

Citizens' Oversight Committee
Meeting Minutes
October 18, 2016 – 5:00 p.m.
District Office
2490 Hilborn Road
Fairfield, CA 94534

A meeting of the Fairfield-Suisun Unified School District Citizens' Measure J Oversight Committee was held at the District Office, Room 102.

CALL TO ORDER

Mr. Rick Wood called the meeting to order at 5:04 p.m.

Members in attendance: Nicole Mallari, Jana Modena, Barbara Pisching, LeRoy Purvis, Rochelle Sherlock, Robert C. Thomas, Sr., Chuck Wood, and Rick Wood

Absent: None

District Administration in attendance: Kim Van Gundy, Director, Facilities & Construction; Rachel Dula, Facilities Planner; Michelle Henson, Assistant Superintendent, Business Services; Phil Henderson, Legal Counsel, Orbach Huff Suarez & Henderson

Guests in attendance: Danny Bernardini, Napa-Solano Building & Construction Trades Council; Nicole Goehring, Community and Government Relations Director, ABC NorCal; Richard Markuson, Pacific Advocacy Group, Murray Bass, Community Member

APPROVAL OF MINUTES

Ms. Pisching made the motion to approve the minutes of the September 20, 2016, meeting and Ms. Modena seconded. All voted aye and the motion passed. Mr. Chuck Wood abstained as he was absent from the September meeting.

REVIEW OF BOARD REQUEST REGARDING A PROJECT LABOR AGREEMENT

Mr. Rick Wood overviewed the purpose and structure of the meeting. Ms. Van Gundy reviewed the Governing Board's request for the Committee's opinion regarding a Project Labor Agreement (PLA). The opinion was requested in writing in order for it to be included in the Governing Board's agenda packet. Ms. Pisching inquired about the procedure of writing an opinion since the Committee had limited time. Mr. Rick Wood thought it might be possible to draft the opinion during this meeting.

DISTRICT'S PREQUALIFICATION PROGRAM

Ms. Van Gundy referred the Committee to the information provided in the agenda packet. The prequalification program has been in place since 2002, it is updated as needed, and it is advertised quarterly. In 2014, all districts were required to adopt a prequalification program on state funded projects. The District's program had been modeled after the Department of Industrial Relations and therefore only required minor adjustments. Each December, the District annually reviews the program and makes

adjustments if necessary. The last update was approved in 2015. Mr. Purvis asked if the District performs background checks. Ms. Van Gundy explained the screening process and provided examples of the criteria the contractor must meet, which also include reference interviews. Mr. Rick Wood wanted to know if a state law can pre-empt the prequalification program. Mr. Henderson explained that the District's program follows the Department of Industrial Relations (DIR) regulations and that the District can and does add above and beyond these regulations. Mr. Rick Wood asked if these regulations encompass the PLA requirements. Mr. Henderson clarified that the contractor is asked to provide the name of the apprenticeship program that is approved by the California Apprenticeship Council.

PRO PLA PRESENTATION

Danny Bernardini from the Napa-Solano Building & Construction Trades Council presented information regarding a PLA. Mr. Bernardini clarified that the Governing Board is deciding whether or not to approve the right to negotiate a PLA. Mr. Bernardini provided responses to some of the questions proposed by the Governing Board at the September 18, 2016, meeting as part of his presentation. He provided his organization's position on the processes and benefits of a PLA.

QUESTION AND ANSWER SESSION

Mr. Bernardini introduced two guests that assisted in answering the Committee's questions: Brett Risley, Business Representative, Sheet Metal Workers' Local Union No. 104 District 1; Ben Espinoza, President, Napa-Solano Building & Construction Trades Council, AFL-CIO.

Question (Mr. Purvis): What is the staff time to work with a PLA versus a prequalification program?

Answer (Mr. Risley): Once the agreement is negotiated, there is no additional staff time required. Mr. Risley pointed out that some Districts use a Bond Administrator to facilitate the pre-hire process and the Bond Administrator is funded by the bond.

Question (Mr. Henderson): Is District staff involved in grievances?

Answer (Mr. Risley): They are not.

Question (Ms. Sherlock): Please elaborate on the statement that the Governing Board is approving the right to negotiate with a PLA.

Answer (Mr. Risley): If the Board decides yes, then a date would be set with the Trade Council to negotiate the document. Then the Board will decide yes or no on the PLA document.

Question (Mr. Chuck Wood): What is the qualification period of benefits? Must all workers be in the union?

Answer (Mr. Bernardini): The employer must have 5 years vested. Yes, all workers must be in the union.

Question (Ms. Mallari): Please elaborate on the employee's health coverage.

Answer (Mr. Risley): Union workers cannot opt out of the coverage. If the spouse is providing coverage, then they will be double covered. Contractors can turn off the non-union health coverage during the PLA project.

Question (Ms. Rochelle): How does a PLA benefit the school district?

Answer (Mr. Bernardini): There are trained workers and higher standards. It ensures labor wage compliance.

Question (Mr. Purvis): What are the students' opportunities with the apprenticeship program?

