

Annual Report for 2011

Measure H Bond Oversight Committee

Oxnard Union High School District

Approved February 6, 2012

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Attachments

Full text of Measure H

Site Visits – full description

Letter to Auditor

Response to Letter to Auditor

Financial and Performance Audit

Summary

We the members of the Measure H Bond Oversight Committee (BOC) would like to respectfully submit the following report to the residents, voters and taxpayers of the Oxnard Union High School District. This report fulfills the requirement of a Proposition 39 bond requiring that the School District Board of Trustees (School Board) form an independent citizens' oversight committee, and that this committee report to the public on the proper expenditure of bond funds at least once annually. Although Measure H was passed in 2004, bonds were not issued until 2010. This report provides the history of the committee and Measure H beginning in 2004 and reports on Measure H expenditures made through 6/30/11.

In this last year the BOC has worked diligently to understand its role in the oversight process as well as help the district to understand its role. There appeared to be a learning curve for both district staff and the Board of Trustees as to their legal requirements and responsibilities relative to the oversight committee. The Committee was appointed twice, with two different resolutions. Also, several members were never approved by the Board although staff reported to the committee that they had been approved.

During 2011, the committee had difficulty in receiving timely and useful data. Early on the committee members had to come to an understanding that the role of a BOC as defined by Prop 39 is an "after the fact" committee. We are not part of the decision making process. The committee met eight times in 2011 to work through these issues. Our agenda and minutes can be found at:

http://www.ouhsd.k12.ca.us/business_services/schoolbond/minutesagendas.htm

Now that the district has a new Superintendent, district staff and the committee have developed a better working relationship. As we move forward, the public should see consistent and timely reporting from the committee as well as the district on Measure H expenditures.

Based on our experience over the last year, the committee would like to make the following comments:

1. The bond measure language describes the projects the district will legally be able to spend the bond money for. Only the actual bond language holds the district accountable for how the money will be spent. Measure H language is broad in scope and allows for a large variety of projects to be funded including repairs and renovations to existing facilities.
2. As written in Prop 39, the Bond Oversight Committee is a review committee, after the money has been spent. While some districts expand the role of the committee to include them in the decision making process, they are not legally required to do so. The Committee's role as written in Prop 39 does help increase transparency and reporting to the public, but only after the money has been spent.
3. Timely data from the district is critical to the ability of the Oversight Committee to do its work. As the committee moves forward, positive steps have been made by district staff to help make this happen in the future.

Respectfully Submitted,

Patty Lerner, Chairman Bond Oversight Committee
February 6, 2012

FAQ— MEASURE H BOND OVERSIGHT COMMITTEE

Frequently Asked Questions:

1. What can the Measure H bond money be spent on?

It can be spent on construction, reconstruction, renovation, rehabilitation or replacement of school facilities, including land acquisition and furnishings and equipment. The full text of the measure is attached as an Exhibit.

2. Can bond money be spent on teacher salaries, administration expenses, or operating expenses?

No.

3. Can bond money be spent on a new swimming pool or solar panels?

Yes, both are allowed under the language of Proposition 39 and the Measure H ballot language, since both are considered “upgrades to existing facilities”. Existing facilities can be defined as the existing high schools in the district.

4. Can bond money be mixed with other sources of school district money to pay for new construction?

Yes. You will see which current projects have had expenditures from Measure H funds as well as other district funding sources.

5. Do the bond oversight committee members get to decide on how and where the money is spent?

As defined by Prop 39, Bond Oversight Committees are not part of the decision making process. The committee is considered an “after the fact” committee, deciding if the money was spent appropriately. This is how the Measure H Bond Oversight Committee operates. The committee also does not participate in the negotiation or bidding process with contractors. The OUHSD Board makes those decisions.

6. Can Measure H bond money be used to “re-finance” previously issued General Obligation Bonds that paid for new construction?

Yes, this was done by the OUHSD in recent years since Measure H passed. In 2008 the district issued two series of Bond Anticipation Notes. Series A was for \$9.7 million. These were projects at schools in the Oxnard area. Series B was for \$2.5 million. This was for projects at Camarillo High School. These series were created in case of unification passing, to make the division of assets and liabilities easier. It has been determined that the Bond Oversight Committee should have been active at that time to review the expenditures (See response to Committee questions attached as an exhibit to this report). Since the committee did not review the expenditures at that time, they are included in the current audit.

7. How much bond money has been spent so far?

Measure H authorized the issuance of up to \$135 million of bonds, but so far two series have been issued. Series A for \$50 million was issued in July 2010 and Series B for \$4 million were issued in April of 2011. Series B was issued under a federal program and can only be used for certain projects. The interest rate for the Series B bonds is 0%. With leftover dollars from the

unused Bond Anticipation Notes issued in 2008 as well as interest on those dollars, a total of around \$56 million dollars was available for use. As of June 30, 2011, about \$15 million has been spent, leaving roughly \$41 million to be spent from the Series A bonds.

