

MINUTES
Citizens' General Obligation Bond Oversight Committee
September 27, 2012, 2012
Hearing Room 316 - City Hall
San Francisco, CA 94102

1) Call to Order, Roll Call

The meeting was called to order at 9:34 a.m. Maura Lane, Committee Assistant, called the roll. All committee members were present.

2) Approval, with possible modification, of the minutes of the July 26, 2012 meeting.

The minutes were approved, with two corrections. Corey Marshall and Regina Callan abstained because they were not at the last meeting.

*NOTE: Full recordings of Committee meetings are located at <http://www.sfcontroller.org/index.aspx?page=86> under "CGOBOC".

There was public comment from Ray Hartz and Peter Warfield. Mr. Hartz comments focused on San Francisco Open Government and expressed his views regarding inclusion of complete transcriptions of all public comment in the meeting minutes.

Peter Warfield, Executive Director of Library Users Association, said that he was surprised that the Chair (of CGOBOC) did not seem to realize that every item on the agenda required public comment. He referenced Mr. Hartz's comments regarding public comment in the minutes and expressed his opinion that the minutes should include all of the speaker's feelings and concerns as opposed to a summary.

3) Presentation from the 2000 Clean and Safe Park Bond Program and the 2008 Clean and Safe Park Bond Program.

Items 3 and 4 were taken together since they both belong to the Recreation & Park Department.

Dawn Kamalanathan, Director of Planning and Capital Management for the Recreation and Park Department, said the headline on the 2000 Clean and Safe Park Bond Program is straightforward. The project is mostly complete and there are savings of about \$5 million unexpended funds. A review of each of the 2000 Park & Bond projects is currently under review to clean up the grant side of the ledger and reconciling/closing out each of the funding sources and projects. The goal is to re-appropriate the remaining \$5 million. The Rec & Park Commission will be making recommendations to the Board of Supervisors on how to allocate the remaining funds. The only restriction on 2000 Bond funds is that the funds may not be used in Golden Gate Park. Other than that, all capital expenditures in the park system are eligible for funds from that funding source.

Ms. Kamalanathan also reported on the 2008 Clean and Safe Park Bond Program. She expressed her opinion that there has been substantive progress in the project since the last

time it was presented at CGOBOC. A year ago, the discussion was about the desire to see all of the projects in construction by November 2012. The goal will be met. The schedules reflect the goal to complete all of the neighborhood parks programs by 2013 with the exception of Mission Dolores Park. As previously discussed, several portions of this project will take longer to deliver.

Several projects have been completed. These include: McCoppin Square, Mission Dolores Playground, the Chinese Recreation Center and Mission Playground.

The Fulton Playground (will open within the next 2 months), Sunset Playground, Cayuga Playground, Palega Playground, Lafayette Park and Cabrillo Playground are currently in construction.

Glen Canyon Park is currently in the bid/award process. The expectation is that funds will be encumbered over the next month. Raymond Kimbell Playground is currently in design. Mission Dolores Park is in the planning process and a concept design has been completed. They are now in negotiations with City Planning for the Environmental Review document. As a result of feedback from the Environmental Review, there has been some re-design of a portion of the 18th Street side of Mission Dolores in a way that keeps with the Community's expectations. It also ensures that Rec & Park are working through a negative declaration. There should be closure on this issue over the next few weeks.

There was extensive discussion about the schedule. Ms. Kamalanathan discussed the situation with Lafayette Park and some of the challenges with moving that park forward. The Concept Plan has been approved by the Rec & Park Commission. The Environmental Review has been completed. However; a constituent appealed one of the construction permits. There was an appearance before the Permit Appeals Board. The permit was upheld. There has now been a second permit appealed. Ms. Kamalanathan said she did not know if the construction permits will be impacted because there are two more permits to get out the door on this project.

Mr. Garfinkel asked questions about why the Lafayette Park Project was started before the time for the appeal to the Permit Board had lapsed. Ms. Kamalanathan replied that there had never been a permit appeal before the Board in the past decade so there wasn't experience/knowledge about how long the process could take from start to finish. The possibility that there may be permit appeals needs to be included in the permit strategy, which is currently happening with City Planning and the Department of Building Inspections.

