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SAN DIEGO UNIFIED SCHOOL DISTRICT Physical Plant Operations Center 4860 Ruffner Street, San Diego, CA 92111 http://www.sandi.net/props/icoc.html.

Proposition S School Bond

Independent Citizens' Oversight Committee

March 25, 2009, 4:00 p.m. Conference Room A

Please sign in and out at the front reception desk MINUTES

AGENDA ITEM	ASSIGNMENTS/UNDERSTANDINGS
Meeting Called to Order:	Mr. Markey called the meeting to order at 4:00 p.m.
Roll Call:	Members In Attendance: Gregg Cantor, Jim Frager, John Gordon, Glenn Hillegas, Gil Johnson, Daniel Morales [arrived at 4:50 pm], Ray Moreno, Leonard Pinson [departed at 6:35 pm], Deanna Spehn and John Stump [arrived at 4:12 pm]
	Members Excused: Jay Wilson
	Trustees, Staff and Consultants in Attendance: Richard Barrera, Steve Bovee, Mark Bresee, Chuck Brown, Sandra Chong, Leigha Cook, Lee Dulgeroff, Terry Grier, C. J. Haskins, Shelia Jackson, Stu Markey, Cynthia Reed-Porter, Bernie Rhinerson, Joel Splittgerber, Jim Watts and Mark Young, with Gardener, Underwood & Bacon, LLC
	Public: Jim Ryan, Jay Powell, Bob Mulz, A. J. Wilson and Linda Teagarden
1. Public Testimony (PT) [No action or discussion may occur regarding public comment on matters not on the agenda. Items may be referred to staff for placement on a future agenda. Public testimony is limited to 3 minutes per person.] Deliver to ICOC Secretary and PT's will be heard after Item 7	Jay Powell, Executive Director with City Heights Community Development Corporation, spoke in favor of integrated planning and budgeting with the City Heights plan for rapid transit, a pilot village and an elementary school near Central ES and Wilson MS. Your plan is to remove the ES and add a K-8 school. Is that the best plan for our community? Mr. Markey stated it is in the early planning stage within the City Heights Collaborative. There are four schools that are part of our long range master plan. ICOC's part is to participate during the whole process.
	Jim Ryan with the Associated General Contractors of America San Diego Chapter (AGC) is representing 21-contractors for 1300 firms here in San Diego. We are signatory and open shop and are not in favor of PSA, Agenda Item 10. PSA is really a Project Labor Agreement and will increase construction costs on Prop. S projects between 20-30%. AGC believes that ICOC has an obligation to investigate and issue an opinion on the financial implications adopting PSA on Prop. S work. The investigation should be completed prior to the BOE vote.
	Bob Mulz, Chairman with The Elite Service Disabled Veteran Owned Business Network (SDVOB) and A. J. Wilson, Vice-Chairman with

