



The Citizen's Oversight Committee Review and Discussion of Committee Bylaws Drafted from a Presentation provided by the Law Firm of Lozano Smith

Terese McNamee

Chief Business Officer

Mountain View Whisman School District

Overview of Topics

- Citizens' Bond Oversight Committee
 - Bylaws
 - Duties
 - Limitations
 - Composition
 - Eligibility
- Site Facilities Improvement Plan Team
 - Financing Team
 - Design Team/Construction Team
 - Community
 - District Staff
- Citizens' Bond Oversight Committee
 - Board of Trustees

Citizens' Bond Oversight Committee

“ The purpose of the citizens’ oversight committee shall be to *inform the public* concerning the expenditure of bond revenues. The citizens’ oversight committee shall *actively review and report* on the proper expenditure of taxpayers’ money for school construction. The citizens’ oversight committee shall *advise the public* as to whether a school district... is in compliance with the requirements of [Prop. 39]...” (Ed. Code §15278 (b)).

The committee shall be deemed to be subject to the Ralph M. Brown Public Meetings Act of the State of California and shall conduct its meetings in accordance with the provisions thereof.

Duties

- Provide oversight for ensuring that bond revenues are used properly (Ed. Code §15278 (b)(1)&(2)).
- Review the required annual audits
 - Financial Audit for the Bond Fund
 - Performance Audit
- Inspect facilities
- Review deferred maintenance proposals or plans
- Review cost-saving measures proposed by the District to maximize bond proceeds
- Issue yearly report on findings after reviewing annual audits
- Each member shall comply with Ethics Policy

Limitations

- Do not participate in the bond sale
- Do not determine how funds will be spent
- Do not participate in the facilities planning as members of the oversight committee
- Do not participate in selecting contractors or approving contracts
- Do not handle legal matters
- Do not appoint or fill vacancies on the committee
- Do not amend the committee bylaws

Composition

- The Committee shall consist of at least seven (7) members appointed by the Board from a list of candidates submitting applications and meeting the following criteria: (Gov. Code, §15282)
 - Parent or Guardian of enrolled student
 - PTO representative and parent of enrolled student
 - Business community representative
 - Senior citizens' organization representative
 - Taxpayers' organization representative
 - At large community members

Eligibility

- Must be at least 18 years of age
- May not be an employer, official of the District
- May not be a vendor/contractor/consultant of the District
- Must comply with the Conflict of Interest laws (Ed. Code §35233)

Other Provisions of the Bylaws

- **Term-**Each member shall serve a term of two (2) years and may serve for two (2) consecutive terms.
- **Appointment of Members-** Members of the committee shall be appointed by the Board
 - *District will advertise and solicit applications*
 - *Superintendent will review the applications and make recommendations to the Board*
- **Appointment of Officers-**The committee shall elect a Chair and a Vice-Chair who shall serve in such capacities for one year and may be re-elected by majority vote.

Site Facilities Improvement Plan Team

- Financing Team
- Design Team/Construction Team
- Community
- District Staff
- Citizens' Bond Oversight Committee
- Board of Trustees



Overview of The Brown Act and Committees Subject to the Brown Act

Citizen's Oversight Committee Drafted from a Presentation provided by the Law Firm of Dannis Woliver and Kelly

Terese McNamee

Chief Business Officer

Mountain View Whisman School District

The Brown Act and What You Need to Know

- Brown Act Principles
- Handling Committees Subject to the Brown Act
 - What Committees
- Meetings
 - Process
 - Public Rights
 - Agenda Requirements
 - Exceptions to agenda requirements
 - Closed sessions & Business matters limited to open session

Brown Act Principles

Intent of the Brown Act (The Ralph M. Brown Act, Gov. Code, §54950)

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is good for them not to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

To keep the public informed of the actions, debates and views of locally elected representatives; and

To provide the procedural framework for local legislators to meet, debate, act and listen collectively to their constituents.

Applicability

- Act applies to a “member of the legislative body of a local agency” which includes “[a]ny person elected to serve as a member of a legislative body who has not yet assumed the duties of office...”
 - Legislative bodies are governing bodies or other bodies created by State or federal statute including: committees, commissions or boards.
 - Committees subject to the Brown Act include: Citizen bond oversight committee, Community advisory committee and Board sub-committees.
- Once elected, officials are expected to know the requirements of the Brown Act, even before taking office.

Meetings-Defined

Any congregation of a **majority** of members of a legislative body at the **same time and place**, including teleconference locations, **to hear, discuss, or deliberate** upon any item within the subject matter jurisdiction of the legislative body.

A majority of the members of a Board shall not, outside a noticed meeting, use a **series of communications** of any kind, directly or through **intermediaries or technological devices** (telephone, electronic mail, facsimile, internet), to discuss, deliberate, or take action on any item of business that is within the board's jurisdiction.

