

SAN MARCOS UNIFIED SCHOOL DISTRICT
CITIZENS' OVERSIGHT COMMITTEE (COC)
255 Pico Avenue, Suite 250
San Marcos, CA 92069

AMENDED MINUTES
October 13, 2011
6:00 p.m.

These minutes are prepared to reflect discussion or action taken by the Citizens' Oversight Committee. These minutes are posted on the District's website at www.smusd.org

1.0 CALL TO ORDER

Meeting called to order by Bill Effinger at 6:05 p.m.

2.0 ROLL CALL

COC Members present: David Barnum, Michael Brock, William Effinger, Darius Khayat, Anthony Martindale, Mike McDowell, Stephanie Nunez, Cecilia Aguirre, Gary Hamels and Kathy Tanner. Alternate present: Tom Kumura

Absent: Joseph Potts (Alternate)

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Kathy Tanner

4.0 Approval of July 14, 2011 Minutes

Chair Effinger -Discussion of the archeological discovery was not included in the minutes of July 14, 2011. Question was asked was there any additional cost. Kathy indicated at this point approximately \$75,000 additional cost. Item 9.0 Minutes will be amended.

Motion to approve the minutes by Anthony Martindale and seconded by Michael Brock . Motion to approve the minutes as presented:

AYES: Barnum, Brock, Effinger, Khayat, Martindale, Nunez

NONE:

ABSTAIN: McDowell

5.0 Public Comments

Bill Effinger opened public comments. No public in attendance. Chair Effinger Public Comments closed.

6.0 Correspondence Received –Initiative Support

• **Staff Reports**

Gary turned over to Kathy Tanner. Kathy presented a power point that was shared with the board. SMHS 2010 to refresh everyone's memory because there have been so many changes. Changes that are noticeable through the parking lot and backfields and tennis courts. Started on July 1 to build interim campus and picture is on October 2. Approximately 150 relocatables on site. Provided members with a site plan that show room numbers. Gave a brief overview of interim site plan. Pointed out different buildings. Restrooms at end of each building. Once we open up the interim housing on January 9, 2012 students will enter from Discovery area around back into the main area. There will be a quad, grass, shade structure and benches for students. Pointed out upper level from the lower level section. Well lighted areas for students. We are on schedule and working towards winter break (3 weeks)to move everything into relocatables from the current facility. Staff tour very exciting this week and brought them closer to what is happening. Student tour next week and be able to take back to rest of students. On San Marcos Blvd a portion of road blocked off to install fire line and will continue through next week. We have 3 increments. Increments 1 & 2 have been submitted and approved by DSA. Increment 3 for the

Kitchen and wood shop and expect approval by December 1 from DSA. The wood shop we do not expect it to be ready by January 9th. So we are able to fence around the woodshop area since it is in the back and students can continue with their educational program. The kitchen will be completed by January 9th but we have a backup plan just in case.

It was mentioned earlier about the cultural find. We have been in negotiations with the tribes and I am really not allowed to discuss what is going on for this cultural find. So at this point in time I really can't say a lot. Other than we are close to completion on how this will be resolved. By our next meeting I should have an idea of what the costs are and be able to explain what I am allowed to explain at that time. Any questions on the project?

Bill- Security is on until last student leaves?

Kathy & Gary-Yes, coaches required to walk students and campus supervisor down there.

Kathy-Additional security to make sure students are safe.

Anthony-Why no discussion regarding the Artifacts?

Kathy-Concerned that people who want to make a profit and would go and dig it up. Concerned possibly a burial site is there. If remains are found then the County coroner becomes involved and you have to follow some specific steps. It would be completely out of hands.

Bill- Because of sensitivity is there extra security around that area?

Kathy- It is completely fenced.

Bill -Extra security watching fenced area?

Kathy-No only construction security. We have security service for all of our district schools if anything is disturbed.

Bill -District representative and Indian tribe are in close communication?

Kathy-not on the security.

Bill -I have been involved in some of these things and they get hairy beyond belief so that is the reason for my question.