There was extensive discussion about the permit process and appeals. The Permit Appeals Board does not have any discretion regarding which appeals they hear. If someone makes an appeal on a permit, it must go through the hearing process. Applicants can also make a request for a re-hearing. This process can add up to over a month. If there are a series of permit appeals, the timeline is impacted, which leads to other problems. Ms. Kamalanathan acknowledged the members of her staff who, in spite of those potential challenges, have not stopped the project. The contractor has been engaged, the work is being aggressively sequenced to try and keep the rest of the project

moving forward while the works that's under these various permits is appealed. Ms. Kamalanathan says she does not expect to see a 6-month delay on this project. The expectation is for a 6-week delay if they can continue moving forward. Although this process is new that Rec & Park has been through, it does have the ability to delay implementation of the program.

Ms. Kamalanathan reviewed the project's spending. For the most part, all of the projects are encumbered or spent. As of August 2012, 76% of the money has been spent or encumbered. By December 2012, it is expected that 100% of the funds will be spent or encumbered. Rec & Park has been able to return a significant amount of money back to the contingency pot. Under the bond report guidelines, the funds can't actually be spent until the last Neighborhood Park project is fully put out to bid. The funds cannot be allocated to other parks until Mission Dolores is in its' last contract.

Steven Real, Project Manager of the Port of San Francisco, reported that of the ten Port projects, two have been completed. Bayfront Shoreline came in under budget and a ribbon-cutting ceremony is scheduled for Heron's Head Park in October.

There are two projects in construction: Pier 43 Bay Trail Link (which may be completed in November 2012) and the Brannan Street Wharf, which is highly visible to those heading to Giant's games.

There are 4 projects in design: Tulare Park and Bayview Gateway are in 30% of design. These have been combined into one bid package in order to save money. The Blue Greenway Art Project and the Blue Greenway Signage projects are also in design. The design process should be finished in about 4 months.

The overall Blue Greenway Planning is nearly complete. Crane Cove Park is in planning. There has been engagement with the community. The expectation is for completion of the planning process by the end of the year.

Corey Marshall, the liaison from the Committee to the Rec & Park Projects, discussed some of the issues regarding the Permit Appeals Board as well as the implications and cost delays that can result. The fact that Rec & Park is being proactive in dealing with the issues should be an important lesson that the Committee should be able to apply to some of the other bonds. By virtue of the fact that the Rec & Park bonds have shorter bond cycles than the others, they have been actively able to learn some lessons and recalibrate future efforts based on those lessons. Planning for the bond that is on the ballot for November is actually reflective of their management of a lot of these different types of things that they've been confronting with both the 2000 and the 2008 bond.

Mr. Marshall also expressed his opinion regarding how the Committee might try to address some of the same issues from a study perspective and try to facilitate the departments' efforts as they work to deliver some of these projects. It is important that some of these issues are in the queue. He said Ms. Kamalanathan raised the issue about the Permit Appeals Board, which is not an issue that has actually come up in the past on the Parks Bonds. He said the Committee needs to have a full grasp of what the full implications are and what the real costs impacts of these delays might look like because

of the compounding effect.

As the departments progress through the bond program there are a significant number of permits that go along with any bond project. He said it is important that the Committee at least flag this issue to keep an eye on and keep it on the list of things to engage some further analysis down the road. Generally speaking, the 2008 Bond is in very good shape. There has been a bit of slippage on some of the projects but they are making very good progress and are coordinating very closely with other departments as much as possible.

Mr. Flanagan asked whether the \$25 million dollar savings involved in the Mission Dolores and two other projects that will be part of the 2008 Bond and not moved into the next bond issue, if it passes. Ms. Kamalanathan responded that Lafayette Park is already encumbered and in progress. Budget slippage is not expected, but there may be a 6-8 week delay. The project will still be delivered in 2013. She expressed her opinion that the savings will return to the contingency fund for these kinds of emergencies and does not feel extra funds (outside of the bond) will be needed.

The same applies to the Mission Dolores. It has been taken into account that certain parts of the project will need to be phased. It is included in the existing project budget.

The Committee discussed the \$5M remaining from the 2000 Parks Bond based on questions from Mr. Alloy and Mr. Flanagan about moving funds from one project to another. Mr. Roux (Deputy City Attorney) and Mr. Rosenfield (Controller) clarified the reapportion process that happens when all bond monies aren't spent. The appropriation has to be consistent with the legal language that was approved by the voters when originally adopted in 2000. In the case of this particular bond, the language was fairly open and broad. The 2000 Bond excludes investment in Golden Gate Park.

In response to questions regarding what, if anything, CGOBOC can do to assist with the permit process, it was clarified that City Planning has a different permitting process. There was extensive discussion about the permit process, the different City bodies involved in issuing permits and park areas that could use improvement but have not been specifically identified in any bonds. Mr. Madden expressed his opinion that interaction with the Permit Appeals Board is beyond the scope of Committee.