This requirement shall not prevent an employee or official of a district from engaging in separate conversations or communications outside of a meeting with other board members in order to answer questions or provide information regarding a matter that is within the district's jurisdiction, if that person does not communicate to board members the comments or position of any other board member.

The definition of meetings specifically excludes: individual contacts, communications between members that do not constitute discussion, deliberation or taking action on district business.

Meetings-Process

- Regular meetings are open to the public with a posted agenda and minutes
- Teleconferencing must be from a publicly accessible location; at least a quorum must be within District boundaries
- Agenda must be posted and public able to address Board at each location
(Gov. Code, §54953 (b)(3).)

Meetings-Public Rights

- Any person attending a public meeting may videotape, unless disruptive
- Public may comment on agenda items before or during the committee's consideration of an item

Meetings-Agenda Requirements

- Agenda must be publicized at least 72 hours before a regular meeting and 24 hours before a special meeting
- Agendas may be publicized by
 - Posting in a location freely accessible to member of the public
 - Posting on the district's website
 - Mailing to persons requesting mailed notice including local news media
- Agenda must include the time and location of the meeting and agenda items in sufficient detail for the public to determine whether to participate.

Meetings-Exceptions to Agenda Requirements

- Emergencies (requires majority vote)
- Need to take immediate action arose after the agenda was posted (requires 2/3 vote, or unanimous if less than 2/3rds of Board present)
- Non-agendized items are not permitted to be discussed.
 - Items allowed include: asking for clarification, responding to questions, making a brief announcement or brief report of activities

Meetings-Closed Sessions and Business Matters Limited to Open Session

- Closed Sessions include real property transactions, pending and anticipated litigation, tort claims and threats to the Public.
- Business matters limited to open session
 - Contracts
 - Consultant Agreements
 - Selection of school sites for purchase or disposition
 - Scope of Bond Measure
 - Anything else not identified as an allowed close session

Violations of the Brown Act

- Misdemeanor liability exists if there is “intent to deprive public” (Gov. Code, §54959).
- Public can sue to stop violation of Brown Act
- Agency must be given opportunity to cure
- Action taken in violation of Brown Act is null and void unless within an exception.

CITIZENS' BOND OVERSIGHT COMMITTEE BYLAWS

Section 1. Committee Established. The Mountain View Whisman School District (the "District") was successful at the election conducted on June 5, 2012 (the "Bond Election") in obtaining authorization from the District's voters to issue up to \$198,000,000 aggregate principal amount of the District's general obligation bonds ("Measure G"). The election was conducted under Proposition 39, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State ("Prop 39"). Pursuant to Section 15278 of the Education Code, the District is now obligated to establish the Committee in order to satisfy the accountability requirements of Prop 39. The Board of Trustees of the Mountain View Whisman School District (the "Board") hereby establishes the Citizens' Bond Oversight Committee (the "Committee"), which shall have the duties and rights set forth in these Bylaws. The Committee does not have legal capacity independent from the District.

Section 2. Purposes. The purposes of the Committee are set forth in Prop 39, and these Bylaws are specifically made subject to the applicable provisions of Prop 39 as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the *Ralph M. Brown Public Meetings Act* of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support to the Committee as shall be consistent with the Committee's purposes, as set forth in Prop 39.

The proceeds of general obligation bonds issued pursuant to the Election are hereinafter referred to as "bond proceeds." The Committee shall confine itself specifically to bond proceeds generated under Measure G. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee's review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform only the following duties:

3.1 **Inform the Public.** The Committee shall inform the public concerning the District's expenditure of bond proceeds. In fulfilling this duty, all official communications to either the Board or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the consensus view of the Committee.

3.2 **Review Expenditures.** The Committee shall review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in the Measure G; and (b) no bond proceeds were used for teacher or administrative salaries or other operating expenses in compliance with Attorney General Opinion 04-110, issued on November 9, 2004.

3.3 **Annual Report.** The Committee shall present to the Board, in public session, an annual written report which shall include the following:

(a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and

(b) A summary of the Committee's proceedings and activities for the preceding year.

3.4 Duties of the Board/Superintendent. Either the Board or the Superintendent, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (a) Approval of contracts,
- (b) Approval of change orders,
- (c) Expenditures of bond funds,
- (d) Handling of all legal matters,
- (e) Approval of project plans and schedules,
- (f) Approval of all deferred maintenance plans, and
- (g) Approval of the sale of bonds.

3.5 Measure G Projects Only. In recognition of the fact that the Committee is charged with overseeing the expenditure of bond proceeds, the Board has not charged the Committee with responsibility for:

(a) Projects financed through the State of California, developer fees, redevelopment tax increment, and certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without bond proceeds shall be outside the authority of the Committee.