	AGENDA ITEM	ASSIGNMENTS/UNDERSTANDINGS
		SDVOB Network: Please consider a service disabled veteran owned business position or opportunity. SDVOB has worked with AGC to help give opportunities for our veterans to find work and keep working. SDVOB meets once a month and all are welcome. There is a Federal mandated goal under PO-108183 and Executive Order 1336 (court decision Ross vs. DOD) is a service disabled veteran because they are not a socioeconomic group. It was argued in court that service disabled owned businesses are all race, all creeds and all gender and therefore not a particular socioeconomic group. We only want to get our price at the table. Mr. Markey stated we have disabled veteran business opportunity goals for participation. I can't set aside work, which is unlawful, but what I can do with a body of traditionally under-represented people; I can set goals say 25%. Prop. MM had 38% participation in this area. I don't have the breakout for that figure. Right now we are putting an outreach plan together, which will be brought to the BOE after it goes to ICOC. In addition, we are finishing a position description for a position within the organization just to do outreach, a full-time staff member. The 2008 ICOC Prop. MM Annual Report under Business Outreach states statistics for various outreach goals.
2.	Introductions (Markey) 2.1. Citizens' Oversight Committee Members 2.2. District Staff	Mr. Markey welcomed all committee members who volunteered their time and talent to participate and serve. It is a wonderful opportunity for the City of San Diego. Your participation on this committee is a key and important element to this project. Prop S is a good news story in an atmosphere where there isn't a lot of good news. Our capital funds for our school system and infrastructure have been sorely under funded over the years. We have \$7B of defined need in the district, and Prop S addresses \$2.1B of that need over a 15-year period. It also gives us a vehicle to provide opportunities in the community to those businesses which have been sorely affected by the economic recession that we are in right now. One of the goals is to efficiently and effectively distribute the funding to businesses in local communities so they can help get our schools back in shape and spend it as quickly as possible.
3.	Comments from the Superintendent or	All attendees introduced themselves and gave a brief background. Mr. Markey introduced Ms. Shelia Jackson, President of the Board Of
	Board Members present (Optional)	Education (BOE) and Mr. Richard Barrera, BOE Vice-President. Ms. Jackson thanked each and everyone for being willing to take on this committee work. She knows it is a lot of work and no pay, stating that this is how she got on the BOE. It is a labor of love. This is a critical stage for our city right now. We know the economic climate, we know we need to improve it and this certainly starts us on the right path. The current BOE supports this initiative 5-0. We are behind you 100%. Mr. Barrera added he knows that everyone here is taking on a big commitment and thanked them for doing that. In addition to the money spent well, the projects being done correctly, he also wants to ensure that the community voice is really being engaged. Are we doing the

Page 3 of 11 AGENDA ITEM	ASSIGNMENTS/UNDERSTANDINGS
	work the right way as they intended? As you are monitoring Prop S, I would ask you to add that responsibility. Thank you for your participation.
	Dr. Grier stated that the District is working hard on budget cuts, with emails and phone calls. Thank you to each and everyone of the ICOC Committee. It is important work and serious work. Quite frankly you have big shoes to fill. Prop. MM Oversight Committee won several awards and did a phenomenal job. I fully expect we will have the same kind of results with your leadership. It is always important to have an independent group of citizens that help us with the oversight of work that is important. I believe that when you have this many dedicated and bright people working together, it will really payoff and make our efforts even better. I value your hard questions and know that they will continue to come. I know that our staff will work very diligently to provide those answers and hope that you hold our feet to the fire. Don't hesitate to call or e-mail me, and I will be glad to work with you carefully and seriously as we know how.
4. Purpose and Function of the ICOC	Ms. Chong reported on the Purpose and Function of the ICOC.
(Chong/Bresee) (Information Only) (Exhibit) [Time Certain 4:15 pm]	ICOC's main function is oversight. The responsibility of ICOC is to monitor and oversee spending of Prop. S funds. ICOC is charged with this responsibility because members were appointed by the BOE under Prop. 39:
	 Inform the public concerning the expenditure of bond revenues; and Actively review and report on the proper expenditure of taxpayers' money for school construction.
	Other responsibilities are outlined in the actual ballot measure, which statesensure that bond proceeds are spent only for school facilities projects listed in the Bond Project List.
	Responsibilities of the ICOC b. Ensure that no funds are used for any teacher or administrative salaries or other school operating expenses.
	Ms. Chong clarified point b: Prop. S funds may be spent on district staff and consultants while working directly related to Prop. S. There is an Attorney General's opinion that says the administration of a bond measure is necessary in hiring construction managers, project managers and schedulers and not necessarily only for hard costs.
	Mr. Stump questioned how District staff managed conflict of interest when ICOC issues arise for corrective action. Mr. Bresee said that if a conflict occurs, the ICOC would need to get independent counsel. It is a reasonable expectation that the District would pay fees if necessary to support ICOC's work.
	Disclaimer: Mr. Stump is an attorney in private practice but will not be giving legal advice while a volunteer on the ICOC Prop. S Committee only his opinion as an appointee.