Mr. Alloy made the following motion: **“That CGOBOC have CGOBOC’s Chair send a letter to the Recreation & Park Commission (with a copy to the Board of Supervisors) that expresses the wishes or sense of the Committee to recommend that the 2008 model be followed because the 2000 Parks Bond lack a model.”** The motion was seconded and approved by the Committee, after public comment.

Ms. Rhine asked for clarification of the prioritization plan for unused funds. Ms. Kamalanathan clarified that she will be presenting two strategies to the Recreation and Parks Commission for Recreation & Park capital needs. Mr. Madden noted that the final decision falls to the Board of Supervisors as to how to appropriate unused funds. CGOBOC can only make recommendations. Mr. Rosenfield noted that CGOBOC’s Annual Report is on the agenda. The recommendations of the Committee can be included in the Annual Report, which goes to the Board of Supervisors.

There was public comment from Ray Hartz, of San Francisco Open Government, and Peter Warfield. Mr. Hartz said he was impressed by the time and concern the Committee has taken to address the issues addressed in the motion. He said it also informs the public about the Committee's overall operating strategy. Mr. Garfinkel's questions regarding the rationale behind starting the project without the necessary permits speaks to the habit of excusing actions because the situation has never happened before. He said Mr. Alloy's motion is very valid in the sense that, although the City's Board of Supervisors will make the final decision, any information they have which provides a sense of how the people involved in the process think can't do any harm.

Mr. Warfield's comments specifically addressed the motion and his appreciation of the Committee's comments. He expressed his disappointment that some of the people on both sides of the podium that seem to suggest an appeals process is somehow an annoyance. He said the appeals process is important because there are legitimate parties who are concerned with something that has a right to be heard, which should be respected. He expressed his appreciation of Mr. Garfinkel and others who asked questions and were involved. He is in favor of the motion and of the Committee's willingness to speak in the best way that it can, to whomever they can, about what the Committee thinks is necessary and worthwhile. He expressed his appreciation of the parks, although he hasn't been to all of them. He requested specific addresses for the projects and a map.

Ms. Kamalanathan responded that none of the funds from the 2000 or 2008 bond is being used for the Joe DiMaggio Playground in North Beach. She recommended that this question be referred to the BLIP Program.

4) Presentation from the 2001 Branch Library Improvement Program

An update of the project was provided by Lena Chen, Project Manager for the Department of Public Works, and Maureen Singleton, Chief Financial Officer. The following items were discussed:

- Program Status
- BLIP Revenue and Expenditures
- North Beach Branch Library
- Challenges and Opportunities

The goal of the Branch Library Improvement Program is to provide the public with seismically safe, accessible, technologically updated and code compliant City-owned branch libraries in every neighborhood.

Ms. Chen reviewed the schedule. At this time, 22 of the 24 branches have been completed and are open. There were seven branches opened in 2011: Park, Presidio, Merced, Anza, Visitacion Valley, Ortega and Golden Gate Valley. One branch – Bayview – is in construction. Bayview is about 70% completed. It is expected to open in February 2013. A construction contract has been awarded for North Beach.

Ms. Chen and Ms. Singleton reviewed BLIP's revenue and expenditures. The original budget was \$105,865,000. It was funded by 2000 Prop A. To date, \$111,000,153 has been expended or encumbered.

There were also funds from the 1989 Earthquake Safety Bond that totaled \$2,400,000. All of these funds have either been expended or encumbered.

Other funding sources include State Property 14, the Library Preservation Fund, Lease revenue Bonds, Friends of the San Francisco Library and other sources. As of October 2001, the original budget was \$133,265,000. As of September 2012, the current budget is \$196,259,350.

Ms. Singleton explained that the increases in the BLIP budget are due in part to:

- Project scope changes per Library Commission action
- LEED (leadership in energy and environmental award) project goals
- Americans with Disability Act and other code requirement changes
- Unforeseen site conditions; and,
- Rising construction costs

The North Beach Branch Library has a budget of \$14.5 million dollars. Ms. Chen reviewed the milestones for completion of the new building.

<u>Milestone</u>	<u>Original Date</u>	<u>Current Date</u>
Design Completion	9/05	1/30/12
Supplemental Appropriation	n/a	April 2012
Construction of new Library Start	10/05	Fall 2012
Utility Coordination	n/a	on-going
Construction Finish	1/07	TBD
Project Completion	3/07	TBD
Demolition of old Library	n/a	TBD

Challenges and opportunities for the project were discussed.