(b) The establishment of priorities and order of construction for the bond projects, which shall be made by the Board in its sole discretion.

(c) The selection of architects, engineers, soils engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria established by the Board in its sole discretion.

(d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent), which shall be determined by the Board in its sole discretion.

(e) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee.

(f) The approval of an annual budget for the Committee that is sufficient to carry out its activities.

(g) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its function under Prop 39.

Section 4. Authorized Activities.

4.1 In order to perform the duties set forth in Section 3.0, the Committee may engage in the following authorized activities:

(a) Receive and review copies of the District's annual independent performance audit and annual independent financial audit, required by Article XIII A of the California Constitution.

(b) Inspect school facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by the District's Assistant Superintendent, Business Services.

(c) Review copies of deferred maintenance plans developed by the District.

(d) Review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

Section 5. Membership.

5.1 Number.

The Committee shall consist of at least seven (7) members appointed by the Board of Trustees from a list of candidates submitting written applications, and based on criteria established by Prop 39, to wit:

- One (1) member shall be the parent or guardian of a child enrolled in the District.
- One (1) member shall be both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization, such as the P.T.A. or a school site council.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizens' organization.
- One (1) member active in a bona-fide taxpayers association.
- Two (2) members of the community at-large.

5.2 Qualification Standards.

(a) To be a qualified person, he or she must be at least 18 years of age.

(b) The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3 Ethics: Conflicts of Interest. Members of the Committee are not subject to Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1

of the Government Code and the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and are not required to complete the Form 700. However, each member shall comply with the Committee Ethics Policy attached as "Attachment A" to these Bylaws.

5.4 Term. Except as otherwise provided herein, each member shall serve a term of two (2) years, commencing on the date of the first meeting of the Committee. No member may serve more than two (2) consecutive terms. At the Committee's first meeting, members will draw lots or otherwise select a minimum of two members to serve for an initial one (1) year term and the remaining members for an initial two (2) year term.

5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) the District will advertise in the local newspapers, on its website and in other customary forums as well as solicit appropriate local groups for applications; (b) the Superintendent will review the applications; and (c) the Superintendent will make recommendations to the Board.

5.6 Removal; Vacancy. The Board may remove any Committee member for any reason, including failure to attend two consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee. The Board shall seek to fill vacancies within 90 days of the date of occurrence of a vacancy. Members whose terms have expired may continue to serve on the Committee until their successor has been appointed.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District; (b) individual members of the Committee retain the right to address the Board, either on behalf of the Committee or as an individual; (c) the Committee shall not establish sub-committees for any purpose; and (d) the Committee shall have the right to request and receive copies of any public records relating to Measure G funded projects.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee shall meet at least once a year, but no more frequently than quarterly.

6.2 Location. All meetings shall be held within the Mountain View Whisman School District, located in Santa Clara County, California.

6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business.

Section 7. District Support.

7.1 The District shall provide to the Committee necessary technical and administrative assistance as follows:

(a) preparation of and posting of public notices as required by the *Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the District Board;

(b) provision of a meeting room, including any necessary audio/visual equipment;

(c) preparation and copies of any documentary meeting materials, such as agendas and reports; and

(d) retention of all Committee records, and providing public access to such records on an Internet website maintained by the District.

7.2 District staff and/or District consultants shall attend Committee proceedings in order to report on the status of projects and the expenditure of bond proceeds.

Section 8. Reports. In addition to the Annual Report required in Section 3.2, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. Such report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Superintendent shall appoint the initial Chair. Thereafter, the Committee shall elect a Chair and a Vice-Chair who shall act as Chair only when the Chair is absent. The Chair and Vice-Chair shall serve in such capacities for a term of one year and may be re-elected by vote of a majority of the members of the Committee.

Section 10. Amendment of Bylaws. Any amendment to these Bylaws shall be approved by a majority vote of the Board of the Education of the District.

Section 11. Termination. The Committee shall automatically terminate and disband concurrently with the Committee's submission of the final Annual Report, which reflects the final accounting of the expenditure of all Measure G monies.

CITIZENS' BOND OVERSIGHT COMMITTEE ETHICS POLICY STATEMENT

This Ethics Policy Statement provides general guidelines for Committee members in carrying out their responsibilities. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

POLICY

- **CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds, or (2) any construction project which will benefit the Committee member's outside employment, business, or a personal finance or benefit an immediate family member, such as a spouse, child or parent.

- **OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

- **COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Mountain View Whisman School District.

- **COMMITMENT TO DISTRICT.** A Committee member shall place the interests of the District above any personal or business interest of the member.

