



CHINO VALLEY UNIFIED SCHOOL DISTRICT

Facilities/Planning Department

Dr. Paul Andersen, Assistant Superintendent ♦ Phone (909) 628-1201 Ext. 1200 ♦ Fax (909) 548-6034

CITIZENS' OVERSIGHT COMMITTEE MEETING MINUTES June 28, 2004

Roger Larkin called the meeting to order at 5:30 p.m. with Gary Larson, Maurice Ayala, Glenn Duncan, Stuart Holland, Michael Calta, Andy Anderson, Roger Larkin and Paul Andersen present.

1. Questions submitted by the Committee regarding the Ohrbach Report and Dr. Saul's memos

Mr. Larkin said that on Friday Mr. Calta, Mr. Larson, Mr. Anderson, and he met with Dr. Andersen and Mr. Jimmy Gutierrez to review Mr. Gutierrez' comments about the committee's questions concerning the use of Measure M funds. Mr. Larson said the consensus was for the group to review the questions to determine which ones are appropriate and pertain to the evaluation of the use of Measure M funds and which are not and re-submit only appropriate questions. He felt they all came away from the meeting in agreement.

Mr. Ayala asked about the comments made earlier that they might not know if questions are appropriate without knowing the answers. Mr. Larson said most of the questions are clear with only a few being ambiguous. He said there is a full audit being done on those records and they should wait for the completed audit and then review it. Mr. Larkin said Mr. Gutierrez clarified that his intent was not to say they had no right to ask questions. He intended to say that the questions the committee asks should deal directly with expenditure of Measure M funds. Appropriate questions were described as those pertaining to funds spent, on what projects, amount of change orders, and change orders exceeding the legal amount. Mr. Anderson understood from the meeting that they had a right to ask questions about the work that was done with no bidding. Mr. Calta said he reevaluated his questions and distributed copies to the members and audience.

Mr. Duncan thought that asking board members about their actions is not the purpose of the committee. He thought the committee serves at the pleasure of the school board to advise the board of things they find, not examine the actions of the school board. He said the voters would decide in November if the school board has acted appropriately. Mr. Calta disputed whether the committee serves at the pleasure of the school board, and he thought the committee should be independent and their primary responsibility is to the taxpayers. Mr. Duncan agreed but said the committee's main purpose is to make sure that the school district is not diverting funds to cover operations rather than construction and modernization of schools. He believes that whether they're acting appropriately in other areas is not the function of the committee. Mr. Anderson pointed out that an additional charge is that the committee is sure that the funds are being maximized.

Mr. Larkin said perhaps the majority of the questions would be answered by the County audit. He suggested the questions be put on hold until the audit is complete and formulate questions if things are not clarified in the audit. Mr. Ayala moved that they preface each question with the phrase, "As it pertains to Measure M..." and send the questions back. Mr. Larkin asked for a second; there was no second. Mr. Holland pointed out that this is the main committee assembled to review what's going on for the public and he believes it is within their scope to ask questions. He said his questions were specifically about the original authorization of a project manager in July and the continuing delay for hiring one and that hiring one earlier might have impacted the expenditures. Mr. Duncan said there may be a question about why a certain manager is picked and the method used, but it's the school board's decision and they have to be held accountable for their decisions. Once they're picked, the committee can review the work of that manager and how they're supervising the jobs and bring concerns, which the committee has done on numerous occasions. He felt that since the normal agency they would report to is the school board, if they have other concerns, the only other recourse they have is to go to court if there is a legal reason to stop construction. Mr. Larkin said the other recourse is to put the information out to the public and let the public decide. Mr. Duncan said the public could also ask the school board members directly at school board meetings.

After further discussion, Mr. Duncan moved to wait until after the audit is completed to submit further questions. Mr. Larson seconded the motion. After discussion, all were in favor. In case the audit results are not available within the next month, Mr. Duncan suggested approaching the school board and asking for at least an executive summary as soon as possible in order to complete the report. Mr. Larson said since it's a public document, there should not be too much delay in the committee receiving a copy. Mr. Anderson asked if Dr. Andersen would give the committee an update if the audit were

delayed. There was further discussion about the appointment of new members and when the board would approve them.

2. Discussion of the annual report

Mr. Larkin said Mr. Holland put most of the report together. Mr. Holland said he handed out a draft in May and asked for comments but didn't get any. He said his term is over at the end of June. He has put in an application for another term. It was thought that the board probably wouldn't appoint new members until the August 19th board meeting. Ms. Gobin said public announcements have been placed in the local newspapers and on the local TV channel soliciting new member applications. Mr. Duncan confirmed that he would continue as the representative from the City of Chino, and he said he believed Alan Wapner has been appointed as the representative from the City of Ontario.

Mr. Larkin asked if anyone had switched terms with one another between the two- and three-year terms at the initial committee meeting. Mr. Ayala questioned the timing of the inquiry since it was something that may have happened two years ago. Mr. Larkin said he was asked the question and didn't know where it originated, but he felt it needed to be corrected for credibility. Mr. Larson thought it came up because the terms are expiring.

Members thanked Mr. Holland for his time and effort in working on the annual report. It was also mentioned that Mr. Holland did the bulk of the work associated with maintaining and updating the committee's website. Mr. Holland will email the minutes to all members and they should give feedback by the next meeting. The next meeting was set for 5:00 p.m. on July 19, 2004.

3. Other Topics/Public Comments

Mr. Ayala asked how it was determined who met with Mr. Gutierrez on Friday and why it was arranged as a private meeting as opposed to having Mr. Gutierrez attend this meeting so everyone could benefit from having an opportunity to ask questions. Mr. Larkin said Dr. Andersen asked him if he thought a meeting with Mr. Gutierrez would be helpful if it could be arranged Thursday or Friday, and it was arbitrary as to who attended. Dr. Andersen said Mr. Gutierrez wanted to clarify that there are invoices that have been submitted that are disputed but they have not been paid. He said there is no violation unless bills are paid after being determined to be invalid or illegal. Mr. Larkin suggested asking Mr. Gutierrez to attend the next meeting. Mr. Ayala said all meetings should be public and inclusive with no gray areas. Mr. Larkin apologized and said it was arranged quickly and there was no intent to leave others out. Mr. Duncan suggested that in the future the meetings should be noticed.

Mr. Richard McKee, a Brown Act advocate, was present. He said a Brown Act meeting involves collective acquisition and exchange of facts. If, as a group, a majority collect and exchange facts without doing it in a noticed meeting, they are in violation of the Brown Act. In the situation in question it appears that they were trying to get something done and pass information, but it may be that this type of meeting approaches the cutoff between what should be done in a noticed meeting and what shouldn't be done somewhere else. He said Brown Act reviews are good to remind groups of acceptable procedures. He said the actions could open the group up for a challenge to their credibility.

Mr. Anderson asked if there have been any written communications from the public regarding Measure M projects. Dr. Andersen said there were no communications. Mr. Calta asked Mr. Steve Bachor for a written update for the annual report. Mr. Bachor said he would supply it. He explained that their timeline is: solidifying schedules in June; budgets in July; August and September, contracting mechanisms, including consultants; and October through December, obtaining clear and accurate curriculum design standards. Dr. Andersen said the Maintenance Department has been working on draft design standards.

Mr. Duncan suggested posting the annual report on the website as an "unapproved draft," since it has been distributed to all members, it is a public document. Mr. Larson suggested that it be noted that the report will be updated once the audit is received. All members were in agreement.