Kathy-We have our normal security on site which is 24/7.

Gary-Lusardi has a security guard on site.

Mike-Other than District officials and the Indians has there been public announcement of discovery, public dialogue?

Kathy-No.

Mike-Relatively well kept secret. At least from the perspective that it doesn't require to be discussed yet publicly yet and there are limitations on what can be discussed. So someone would have to have inside information to know there was a site on the site.

Kathy-That's true and when you have construction workers on a site that that the construction has stopped and you have representatives of the various Indian groups on site monitoring it becomes apparent what is going on.

Darlus-Ordinary fencing to separate the students from the construction activity?

Kathy-Construction fencing and has screening. Once we begin the construction we will also have sound blankets. We also have rules on the site for Construction workers have to have a vest and name badge. If seen looking at or talking with student will be removed from the site.

Mike-Grass in quad area, balance of open space, blacktop?

Kathy-Yes, asphalt and will minimally landscape to save funds. We can recycle blacktop. No asphalt under relos just around them.

David-Haven't heard much about the artifacts. As a committee we are to report back to the community. is it to early to determine if this project will be delayed?

Kathy- From where we are now it will not delay the project.

Gary-That is with this site. Still will have observers and if find something in that area it brings on a whole other process.

Bill - Has anyone done some other investigation to see if up jumps the devil might happen?

Kathy-There is potential and the Indians did camp along streams Research done in the late 1800's large encampment of tribes around this area. So we could have more finds. On the Pacific property owned by the city had some cultural find that had been disturbed. It is possible.

Gary-It is on the far end of the property. Looks like it was cut, someone brought in dirt and it was in the dirt.

Bill- We all remember the problems we had when they found burial site on Rancho Santa Fe. Are they digging other places?

Kathy-Yes we are digging other places. Haven't found anything anywhere else.

Bill -Keep our fingers crossed.

Gary-Less concerned about that. This is at the low end toward Discovery.

Mike-In 2003 added dirt 8 feet of dirt, in two locations, there has been work in the past.

Gary-Presented budget reports for SMHS and a summary of how much we have spent to date. Gary went through reports and pointed out contingencies, testing and fees. Up to members on what they want to see. At MHHS had to drill 200 holes to make sure site was good. Planning – Architect fees. SMHS is like a mini city. It also includes the interim site. We do not go through City of San Marcos we go through the State. Labor compliance-we have to make sure that we have to hire a CPA to confirm wages are being paid the right wages.

Mike -You mentioned we don't have to go through the City of San Marcos Planning Department, is that true for all the services, water and sewer?

Kathy-Well when we connect into Vallecitos Water connection we have to work with Vallecitos and some things with the City of San Marcos, lights etc. and any off site connection. EIR is also involved. We will need to get some permits from the city. We also have to work with the County.

Mike B.-Whom would have ultimate responsibility to inspect the project?

Kathy-We have to have DSA certified inspector on site. When we go off site then Vallecitos will have an inspector or the City of San Marcos will have one of their inspectors depending on who we are working with.

Bill- So as I am looking at all these numbers just so I understand-we have \$180 million budget but it looks like there is \$547,855 that is now over that budget. Am I looking at something incorrectly?

Kathy-The way this is put together one could assume that but I have contingencies are in the budget because of unknown. These are all estimated amounts. Yes it is over by \$547,855.

Bill- But we have-my understanding is we have a not to exceed \$136 million on construction. So why wouldn't that be absorbed in the \$136 million? Why would we be showing \$547,855 overage?

Kathy-It was the way I put the numbers together because of the unknown.

Gary-I will bring it down to \$180 million and would like to be able to save for the next project. We are shooting for lease. This was just a ballpark. We are going to make it fit into the \$180 million or less.

Bill-It would probably be helpful for all of us, I am used to looking at in addition to the three columns you have here to have a fourth and fifth column. The fourth column would be percentage of completion and then that percentage of completion is calculated against the balance so you get a predetermined idea of where you are going and whether you are going to be up or down on your budget, so maybe I am not making myself clear. But if you are 20% complete on a project and you are 28% percent expended you see what I am saying so if you show those two others columns then you we've got a total picture of where you are have been and where you are going and I am always interested in where we are going.