Mountain View Whisman School District
Independent Citizens' Oversight Committee
("Measure G Oversight Committee")

Tuesday, October 30, 2012

In Attendance: Juan Aranda, Jeremy Burns, Greg Coladonato, Dana Doctorow, Charlie Durand, Jessica Gandhi, Christie Opitz, Fiona Walter (Ex-Officio), Craig Goldman (Superintendent), Terese McNamee (CBO).

Absent: Peter Pirnejad

Meeting was called to order at 6:40 pm by Craig Goldman, Superintendent.

1. Welcome & Introductions – members introduced themselves both by school site and interest in serving on this district committee. Mr. Goldman requested that members bring a laptop if they have one to each meeting.
2. Call to Order and Review Agenda
 - a. CTO at 6:40 pm as noted above.
 - b. Agenda was unanimously approved.
3. Public Comment: No one from the community wished to comment on non-agendized items.
4. Election of Officers (Craig Goldman)
 - a. Review of required officers (Chair, Vice Chair) and suggested officers (Secretary)
 - b. Fiona Walter agreed to serve as secretary; to be voted on at the next meeting
 - c. MSC* (Walter/Gandhi) – Committee unanimously approved Greg Coladonato as its Chair for the 12-13 year
 - d. MSC (Opitz/Doctorow) – Committee unanimously approved Jeremy Burns as its Vice Chair for the 12-13 year
 - e. Bylaws for COC and Measure G Ballot language are available on the website, but will be provided at the next meeting
 - f. A brief review of the Brown Act and Brown Act issues was provided
5. Presentation on Current Status of Measure G (Terese McNamee)
 - a. Bond issuance begins mid-November; first issuance is for Phase I (\$50M) program and design at both middle schools
 - b. Will be prioritizing wish list within the plan

- c. Key things – replace portables, add auditorium/music facilities, additional modernizations at each site, specific to Crittenden is field/track work
- d. Three main areas – performance space, classroom expansion, modernization
- e. Ancillary services – Maintenance and Operations (MOPs) consolidated, transportation yard, kitchens
- f. RFPs have gone out for Program Manager (PM) and Architect; PM has been selected; architect in progress (final stage)
- g. After architect selection, community outreach/input begins
- h. Summer 2013 – goal is to have something visibly started; Dept. of State Architecture (DSA) is the limiting factor on this
- i. Phase I – 2013 – 20-24 months
- j. Phase II – Start planning next summer for start of work Summer 2014
- k. Phase III – remaining elementary schools
- l. Demographer's results are due shortly and will be incorporated into Phases II and III
- m. Cycle for each phase: planning, community outreach, construction
- n. Cannot issue bonds of more than \$30/\$100k assessed value; issuance timing depends on this "bonding capacity"
- o. Discussion re phasing of projects in relation to student learning
- p. C Goldman – role of this committee – three official functions:
 - i. Review expenditures – ensure that money is spent in accordance with Measure G (and ensure that no money is spent on administrator or teacher salaries)
 - ii. Inform the community of our findings
 - iii. Oversee annual report with support of district auditor (made publicly available)
- q. C Goldman – additional comments re committee:
 - i. Will get sneak peeks into design/expenditures to ensure that the district is on the right track
 - ii. After expenditures, COC gives stamp of approval
 - iii. Potential site visits
 - iv. Possible guest speakers – architects, PM, etc.
 - v. Committee members free to give input at input sessions
- r. General overview of community input process was provided (meetings with parents, staff, neighbors; open meetings at the sites; Bubb shade structure process given as an example)
- s. Questions from Committee:
 - i. All funds have been expended from the 1996 and 1998 bonds (Whisman & Mountain View, respectively); still paying for these
 - ii. Total bonding capacity is well over the \$198M for this bond
 - 1. If was passed a 2/3 bond, the cap would be unlimited

2. 55% bond (Prop 39) = \$30/\$100k AV (for G bonds only; not overall)
 - iii. Lessons to be learned from prior bond programs
 1. Communication is key; public engagement is critical
 2. Neighborhood Associations are invaluable when trying to reach stake holders
 - iv. Our fiscal year is the same as the district – July 1 to June 30
 - v. Recommendation that committee members read at least the Executive Summary from the Student Facilities Improvement Plan (SFIP); available on the website under the Measure G tab
 - vi. Open Houses at the schools will be in March if members want to walk the sites; Terese and Craig are willing to give tours anytime, please contact them directly for possible dates.
6. Future Agenda Items
 - a. Approval of Secretary
 - b. Review of Measure G Ballot Language
 - c. Review of COC Bylaws
 - d. Overview of Brown Act
7. Propose Calendar of Meeting Dates
 - a. Move Election of Officers to Q1
 - b. Move June date earlier in the month (closer to end of school)
 - c. Requested special meeting between now and January 29, 2013 to cover Item 6 topics.
8. Meeting adjourned at 8:03 pm.

Action Item: Required reading will be sent out to the group by Terese.