8. Why didn't the district issue the full \$135 million at once?

The district must spend 85% of the proceeds from the Series A bond issuance in three years. The Series B issuance has already been spent. Also, there is no point in having the taxpayers pay for the bonds until they are ready to be used.

9. Was Measure H bond money intended to be the sole source used to pay for the construction of new high schools?

No. According to district staff, they always intended to use a combination of bond money and other sources, such as state grants (matching funds), to be able to pay the cost of new campuses.

10. Has the oversight committee inspected the new facilities constructed or the proposed sites where bond money was or will be spent?

Yes it has. Please see the section titled Site Visits for a full description of the visits.

11. Has the oversight committee reviewed deferred maintenance proposals or plans for the OUHSD?

No. the committee did not request, nor did the district provide deferred maintenance proposals. The committee focused its time on collecting and understanding the data from the 2008 Bond Anticipation Notes as well as the current projects underway. Also, during this state budget crisis, school districts are able to move deferred maintenance dollars into the general fund to help cover the funding cuts from the state. Therefore normal maintenance that would occur has been suspended. As the committee moves forward, this will be an area that requires review.

12. Why did the Oversight Committee not meet for so long after Measure H passed in 2004?

The situation that has occurred with the OUHSD Measure H bond is unique in California. There is no other known case where a bond has passed, but no bonds were issued until six years later, in July 2010. In the intervening years, some committee members periodically contacted staff about meeting and were told, there is no need to meet since bonds had not been issued. This response was also given when members called concerning the Bond Anticipation Notes (BANs) issued in August 2008. Bond funds could be used to pay these notes when they became due, but bonds were not issued at that time. In 2010 the district began efforts to re-activate the committee in anticipation of issuing Measure H bonds and spending these Bond funds for projects authorized by the Board.

The following tables are from the financial audit (pages 4 and 11 respectively). These have been placed here to provide a brief, overall picture of Measure H expenditures. Please see the complete audit document for a full explanation of these tables.

**OXNARD UNION HIGH SCHOOL DISTRICT
BUILDING FUND (MEASURE H)**

**STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCE
FOR THE YEAR ENDED JUNE 30, 2011**

REVENUES	
Interest income	\$ 337,129
EXPENDITURES	
Capital outlay	
Improvement of sites	378,312
Buildings and improvement of buildings	1,360,018
Equipment replacement	126
Debt service - principal	12,290,000
Debt service - interest and other	1,195,321
Total Expenditures	<u>15,223,777</u>
DEFICIENCY OF REVENUES OVER EXPENDITURES	<u>(14,886,648)</u>
Other Financing Sources:	
Other sources - proceeds from bond issuance	55,175,253
Transfers in	928,291
Net Financing Sources	<u>56,103,544</u>
NET CHANGE IN FUND BALANCE	41,216,896
FUND BALANCE - BEGINNING	-
FUND BALANCE - ENDING	<u><u>\$ 41,216,896</u></u>

NOTE 5 - COMMITMENTS AND CONTINGENCIES

As of June 30, 2011, the Building Fund (Measure H) had the following commitments with respect to unfinished capital projects:

	Measure H Proceeds	Other District Funds	Project Totals
Adolfo Camarillo High School			
Performing Arts Center	\$ 8,329	\$ -	\$ 8,329
Pool	589	-	589
Snackbar Replacement	-	12,022	12,022
Solar Field	70,479	1,855,921	1,926,400
Channel Islands High School			
Expand & Increase Size of Auto Shop	1,345,953	658,773	2,004,726
Solar Field	135,836	2,612,964	2,748,800
Hueneme High School			
Solar Field	138,900	2,598,300	2,737,200
Swimming Pool	540	-	540
Visitors Football Bleachers	4,760	-	4,760
Oxnard High School			
Hospitality, Tourism, and Recreation	118,466	176,553	295,019
Solar Field	3,057,479	1,454,421	4,511,900
Pacifica High School *			
Hospitality, Tourism, and Recreation	219,612	112,500	332,112
Solar Field	195,471	4,040,729	4,236,200
Rio Mesa High School			
Hospitality, Tourism, and Recreation	-	986,135	986,135
Solar Field	3,356,009	1,059,391	4,415,400
New High School Land Acquisition			
	-	285,707	285,707
Total	<u>\$ 8,652,423</u>	<u>\$ 15,853,416</u>	<u>\$ 24,505,839</u>

* Pacifica High School Hospitality, Tourism and Recreation Project above includes \$208,898 in Bond and \$112,500 in Other Funds expended before June 30, 2011. Remaining project balance is \$10,714 to be paid with General Obligation Bond proceeds.