Answer (Mr. Bernardini): Apprentices need to be at least 18 yrs old; however, there are a few programs with a "pre-apprenticeship" or internship program, which are part of the negotiations.

Question (Mr. Chuck Wood): Can the PLA require higher wages than prevailing wage?

Answer (Mr. Risley): The wage is the same as the prevailing wage. It will not require non-union to pay higher than the prevailing wage. Mr. Henderson clarified that all public works require prevailing wage.

OPPOSITION TO PLA PRESENTATION

Nancy Goehring from ABC NorCal presented information regarding a PLA. Ms. Goehring explained there should be opportunity for contractors to bid on a project regardless of their affiliation. The concerns for the work force, contractors, and the District were discussed. Richard Markuson from Pacific Advocacy Group also presented within the allotted time. Mr. Markuson explained that the Committee should reserve judgment until there is a PLA agreement document set forth for approval.

QUESTION AND ANSWER SESSION

Ms. Goehring and Mr. Markuson introduced a guest that assisted in answering the Committee's questions: Mike Messer, Pacific Power & Systems.

Question (Ms. Modena): What is considered local?

Answer (Ms. Goehring): The Governing Board decides that definition. Employing the local workforce is an attainment goal.

Question (Mr. Purvis): Are there guarantees on the skill levels on non-union contractors?

Answer (Ms. Goehring): The apprenticeship programs are governed by the State through State exams.

Question (Ms. Pisching): Please elaborate on the State exemption on auditing labor compliance for a PLA.

Answer (Ms. Goehring): Legislation passed labor code 1771.4(b) that allows for the exemption.

Question (Ms. Pisching): How does the District determine which bid qualifies?

Answer (Ms. Van Gundy): It is the lowest responsible bidder that qualifies. A non-responsive bid may include not listing subcontractors, not providing a bid bond, or not listing the DIR number.

Question (Mr. Chuck Wood): What are the requirements of apprenticeships?

Answer (Mr. Markuson): Public works projects have to have the equivalent of the apprenticeship requirements. Apprenticeship programs are equal to union programs.

Question: (Mr. Purvis): Can a PLA keep the promise of staying on budget?

Answer (Mr. Messer): With a PLA, there are fewer bidders resulting in higher prices. Contractors cannot drop existing health coverage because the workers will not be on the project continuously for the entire length of the project. Mr. Messer from Pacific Power & Systems stated he will not work on PLA projects. Paying double benefits is one reason why Pacific Power & Systems would not bid.

Question (Ms. Sherlock): Does a PLA prohibit bidders?

Answer (Mr. Markuson): The contractors can decide to abide by agreement and bid or they decide to not abide by the agreement and not bid.

Question (Mr. Chuck Wood): Is the prevailing wage that Pacific Power & Systems pays the same as what is required by a PLA?

Answer (Mr. Messer): Pacific Power & Systems pays the same prevailing wage; it is state law.

PUBLIC COMMENT

The Committee heard from the following public speakers:

Danny Bernardini, Napa-Solano Building & Construction Trades Council

Brett Risley, Sheet Metal Workers' Local Union No. 104 District 1

Nicole Goehring, ABC NorCal

Richard Markuson, Pacific Advocacy Group

Murray Bass, Retired

Mike Messer, Pacific Power & Systems

DISCUSSION AND PREPARATION OF OPINION

Mr. Chuck Wood asked if there were any quality problems on Measure C projects. Ms. Van Gundy replied that the District has received quality projects. Mr. Purvis inquired about issues or claims on previous projects and if a PLA prevents such issues. Ms. Van Gundy replied that there has only been one claim on the Armijo High School Administration Building project. The District had lawyers involved and it was settled. Mr. Henderson explained that a PLA does not deal with performance dispute claims. Ms. Pisching asked if there were bond projects that went over budget. Ms. Van Gundy replied no. Mr. Chuck Wood asked if a PLA requires extra staff time. Mr. Henderson replied that the negotiation of the agreement takes time. Implementation is negotiated, so additional staff time would depend on the agreement that is negotiated. Ms. Pisching distributed a handout from the taxpayer group she represents.

Ms. Modena asked that the Committee pool their individual opinions. Each Committee member offered his/her opinion. Mr. Purvis made a motion that was amended during the

Committee's discussion. Mr. Purvis' final motion was stated: The Committee to provide an opinion to the Board that the District should not enter into a PLA at this time and that the opinion will include the following four points:

1. The public was not informed of a PLA in advance of the bond passage. The Governing Board should have made this decision in advance of the vote and did not.
2. The District currently has an equal playing field for both union and non union contractors.
3. There are risks of higher costs: potential smaller pool of contractors, potential of a bond administrator, and the cost of negotiating a PLA.
4. The presence or absence of the PLA does not directly benefit the students.

Ms. Sherlock seconded. All voted aye and the motion passed.

FUTURE MEETINGS AND AGENDA ITEMS

The next meeting will be held on December 12, 2016, at the District Office.

Mr. Rick Wood adjourned the meeting at 8:25pm.

Approved: _____


Ms. Jana Modena, Vice Chair