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	AGENDA ITEM	ASSIGNMENTS/UNDERSTANDINGS
5.	Brown Act [California Open Meeting Law] (Chong/Bresee) (Information Only) (Exhibit) [Time Certain after Item 4]	Mr. Bresee stated that the Brown Act and Conflict of Interest are very complex when we look at the results where they can lead. The information is introductory, but if you have specific questions or issues or need clarification, he would be happy to help you out on an individual basis.
		The FedEx packet Brown Act Handout 5 has pages missing. A complete handout was copied and redistributed at the meeting. The Brown Act Nutshell is in the binder and will be discussed.
		Brown Act is the state's open meeting law. The ICOC is subject to the state open meeting law. It is part of the Government and the Sunshine laws, the Open Meeting law and the Public Records Act. Mr. Bresee has encapsulated the Brown Act as follows: Brown Act Nutshell
		All meetings of a legislative body shall be open and public, unless a closed session is authorized, and shall be preceded by a sufficient, properly posted agenda. The agenda shall be adhered to during the meeting, and members of the public have the right to comment on agenda items and other matters within subject matter jurisdiction.
		Each bolded section was defined for clarification and questions were answered. Specifically the following questions were resolved.
		Legislative Body:
		A quorum is 6 based on ICOC's 11 members.
		Talking to a committee friend outside a quorum meeting is not excluded even if you discuss an agenda item, but if you talk to another committee member, you may not pass on what your friend discussed. In a series of communications electronic or otherwise with the purpose of developing a majority consensus on an action is a violation of the Brown Act. Mr. Stump questioned if he could send an e-mail on the Attorney General's opinion. Bresee said providing information about something not on an agenda item would not be a violation. Another committee person preferred to have e-mails to committee members go through the ICOC Secretary who would send to all if appropriate. Bresee concurred that information should be filtered through staff and be forwarded if appropriate. Don't use the state legislature or congress as an example because they make all of their decisions behind closed doors and the vote has been predetermined. True deliberation should occur when an ICOC majority is together at a meeting. Exceptions are if six or more are at the same, purely social event or conference open to the public, that is not a violation of the Brown Act unless the group confers about decisions you will make.
		Open and Public Unless a Closed Session is Authorized:
		There is a short list of exceptions to the Brown Act to closed sessions and Bresee does not anticipate any applying to ICOC. Potential litigation is one exception where ICOC would meet in closed session with your counsel to discuss potential litigation or any litigation if it

	AGENDA ITEM	ASSIGNMENTS/UNDERSTANDINGS
		has already been filed. It must be a properly posted agenda though.
		Sufficient, Properly Posted Agenda
		Where are agendas, minutes and exhibits posted? The Brown Act does not require web postings. Agenda description is not to exceed 20-words. Agendas, minutes and exhibits will be posted on a District website: http://www.sandi.net/props/icoc.html .
		Agenda shall be adhered to
		Returning agenda items whether action of not, must be added to the agenda to meet Brown Act noticing requirements.
6.	Conflict of Interest Laws (Chong/Breese) (Information Only) (Exhibit) [Time Certain After Item 5]	 Under Education Code section 15282 (b): No employee or official of the District may be appointed to the ICOC. No vendor, contractor, or consultant of the District may be appointed to the ICOC Government Code section 1090, a broad conflict of interest law, applies to the ICOC. (But it would be rare for the ICOC to be entering into contracts).
7.	Selection of ICOC Officers (Chong/Bresee) (Information Only) (Exhibit) [Time Certain after Item 6] 7.1.1.Suggested ICOC Officers and Duties 7.1.2.Suggested Term of Office 7.1.3.Possible Appointment of Initial Officers	Ms Chong explained that the following suggestions are not mandated by statute but are operational issues in organizing the ICOC. The maximum term of an ICOC member is 2, 2-year consecutive terms. An ICOC member may serve more than two non-consecutive terms. The law does not specify offices, but it is traditional to select Chair and Vice-Chair. One possibility is that five or six ICOC At Large members have an initial term of one year from 2009-2010. (7.1.1)
		Terms of Office: Staggered terms for ICOC members are suggested so that only half of the ICOC membership may change upon the conclusion of a term. This means five or six ICOC At Large have an initial term of one year from 2009-2010. At all times maintain the core Prop. 39 representation as described at the beginning of Handout 7 under ICOC Composition. Consider a two-year term for Chair and Vice-Chair since there are likely to be term changes in the ICOC membership at the end of the first two-year term. (7.1.2 & 7.1.3)
		ICOC members do not receive any compensation.
8.	Initial Sale of Prop. S General Obligation Bonds (Mark Young, Gardner, Underwood and Bacon	Mr. Young reported on the 13-page Proposition S Bond Finance Overview exhibit.
	(GUB) (Information Only) (Exhibit)	Questions regarding the bond sales should be referred to the ICOC Secretary at icoc@sandi.net . Your questions will be forwarded to Mr.