- Bayview Library: the branch is scheduled to open in February 2013 and exceeded HRC and Local Hiring goals.

Ms. Callan asked for clarification of the reasons for the re-bid of contracts for Bayview and any ensuing results. Ms. Chen responded that there were protests from the local community in regard to their participation in the construction contract, given that this community has suffered high unemployment. This resulted in incremental costs of \$1.4 million which is a combination of the soft costs associated with the re-bidding process (administrative costs for rebid packaging, outreach, the awarding to smaller contractors, etc.). It was noted that \$1.4 million dollars is a lot of money for a re-bid and breaking the contracts into smaller contracts. It also includes the increased construction costs.

Ms. Rhine noted that this falls into the permit category that creates the kind of cost overruns that the Committee is concerned about. She noted that this is something the pending consulting contracts may want to look at in the way of best practices. The goal is to do

things is such way that costs aren't driven up and create other problems. The process/political questions need to be addressed in order to manage costs.

In response to questions from Mr. Flanagan about the political issues, Mr. Rosenfield said this has come up often. There is often a tension when the City is bidding product between a pure "low bid" and wanting to achieve other social goals that have been adopted into the City's laws and codes. One of the social goals is local business participation in the City's purchasing process. The typical approach for the City, for many years, was to conduct a strict low bid construction process. The City has been experimenting, as a result of the problems we've had with some of the bonds discussed at CGOBOC from the late '90's to early 2000 to identify pools of contractors that can deliver our projects. Approaches that have been talked about include pre-qualifying construction contractors to ensure there is an element of quality in who is selected and not just a low bid.

In the situation regarding the re-bid of the Bayview Library contracts, Public Works and the Library had initially proposed this project and had proceeded down the path of delivering, what had been at that point, a very standard means of delivering construction projects. It was pure low bid. In conducting outreach in the neighborhood, they encountered strong feelings that there needed to be a local business participation element in the way the project is delivered. The Library Commission, on recommendation of staff, subsequently took a different approach. Rather than a pure low bid, the Library Commission went with unbundled construction projects that allowed local businesses to bid more fully. This is legal and codified in the City code in different places. It was adopted by the Library Commission.

Mr. Flanagan expressed his opinion that, in bond issues that go before the voters, it should be mentioned that this method is going to be used. He also said the Controller's Office financial assessment should specify that local hire is going to be used and may have a financial impact to the cost of the project.

Ms. Callan said the red flag, for her, is that those involved in the project did not go to the community in the beginning. She also expressed her opinion that in many of the projects that come before CGOBOC, there is tension between getting the lowest bid and the actual cost of the project (which can also be significantly higher because of the low bid).

There was discussion about how hard it is for small business owners to participate in bidding for City projects. The role of CGOBOC in this situation was discussed. One way to participate in the issue is to study the cost impacts of the different types of social programs so that fully informed decisions can be made about the cost premium that comes with it. The taxpayers should also have the same information.

Mr. Madden said the City has laudable goals to produce the best products at the lowest price consistent with the needs of society. There are numerous codes. The City has put a great deal of effort into outreach to minority for construction contracts, in particular. He expressed his opinion that there isn't a boiler plate that will cover each project. Rather, they must be looked at individually and the trust that the Board of Supervisors and various departments will provide the best product at the most reasonable price.

Mr. Marshall, liaison to BLIP, noted that a lot of the questions that have been coming out of the Committee during the course of the discussion address many of the items in the BLIP written report. One of the items under discussion with DPW and the BLIP team, in regard to this specific bond, are the legal challenges that close to resolution in North Beach. It is time to start transitioning into the close-out phase and ways to learn from the experiences.

Mr. Marshall pointed out that this bond comes from the era of the 2000 Neighborhood Park Bond. Project definitions weren't as explicit as they might have been in the bond. The requirements have changed over the course of the last decade. LEED was actually developed over the same time period. There have been a lot of lessons learned from this bond program that should be documented. The City's different contracting practices, better coordination of contractors, sequencing and the selection process for projects in different parts of the City are all things that will be valuable going forward. A model that more fully addresses the cost implications of each project should also be developed, in partnership with HRC and other City agencies. He expressed his opinion that informing the voters of the true cost should also be part of the model.

- **New North Beach Library**

There have been challenges to the EIR and legal challenges. The City prevailed. There aren't any legal restraints into the project continuing while the appeal goes forward.

- **Lessons Learned from completed projects:**

The community should be included early to minimize impacts on project scope, timeline and costs.

Invest more resources to front-end planning phase for more accurate scoping.