Measure H Ballot Description

To repair and renovate every high school in the District, relieve student overcrowding by building and acquiring high schools and classrooms throughout the District and become eligible for State matching funds, shall Oxnard Union High School District issue \$135 million of bonds at the lowest possible interest rates provided spending is annually reviewed by an independent citizens' oversight committee, no money is used for administrative salaries and all funds are spent locally and not transferred to the State.

The full text of Measure H can be found attached as an Exhibit.

Purpose of the Bond Oversight Committee

Prop 39 defines the legal requirements of the Bond Oversight Committee. However, school districts do have the ability to expand the role of their Bond Oversight Committee although they are not legally required to do so. The Measure H Bond Oversight Committee operates under the legal requirements defined in Prop 39.

Purpose as stated in Prop 39:

The purpose of the Committee shall be to inform the public concerning the expenditure of the bond proceed. The Committee shall engage in the following activities to carry out this purpose:

- Actively review the report on the proper expenditure of taxpayers' money for school construction;
- Advise the public as to whether the school district is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and Convene to provide oversight for, but not limited to:
 - Ensuring that bond revenues are expended only for the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishings and equipping of school facilities, or the acquisition or lease of real property for school facilities;
 - Ensuring that no funds are used for any teacher or administrative salaries or other school operating expenses.

It is the express intent of the Legislature that the members of the Committee "promptly alert the public to any waste or improper expenditure of school construction bond money."

Purpose of Oversight Committee as stated in the committee's bylaws:

The purposes of the Committee are set forth in Prop 39, and the Committee's Bylaws are specifically made subject to the applicable provisions of Prop 39 as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the Ralph M Brown Public Meeting Act of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support at District expense to the Committee as consistent with the Committee's purpose as set forth in Prop 39.

Committee History

In November 2004, voters passed the Oxnard Union High School District Measure H Bond for \$135. The monies are to be used for the repair and upgrade of existing facilities and to build two new high schools. This bond is a Prop 39 bond and required a 55% majority versus a 67% majority vote to pass. Because of the lower voter threshold allowed under Prop 39, the district is required to form a Bond Oversight Committee (BOC) within six months of passing the bond measure. In March of 2005 the Measure H Bond Oversight Committee held its introductory meeting.

The situation that has occurred with the OUHSD Measure H bond is unique in California. There is no other known case where a bond has passed, but no bonds were issued until six years later, in July 2010. In the intervening years, some committee members periodically contacted staff about meeting and were told, there is no need to meet since bonds had not been issued. This response was also given when members called concerning the Bond Anticipation Notes (BANs) issued in August 2008. Bond funds could be used to pay these notes when they became due, but bonds were not issued at that time. According to the District's bond counsel, the committee should have been meeting at the time the BAN's were issued to review the expenditures they were paying for. Since the committee was not meeting, those expenditures were included in the current year audit.

In 2010 the district began efforts to re-activate the committee in anticipation of issuing Measure H Bonds. Original committee members were contacted to see if they were still interested in serving. In April 2010 resolution 10-27 was passed reinstating the bond committee. At the OUHSD School Board's July 14 meeting, they voted 3 to 2 to issue \$50,000,000 in Measure H bonds. On July 29, 2010 the Committee met. This should have been an official meeting of the committee under the rules of the Brown Act. At the meeting it was determined by district bond counsel, Mr. Chick Adams, that we had not been reappointed; therefore this could not be an official meeting. The group had a lengthy discussion concerning the use of Measure H funds. Minutes were not taken since this was deemed not an official BOC meeting. District staff members were present as well as bond counsel via telephone conference. Trustee Valles attended the meeting as a board representative. Trustees Jaquez and Lopez-Hanson attended as observers.

On August 11, 2010 a subsequent resolution (10-56) was passed reappointing the following committee members:

John Alamillo, William Belcher, Dr. Yvonne Bodle, Sol Chooljian, Stan Daily, Efren Gorre, Howard Hoover, Patricia Lerner, Norma Maidel, Tina Morrison, Rebecca Pecsok, Sandy Bieler-Rao, John Reardon, Claudio Sandoval, David Stiling, Al Velasquez

In March 2011, Committee members received a letter from the district containing several items including an updated list of members:

William Belcher, Sol Chooljian, Efren Gorre, Howard Hoover, Patricia Lerner, Norma Maidel, Rebecca Pecsok, Sandy Bieler-Rao, John Reardon, Claudio Sandoval, David Stiling, Rochelle Sullivan, David Rodriguez, Adolfo Murillo Jr., and David Covarrubias

Subsequently, some resigned from the committee for a variety of reasons, including ineligibility because they are an employee, ineligibility because they do not reside within the OUHSD boundaries, ineligibility because they are currently a vendor of the district, concern over time commitment, lack of attendance and concern over personal liability. The Committee also discovered that several members had not been

approved by Board, even though staff had reported that they were approved January 26, 2011. Since only one of the unapproved members currently remains on the committee, the Board will be ratifying his appointment at their February 8, 2012 meeting.