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1	Young for replies.
	Proposition Authorization
	• \$2.1B of bonds authorized by voters
	• 68.71% voter approval on November 4, 2008
	 Secured by general obligation (GO) property tax Extends current Prop. MM tax rate of \$66.70 / \$100,000 of
	assessed property value
	 Prop S bond program assumptions:
	o Expected phased issuances
	o Up to \$170M 1 st issuance in week of April 13, 2009, delivery at the end of the month.
	o At least \$100M expected to be available annually thereafter
	o Bonds issued with 25-year maturities (option for longer term)
	Proposition S Facilities Financing Plan
	• \$2.1B of bond proceeds (93%)
	On top of the \$2.1B when we deliver bond proceeds, it goes to the
	county treasurer's pool who invest it in a segregated fund. (Gardener, Underwood & Bacon, LLC (GUB) is the general financial advisor to
	the County of San Diego, and they are very familiar with what is going
	on with the treasurer's pool. It is one of the best managed of any of the
	treasurer's pools in the state and rated AAA). The interest earnings on the fund will follow the fund. In Prop. MM, \$60M-\$80M worth of
	interest earning accumulated over the life of that program.
	Romawing Constraints
	Borrowing Constraints There are a lot of things we don't control that will fluctuate over time
	and will affect how we will issue these bonds. Fortunately the district
	has never experienced negative growth. It has experienced growth as
	low as a tenth of a percent. Because we are doing annual issuances, we have the ability to moderate and change our debt profile based upon
	what we learned. Due to the Prop. MM program needing to keep the
	tax rate constant, the district developed a good working relationship
	with the county auditor/assessor. GUB is in the room when they are computing tax rates. Young states they built into Prop. MM a
	discretionary reserve where interest earnings and supplemental tax
	payments came in and were set aside in segregated debt service
	accounts and were sitting there as a protection in the event that something happened that would cause the tax rate to go up. Those
	holdover balances remain and they currently sit at \$20M. GUB has had
	meetings with the county who have agreed to hold the \$20M over and
	allow us to use it as a reserve to protect the tax rate pledge to the public
	on Prop. S. On going monitoring to ICOC occurs every August yearly. Eighty percent of the average AV is significantly lower than the
	median sales price of \$370,000. Even though market values have come
	down, the current AV is still much lower than the median market value.
	People that buy these bonds are very interested in that fact. We went through an extensive market analysis with the rating agencies and we
	are projecting a conservative 2% growth in the eight district's AV this
	year. The problems in San Diego County are primarily outside the
	district's sphere of influence, i.e., South, East and North County. The