Conduct contractor outreach to maximize competition.

Contract with a smaller group of dedicated pre-qualified contractors for construction services.

Include construction experts early during the design phase for constructability review.

Ensure continuing education training for all on anticipated code changes including ADA, LEED, cost estimating and scheduling.

- **LEED**

The last 10 projects will meet USGBC standards for LEED Silver or greater.

Presidio and Parkside have both received LEED silver. Park, Anza, Visitacion Valley and Merced have received LEED Gold. There are also challenges for contractors.

Ms. Chen also showed design renderings of the North Beach Library and construction photos of the Bayview Library.

Mr. Alloy and Ms. Callan agreed that whatever may be in place today may not be applicable as effective in the future. Mr. Rosenfield said the Controller's Office has periodically issued reports on the City's contracting projects over the years. SPUR has also done work on the same subject. The large construction contracting departments in the City, working with the City Attorney's Office, completed a report within the last two years. The City has been using a host of design and delivery contracting procedures in the

last five years. The Committee will be provided with this information. A consideration is what the right delivery method is for different kinds of projects because it probably isn't the same – i.e. the San Francisco General Hospital Project and Branch Library Improvement Project. This may become a meaningful agenda item in the future – to hear from a cross set in the City who are working on this sort of issue. It is on the City's mind as well.

There was public comment from James Chaffee, Ray Hartz and Peter Warfield regarding various aspects of the Branch Libraries Improvement Project and Friends of the Library. Their reference materials are addendums to the minutes and will be posted on the CGOBOC web site. There was also a significant exchange between Committee members and Library staff regarding this issue, as well, with particular inquiry and concern over how the Library presented financials suggesting that monies spent by the Friends were included in the program totals. There were legitimate questions as to whether the City ever actually controlled these funds; the answer appeared to be “no”, which was not clear from the documents. The Committee gave direction to Staff that the documents should be revised and provided to the Committee and public again. Going forward, more rigorous accounting standards should be used in presenting City financials.

Mr. Madden remarked that an audit of Friends of the Library was conducted several years ago regarding supervised construction support and was part of the MOU between the City and the Library. As part of public comment, there was an exchange between those making public comment and the Committee about audits of Friends of the Library, their role in providing needed items and funds to libraries and their accountability.

5) Opportunity for Committee members to comment on any matters within the Committee's jurisdiction.

- a) Draft CGOBOC 2012 Annual Report: Ms. Selby noted that she still needs reports from a couple of the liaisons in order to complete the report. It will be brought to the November 2012 CGOBOC for final approval and then put on the Board of Supervisors calendar.

There was public comment from Derek Kerr, M.D. regarding the CSA 2013 Work Plan.

“Ladies and Gentlemen,

The CSA Work Plan for 2012-13 is uninformative. Here's a Program that takes \$12.5 million tax dollars annually, without showing anyone how it plans to use that money.

For example, how much is allocated to the Whistleblower Program? Is it \$5,000, or \$50,000, or \$150,000?

What are the goals? Nobody knows except CSA managers.

All we get from the CSA Work-Plan is one long sentence full of buzz-phrases like;

- a) "Continue to provide best in class service"
- b) "Develop and implement process changes"
- c) "Continually enhance the effectiveness of the Whistleblower Program"

What do these words mean? There is nothing substantive or specific. To the average citizen, it's all mumbo-jumbo.

In comparison, the CSA Work Plan for 2009-10 was much better. There, we got a breakdown of planned CSA expenses. We could tell what CSA's priorities were, and where public money was going. For example, in 2009-10 the Whistleblower Program was allotted \$300,000. That was a reasonable budget.

But as I showed CGOBOC at the July 26, 2012 meeting, the actual spending for the Whistleblower Program was just \$133,707 in 2009-10. So, it seems that more than half of the Whistleblower Program budget was diverted elsewhere.

In any case, when the CSA Work Plan includes some numbers, especially planned expenses, it allows you and the public, to track what's happening with the money.

There is no plan - or budget for the Whistleblower Program in this year's CSA Work Plan. Without this information, there can't be meaningful oversight.”

There was also public comment from Ray Hartz and Peter Warfield.

The Committee decided to move Item 6 (CSA 2013 Work Plan and CGOBOC Consulting Contracts to the November 2012 meeting.

8) Opportunity for the public to comment on any matter within the Committee's jurisdiction.

There was public comment from James Chaffee about the BLIP MOU, from Ray Hartz about Friends of the Library and Peter Warfield about Friends of the Library.

The meeting was adjourned at 12:15 p.m.