Gary-I can do that but it could be misleading at times because you could be complete with something that is more expensive or less expensive. If you rely on that, I will do it that is not a problem. Chair Effinger-It just give us and then all you have to do is explain it so that we are not in the dark.

Gary-Percentage of completion would be her best estimate and we go from there.

Kathy-I will use our contractor billing. Usually the expenditures lag the percent of completion. New construction \$140,000,000, leasing has been added in for the relocatable buildings for the interim campus. That is listed as a specific amount in that contract so that adds above the \$136 million. So it is over \$140 million, I didn't have the lease costs at the time at the time I put the budget together.

Bill-That is one of the notes I made and didn't know what time we would get into it but maybe now. I would really like to understand the leasing element of it. When I was going through it was clear that there was more money being spent than the \$136 million. And so two issues, 1- it was a non-bid contract, it was a negotiated contract and I then I would like to understand the leasing aspect of it. What, why we needed to lease it and how that fits into the overall picture because there is a \$4 million expenditure it looks like.

Kathy-The reason being because when we were looking at rebuilding the school we had the option to do like it other school districts which would take 5 years. Bring relocatables on campus and build a portion of the campus. Takes more time, and more impact on students & teachers. Faster to complete school with interim campus on site by putting a complete relocatable school on the site. Cut two years off construction timeline. Same project at same cost in a shorter timeline lessening the impact on the students, staff and education.

Bill-The decision to do a negotiated contract as opposed to a bid contract. The concept, I understand the concept.

Kathy-Which contract are you talking about the relocatable lease or

Bill-The whole package was a negotiated deal as opposed to a bid deal. So my question is there was a point in time when a decision was made to go negotiated as opposed to bid. It always raises a issue in my mind is what if the XYZ Company came down and gave you a better deal.

Gary-What we really did-This \$136 million is, they looked at the plan. Lusardi is the contractor and they will go out and bid it. Target price that we want to hit. No greater than this dollar amount unless DSA comes in and makes changes.

Kathy-Projected cost was determined by working with the architect and Lusardi on a schematic design, what is it going to cost and what are using to build it. As far as the relocatables go we did send out RFP

and did have a response from 3 different companies. We selected the one that had the lowest cost to provide the relocatables that we needed. They have been working with Lusardi, LPA and myself to make sure we are meeting the educational needs but not going overboard.

Mike - You did issue RFP for relocatables?

Kathy-Yes

Mike -RFP for construction as well?

Kathy-Yes.

Mike- What part of this is negotiated and not publicly bid?

Kathy-Lusardi is bidding everything. _____

Bill- No but the master contract was not bid, right? In other words Lusardi was a negotiated deal there was no bid for the whole project.

Kathy- That would be true but what we are following is a Lease Lease Back delivery method. We are following the statutory requirements of a Lease Lease Back contract. So this is how you set it up. Where you do go through a competitive process to select the contractor which we did. By selecting Lusardi –

Bill-That was for the whole project, building or just the relocatables?

Kathy-That was for the whole project for everything associated with the reconstruction of SMHS.

Bill-So you did go through a bid process?

Gary-I wouldn't use the term bid. An RFP is qualifying people. Are they capable of doing the project?

Bill-Request for Proposal. And you got several?

Gary-We had several and had a group of people go through the proposal to make sure they were qualified to do the project and have they done these types of projects. As opposed to you are putting out and don't know what you might get and wind up falling short.

Mike-Was Lusardi low cost bidder or qualified for other reasons?

Kathy-They qualified because of the delivery they have been able to provide not only with San Marcos District but other School Districts. There are four firms that were selected to be able to provide LLB services to San Marcos District at the time we didn't know how many projects were we going to be able to start. If we were able to sell the \$287 million then we would have been moving on a lot of projects. We would have needed a number of LLB Contractors and architects. We had everyone waiting and ready to go once the bond was passed.