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	coast and the city proper are still healthy with 7-8% growth. In the district's case probably 2-3%. Could it go negative? The beauty in a back-to-back program is we will have the ability to change the assumptions in the model and change the pattern of issuance. In the good years, we will accelerate.
	The normalized growth rate of 5% a year is validated.
	Historic Borrowing Rates
	We believe there will be some normalcy coming back but cannot tell if it will be 6-months, 9-months or a year. We have adjusted all of our interest rate assumptions in the model to reflect an imbedded 50 basis points increased in the historical rates relative to what we were using 9-months ago.
	Estimated Issuance Schedule
	Estimated Issuance Schedule Based upon all those inputs that we just went through, this is the estimated issuance schedule. When we put the plan together initially, we thought this was going to be a 10 to 11-year plan. With what has happened with AV and interest rates and wanting to be more conservative, staff now need to plan out a program with a spending plan to prioritize the projects and give news to folks that this will be a 15-year plan and not 11-years so manage expectations. This issuance schedule will change annually by virtue of each data point that originally had been a projection has now become a fact. When we sell the bonds, we will know the debt service schedule to the penny for that particular bond measure. We will know the AV growth rate in the next 3 to 4 months so those will be fixed data points. That will also affect potentially how we change our projections going forward. Each year you should see this chart that will be modified. The first thing that could change is accelerating issuances if we have good news and moving them up with really good news. (15-years to 14-years) If things go the opposite way the following could happen: We will either extend the schedule or change Est. Maturity to 40-year bonds with BOE approval and ICOC input. Action Item: Mr. Stump would like a copy of the constitutional limitation statute, which says that for a unified school district, the limitation is 2.5% of the district-wide AV. For a non-unified, i.e., high school district or an elementary/middle it is 1.25% of AV.
	Financing Team
	i mancing I cam
	John Gordon asked how are the various advisors and counsels paid? Mr. Young stated there is a contract to serve as a financial advisor. The District has the option to retain the firm for ongoing services on an hourly fee basis. For transactions, the District has the option to retain on a contingent fee basis solely paid out of premiums generated out of the bond sales. The fee is negotiated by the CFO and approved by resolution of the Board of Trustees. The maximum on this transaction is \$150,000 on a bond sale basis each year. The contract covers services for the annual Tax and Revenue Anticipation Note (TRAN).

We serve at the District advisor on that as well and compensation is

\$12,000-\$15,000 range. All fees under state law are required to be listed out in the resolution that was apopted by the BOE. An addendum to the resolution that was approved listed out every component of the cost of issuance: who, role and compensation. **Action Item: Mr. Stump would like a copy of the BOE addendum to the resolution that was approved, which listed out every component of the cost of issuance: who, role and compensation. **Timeline** • March 24th SDUSD Board approves financing. BOE √ March 25th Dost POS ← April 7th County Board of Supervisors approves financing ← April 14th Retail order period ← April 15th Bonds priced ← April 30th Closing / bond proceeds delivered ← April 30th Closing / bond bond proceeds delivered ← April 30th Closing / bond April 10th Closing / bond Ap	- 45	e 8 of 11 AGENDA ITEM	ASSIGNMENTS/UNDERSTANDINGS
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 Major Building Systems Repair & Replacement - \$501,000,000 Accommodating Student Enrollment \$77,500,000 Site Discretionary Funds \$19,500,000 			• School Improvements to Support Student Learning & Instruction - \$473,000,000
• Site Discretionary Funds \$19,500,000			Major Building Systems Repair & Replacement - \$501,000,000
Dron V Drogram Elementa			
 Prop. S Program Elements Category of Improvements & Estimated Costs 			

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	 2009 Projects – Design: Second and Fourth Quarters Interactive 21st Century Classroom Initiative 2009 Construction Awards "Fast Start" Projects 2010 & 2011 Construction Awards Three-Year Rolling Schedule Bond Sale Proceeds Compared to Planned Expenditures 16-Year Plan. There was Q & A throughout.
10. Project Stabilization Agreement Status (PSA) (Markey) (Information Only) (Exhibits)	Mr. Markey reported on the Project Stabilization Agreement (PSA) status, which the Board of Education (BOE) adopted on 1-13-09. The district will negotiate the terms of a PSA with the San Diego-Imperial Counties Building and Construction Trades Council. Markey has been collecting information for the past several months and met with the following groups: 1. Labor Council and their affiliated organizations, 2. IBEW 3. Pipe Fitters/Sheet Metal Workers 4. Carpenters' Union 5. Association of General Contractors (AGC) 6. American Building Council (ABC) 7. Building Industry Association 8. Community Development Groups: a. Mexican American Council (MAC) b. Parent Institute c. Affordable Housing Coalition d. Health Coalition e. Taxpayers Association f. Chicano Federation g. Merging Business Groups 9. Labor Attorney/Chief Negotiator
	Discovery Phase: Staff's Role is to provide a range of options to the BOE for their use in forming a decision. Markey is not in an advocacy position one way or the other. He provides information as requested by the Board. This is not a traditional negotiation. It is the BOE that determines the terms of the agreement and then taking that to labor council. Mr. Johnson's concern as well as others on the committee is that PSA has already been decided prior to the start of the ICOC, leaving little interaction during the process for ICOC to opine before the BOE votes on PSA. Mr. Frager moved to place the PSA topic on the April 2009, agenda. Mr. Cantor seconded the motion. The motion carried. Motion: Mr. Johnson moved that a subcommittee be formed to study the PSA with staff and include ICOC Committee members Mr. Frager, Mr. Moreno, Mr. Morales, Mr. Cantor and Mr. Stump. Mr. Frager seconded the motion. The motion carried.