Several members were added during 2011 to fill critical spots. The Committee members at the end of 2011 consist of the following under Prop 39 requirements:

The Committee shall consist of at least seven (7) members to serve for a term of two (2) years without compensation and for no more than two (2) consecutive terms.

Required Members:

Business Organization Representative	Nancy Lindholm
Senior Citizen Representative	Vacant
Parent of school District student	Vacant
Parent of a school district student and active with the PTA	Vacant
Member of a bona fide taxpayers' organization	Fred Ferro

Members at Large:

William Belcher
Sandy Bieler-Rao
Sol Chooljian
Patricia Lerner
Norma Maidel
Adolfo Murillo, Jr.
Rebecca Pecsok
David Rodriguez

The newly reinstated committee had its first official meeting on March 22, 2011. At this meeting the committee elected interim officers; Chairperson Patricia Lerner, Vice- Chairperson Sol Chooljian and Secretary Rebecca Pecsok. Mr. Chick Adams, Bond Counsel was present and explained the function of the Committee. Recognizing the need to catch-up quickly, the committee decided to hold its next meeting on March 28. This meeting is noted as a special meeting because of the Brown Act guidelines on the posting of the agenda.

On March 28, 2011 Committee bylaws were presented and approved. The bylaws can be found on the district website at: http://www.ouhsd.k12.ca.us/business_services/schoolbond/bylaws.htm. Determination was made as to which members would serve a One (1) year term and which ones would serve a two (2) term. Results; Norma Maidel, David Rodriguez, and Patricia Lerner will serve one (1) all others will serve a two (2) year term. Elected officers, those elected in the previous meeting were confirmed as the Committee officers.

The committee met a total of eight times during 2011. At seven of these meetings a quorum was present. The June 6th meeting did not have a quorum, so voting could not occur. Since members of the public attended the meeting, it became a Q&A type discussion. Minutes were taken, so that the public comments could be recorded, and so there would be a record of who was there and what was discussed. Agendas and minutes can be found on the OUHSD website at:

http://www.ouhsd.k12.ca.us/business_services/schoolbond/minutesagendas.htm

REVIEW OF ANNUAL FINANCIAL AND PERFORMANCE AUDIT

The district chose the accounting firm Vavrinek, Trine, Day & Co., LLP to conduct both an independent financial and a performance audit of the Oxnard Union High School's Measure H Building Fund financial statements for the year ended June 30, 2011. In August, the Committee created a letter to the auditor with questions that we would like to see addressed by the financial and performance audit. The district forwarded the letter to the audit firm. The committee was informed that the auditor had the letter.

The draft reports were sent to the OUHSD Board of Trustees on November 1, 2011 and to the Committee on November 7th. The report was reviewed by the Committee at the November 7th meeting. At this meeting, the committee chose to not accept the audits since the committee's questions had not been addressed as well as concerns about the accuracy of data that appeared in Table 5 on page 11 of the financial audit. The board approved the audits at their November 9th meeting.

After the committee's November 7th meeting, we were informed that the auditor had not responded to our letter since the questions were outside the scope of the audit as defined by the district. Apparently, the audit firm had not informed the district about the inability to respond to the letter until after the audit was complete and delivered to the district. The district did forward the letter to bond counsel to respond to the questions. The letter and district response are attached as exhibits.

The district also requested the audit firm update Table 5 of the financial audit. The revised audit came back to the Committee and was accepted at the January 23, 2012 meeting.

In summary, the firm found that the Building Fund financial statements were free of any material misstatements and their tests disclosed no instances of non-compliance required to be reported under "Government Auditing Standards". Their reports are attached as exhibits.

The auditors verified that the costs expended during the year were for valid expenditures under Measure H.

Bond Oversight Committee- High School Site Visits

Fred Ferro and Sol Chooljian were tasked with visiting OUHSD high school campuses that had been the sites of H Bond fund expenditures with the objective of viewing the capital improvements to support the Oversight Committee’s charter to report whether the expenditures were proper both in the letter and intent of the H Bond measure.

The campuses visited were:

<u>High School</u>	<u>Date</u>
Pacifica	November 28, 2011
Camarillo	December 7, 2011
Rio Mesa	December 14, 2011
Oxnard	December 15, 2011
Hueneme	December 19, 2011
Channel Islands	January 31, 2012

Fred J. Ferro and Sol Chooljian were the BOC team with the exception that only Sol Chooljian was at Pacifica and only Fred Ferro at Hueneme. Mr. Stephen McFarland, Director – Maintenance & Operations was the OUHSD resource on each site visit. Mr. McFarland was briefed as to the objectives of the site visits.

The narratives of each site visit are included as attachment to this report.