Mike -There was a public document RFP was based on criteria. Lusardi was deemed most qualified.

Gary-Yes

Mike -Not just based on cost.

Gary-Not really cost, past experience, you had a panel of people look through criteria.

Kathy-held interviews, had people from other school districts and consultants to select the LLB Contractors.

Mike -They were not the low cost bidder? **Gary**& **Kathy**-It wasn't a dollar amount.

Gary-We didn't throw a dollar amount.

Mike-Ability to negotiate the fee terms and general conditions.

Gary-We have nothing to hid here the fee terms are 5.5% for the construction. Just to let you know we have tried to work out a deal if there is some saving we have an incentive. The percentage is 70/30. We did the same thing with San Marcos Elementary and they saved .5 million on the contract there. They worked with the architect and saved a ton of money on that project, which we did for 19 million. The previous school we did which was a smaller project and it cost us 26 million or more.

Kathy-It was significantly higher.

Gary-That one did go as well as we would have liked it to go.

Mike-Sounds like the margin or term is comparable to the fees in the industry.

Gary-You might explain what general conditions are.

Mike- All costs for project management, trailers, toilets and all costs for contractors out of pocket to do the project. The only thing that can vary in the general conditions and fees and everyone else uses the same sub-contractors.

Gary-Subcontractors do pre-qualify. They don't want someone coming out of the blue for example someone from Riverside saying they can do whatever and they don't show up on time. They do have contractors that they work with and review that information with the contractor.

Bill-What was the reason and purpose for Amendment #1 for lease contract?

Kathy-Amendment #1 was for the addition of the lease of relocatables and also to clarify terms fingerprinting, Megan's Law. We needed to get clarification for the procedure on the site. We are on a site with 2,000 students. We need to be safe for the student's sake.

Gary-It is not uncommon for someone to be asked to leave. I think there is a 10 second rule. Don't stare at kids. It is a 3 second rule

Mike-Incentive or penalty based on delivery?

Kathy-Yes need to have delivery by a certain date and if they don't deliver by that time there is a breach of contract.

Gary-The incentive is to finish early and then you have a savings. Then they get a piece of the savings. We talked about going from the five to the three year that cost of living keeps increasing costs and his firm delivers on time.

Mike-This company was motivated to works double shifts to deliver ahead of schedule and has the ability to speed things up. At SME worked multiple shifts to deliver ahead of schedule.

Kathy-We had to do that to beat the rain. We had to do that here to move the relocatables during the night because of the permitting. We were working till 3 a.m. Getting all the buildings ready and there will be a lot of overtime to get everything ready for move in in December.

Bill-Construction services agreement page 4 section 4 paragraph a: Typo G&P shall be \$130 million should be \$136 million (written one is off).

Gary-We will have to take a look at that. Our attorneys go through all of this.

Bill-Page 5 Any savings realized shall be added to the contingency portion of the final G&P and shall be expended in a manner consistent with other contingency funds. So this sounds like any savings will end up

going into the contingency which sort of makes sense but I would like to see it go into our bank account.
Gary-It is our back account. We hold all the money here.

Bill-So it is a slush fund until we get to the total.

Gary-Unless something is negotiated to increase the contract for something reasonable.

Mike-3% of the contingency. What does Lusardi have in the G & P?

Kathy-3% within the \$136 million contingency with Lusardi and the District also has a contingency. Because an unknown condition. That is not going to come out of their money because no one can predict that happened. I am carrying a district contingency.

Bill-That probably should be designated so we don't get confused.

Gary-Sure. We like reserves.

Darius-Money in contingency flows onto next project?

Gary-Yes

Darius-Explain 5% versus 3%.

Kathy-The project contingency spreads across everything A-F So, all of this is an additional contingency carried across the project. Let say that technology improvements cost \$4,250,000 million then that \$250,000 would come from project contingency.

Darius-The difference between the selection of 3%-5%. Is that negotiated?

Gary-It is our projection.