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	Mr. Johnson suggested that the subcommittee consider pro or con on a PSA and financial information to support a consultant to do more in depth research related to costs on a PSA.
	The PSA Subcommittee is calendared for April 9, 2009, at 3 pm and the Conference Room is to be announced (TBA).
	Motion: Ms. Spehn moved that ICOC's PSA recommendation be opined relating to terms of the agreement to the Board of Education before the Board of Education votes on the PSA terms. Mr. Gordon seconded the motion. The motion carried with one objection. Mr. Moreno opposed.
11. Proposed ICOC Meeting Schedule and Selection of Next Meeting Date and Time (Cook) (Action) (Exhibit)	Motion: Mr. Stump moved to start the PSA Subcommittee within two weeks and to meet for the full ICOC in three weeks and thereafter monthly. Mr. Morales seconded the motion. The motion carried.
	Motion: Ms. Spehn moved that a subcommittee be formed to study the Governance Model with staff in two weeks and be added to the full ICOC Agenda for April 2009. The ICOC Governance Model Subcommittee members include Mr. Johnson, Mr. Gordon and Ms. Spehn. Mr. Gordon seconded the motion. The motion carried.
	The Governance Model Subcommittee is calendared for April 9, 2009, at 4 pm and the Conference Room is to be announced (TBA).
12. Administrative and Technical Support for ICOC (Cook) (Information Only) 12.1. ICOC Secretary 12.2. Consultants 12.2.1. Annual Audit 12.2.2. Annual Report 12.2.3. Site Walks	Defer to the next full ICOC meeting.
13. Meeting Procedures (Cook) (Information Only) 13.1. Agenda/Handout Delivery by FedEx 13.2. Agenda Format 13.3. Placing Items on the ICOC Agenda by Chair and Vice-Chair with Prop. S Staff. Forward your suggestions to the ICOC Secretary by e-mail to icoc@sandi.net by deadline	Defer to the next full ICOC meeting.
13.4. Agenda Item Presentation and Format of Minutes 13.5. Public Comments Format 13.5.1. Process 13.5.2. Time Limits	

AGENDA ITEM	ASSIGNMENTS/UNDERSTANDINGS
13.5.3. Speaker Slips (Exhibit)	
NEW BUSINESS	
14. Recommendations for Nomination of Officers by Committee and then Election at the Next Meeting (Markey) (Action) 14.1. Chair 14.2. Vice-Chair	Defer to the next full ICOC meeting.
15. Adjournment Next Meeting, Physical Plant Operations Center, 4860 Ruffner St., San Diego, CA 92111, Conference Room A atp.m. Please sign out at the front reception desk.	Meeting adjourned at 7:40 pm The next PSA Subcommittee meeting is April 9, 2009, at 3 pm. The Room is to be announced. The next Governance Model Subcommittee meeting is April 9, 2009, at 4 pm. The Room is to be announced. The next full ICOC meeting is scheduled for April 22, 2009, @ 4 pm at PPO Center, Conference Room A and monthly thereafter. A new calendar will be added to the next FedEx packet.

Exhibit: Supplied in the packet.
Handout: Handed out at the meeting, not in the packet.