Kathy works with me. I hope we don't have to spend it. We have to worry about the timing of selling the rest of the bonds.

Bill-We are fortunate that we are in a down period right now and taking advantage of the lower costs.

Gary-Government is the only one building right now.

David-Point of order- Can an alternate ask a question? No one has a problem with this.

Tom-Budget plans including contingency, section a also talks about a contingency, isn't that double counting contingencies?

Kathy-You could say that but in item b like other there are number of requirements that we have and until we get into the project could be double counting but I have never had a problem counting it double to an extent.

Kathy-So the contingency is in the other line.

Gary-Each section has a contingency.

Kathy-So essentially there is about a million dollars that has a 5% contingency compounding.

Tom-Would it make sense to put it toward your progress report that, a way to track the contingency and budget. A way to track.

Gary-I can tie them in so that we are clear.

David-Issues with revenues?

Gary-\$142 million is in the bank. Waiting to see if we sell the other bonds. Not sure that we will be able to going to try to do this year. Need it for K-8 at Quarry site. Small lake on the site and a dam. The spill way needs to be moved. SEES we used Redevelopment money and money from the state. Combination of funds. We widened the street in front. Added 6 portables. We have projects going on. Next project LCM or AD

David-Budget do you include Capital Improvement Program?

Gary-Yes. Board approves all purchases orders, fees etc.

Tom-\$180 million in the bank earning interest on behalf of the project?

Gary-On behalf of the fund Invested with County Treasurer and earning .6%. Stays within the fund for construction. . In 25 to 30 years when bonds are paid off you would get a check for the general fund. \$38 million is also earning some interest. In 25 to 30 years when bonds are paid off you would get a check for the general fund.

David-No concerns of arbitrage?

Gary-No concerns, we are earning far less than we are making. We are ok for the first 3 years.

Bill-Relative to income, are there possibilities for this project to earn grants for energy efficiency?

Kathy-Yes we are working with SDG&E on their program and are applying for high performance grants and will apply to the state as well. State has backlog and we need to sell bonds to be able to get those projects funded. By April or May will apply for State funding. Bond to be on 2012 ballot.

Gary-What do you think we earn on this project.

Bill-Has solar entered into the design yet?

Gary-Plumbed for it but not planning to put panels in at this time. Not a proponent, when the technology gets better then we can put them in then. Colleagues that have done it say that SDG&E they are the worst supporters of solar energy. She had to go to the PUC to get rate justification. She is losing money. Tuff to have glass panels around kids. She isn't even fixing them when they break.

7.0 Website

Gary asked the members what they would like to see on the website. It was suggested that we add the aerials from October to the website.

8.0 COMMUNITY NEWSLETTER

Discussion: It is a requirement on an annual basis. To do quarterly Gary will check with attorneys We will use the website and notify newspaper as needed. Can advise the newspaper of our meeting. We are required to speak with the board annually. The first audit to the board will take place 2013. We are on a fiscal year which is July 1-June 30. Can use the statement from Chairperson as a press release.

9.0 COC Mission Statement

Decided that we needed to have one, possibly need to use some of the wording in the ballot measure. Needs to be brief. Gary to write up suggestion and send out. Use actual language of Oversight Committee.

10.0 Next Meeting:

The next meeting of the Citizens' Oversight Committee will take place on Thursday, January 12, 2012 at 6:00 p.m.at San Marcos High School, 1610 San Marcos Blvd, San Marcos, CA 90269

11.0 Comments from Committee Members

Stephanie wanted to know about the initiative that was presented at the last meeting. Looks like no activity so no need to follow up.

Since we have this one project going, there is no need for any Program Management companies? LLB done with staff we have. We are looking at hiring someone to help Kathy. Will get back to you on what we do.

12.0 ADJOURNMENT

Motion by David Barnum and seconded by Darius to adjourn the meeting at 7:34 p.m. Motion carried.

Date Minutes of October 13, 2011 Adopted: _____

4/19/12

Signature of Assistant Superintendent
Business Services _____

