

Meeting Minutes of April 19, 2022

Members Present: Damian Park, Carla Schneiderman, Wade Skeels, and Ken Berland

Staff Present: John Calise and Chanita Stevenson

Guests Present: Kelli Jurgenson, Chris Moreno, and Cal Walsh

1. Call to Order: The meeting was called to order at 6:10pm

Roll Call: Members Park, Skeels, Berland, with Member Schneiderman calling in.

All Staff Present

2. Approval of Agenda: The agenda was approved at 6:11pm

Motion to approve the agenda by Member Park (DP)

Second to approve by Member Schneiderman (CS)

All in favor

Motion Carries

3. Public Comments:

- a. Mati Teiblun wants to comment on Parking and Tennis and Plant Operations. "Regarding Plant Operations John took some time to talk to me and I have a feeling that the approval of the Plant Ops move to Milvia, that the information supplied is very high level. In conjunction with the Parking Project, how was the decision made to choose the Milvia location for the Plant Operations? It seems like we should have more information to make plans for the future. We need more information and I'm eager to see more, and with the price tag being so large there should be more information. Regarding the parking lot and the tennis courts is problematic too. The cost is 3 to 6 times the highest cost in the nation for parking. (\$34,000 per spot for each spot is the highest in the nation.) I could not find a trace of other information of doing research to see if this is the only option. This doesn't make sense. Just because we have the money doesn't mean we should spend it. Plant Operations wasn't known at the time of the measure. What is the decision making process and what are the projects being dropped off the list and how is it justified? What is the decision making process of putting this project and plant ops into measure G? What are the projects being dropped off the list to accommodate this project?"
- b. Liza Lutzker has two kids in BUSD, one at Longfellow and one at Sylvia Mendez - and she is, "also a coordinating member of Walk Bike Berkeley. We are an all volunteer organization focussed on really specifically BUSD and school transportation for the district. I played a strong role in helping to develop a sustainability policy for the city. I'm here 100%

specifically to focus on the Parking Structure Project. The cost is incredibly high at \$80,000 per car to store it all day. This is an inefficient and inexcusable use of public funds. We should be spending that money to teach our children and not to store cars. I don't know if you are planning on putting chargers into every single spot, which would add even more costs. There are not going to be gas powered cars sold in this state in the next few years. We are building infrastructure that won't even be used in a few years. We have so much need for our kids and this just doesn't make sense to pay to store cars. This is the most transit rich area of the entire city. Putting a parking structure in the most bike rich, transit rich and pedestrian rich area of the city doesn't make sense. The best protected bike lane in the entire East Bay. Now, I will just tell you, as someone who works with city planning and the transportation department, the city will not allow you to drive trucks on Milvia. It isn't permitted. The city is going to require a transportation demand management plan. Right now Berkeley is trying to figure out how to incentivize people to NOT drive. They are going to require hiring a consultant to develop a mitigation and comprehensiveness plan and this money is not in the budget. I just really want to say, this is a bad use of taxpayer money and not what the city is trying to do. BUSD is in for a rude awakening with the permitting costs and electrification costs and maintenance cost because the city does not want more parking downtown. Thank you."

- c. Kevin Jude - a member of the PTA at Emerson Elementary and also has a student at BHS. "I'm going to speak really briefly because I'm going to echo what the other community members have brought to the table. I was shocked to see we are going to build a parking garage in the middle of the city transit hub. Bart is easily as competitive financially as driving from at least three out of four directions. Meanwhile in the midst of a pandemic, or hopefully the tail end of a pandemic, the aging HVAC system at Emerson needs to be upgraded. I think the John Muir School is in the same situation and I can see these projects are on the list in 5 or 6 years when my youngest will be at BHS. It seems our kids need to be prioritized and the priorities are out of whack. Thank you"
- d. Rana Cho - "I am the president of the PTA at Emerson and the parent of a third grader. I'm here because along the way knowing that there is a pandemic and regular fire season our air systems are so bad. So bad! It's a forced air system and we have Corsi Rosenthal boxes, 2 of them in each classroom. And the teachers need to YELL over the roar of them for their instruction. That's going to be improved in 2028, according to the Facilities Needs Assessment File. So, 25MM parking - I know it was written into the ballot for the bond measure G - but I want to know how we can participate in the allocation of funding for projects? Those are really hot fans, and what are they doing in the summer? The school needs to have an upgraded filtration system - with fire season. How can we participate in the project development process? It's inexcusable." Ms. Cho continues, "The recent Berkeleyside article shows that it is a HUGE problem with parents and it will be a major problem for the school board and I will make it a problem for them. I am asking again for increased community participation, and transparency in the prioritization of the projects. That opens the door for addressing why is this need prioritized over, I don't even know what those classrooms need, could be not even a fraction of the 25MM. Those elementary

schools, those are our youngest students! Try spending a day there. Try going to the bathroom! I don't understand how we are even at this point. I will make sure any further steps include community participation. Thank you.”

- e. Bihima Sheridan. “I am a parent of a fifth grader at Malcolm X, and a sophomore at BHS and I am a former PTA member at Malcolm X. I am basically echoing what everyone is saying here. I would like to also thank the district for their service, it's a thankless job. There's always more to be done and there's always someone heckling you from the side. I may be a Johnny Come Lately and I don't know how this all works, but I just want to go on the record as saying I support rethinking the Tennis Court Plan as it is. I worked in the '90's to get the bike lanes adopted and it's great to see where they are now. Cars are on their way out - there is not a future for them. Maybe something a little less impactful. I feel for people who like tennis and hopefully something can be figured out there. Not sure if everyone is aware that a senior fell off a parking structure yesterday and we should build more parking structures for students to fall off? I also echo the need for better HVAC systems. Certainly Emerson HVAC upgrades need to happen. I would love to see some green improvements instead of more parking. Thank you for your time”
- f. Executive Director John Calise (ED JC) states, “with everybody in the room it would be helpful to know; this is a meeting for reviewing financials after the fact. The primary purpose of the CBOC is to review expenses and make sure they align with the bond language. That being said, the conversations and comments that are being made here are very valid, but the place to be having these conversations is the Facilities Subcommittee Meetings. I would encourage you to go to the Subcommittee meetings. The CBOC can certainly weigh in and give their own cost analysis, but the primary purpose of the CBOC is to review financials and to look at the audit. Look at the Subcommittee as a place to bring this to the attention of others and perhaps request a workshop for better understanding of project prioritization. Asking the district to reconfigure their thinking at the Subcommittee is where these comments are really more appropriate. Use the tools that are available.”
- g. A question arises about the project process and does this committee look at the budget? Member Skeels (WS) wants to be clear that, “we are an independent committee and it's our prerogative to look ahead and to discuss the budgets.” Member Berland (KB) states, “this is our money and we decide how to spend it.” He thinks this is the right place to air comments by the community. “We are here to hold the Board accountable”, he said. It would be appropriate, and he will say something to the Board about this - “being able to come to the Board, and make a recommendation, and a report, is what the CBOC is tasked with doing.” ED JC says that you can come here and say your piece, and he points out the bond language is, “really written to be fluid and every bond is written like that.”

4. Approval of Meeting Minutes from March 8, 2022: Approved at 6:34pm

Motion to approve the meeting minutes by DP
Second to approve by KB
All in favor
Motion Carries

5. Action: Fill the Vacant Chair Position:

WS nominates DP for the Chair position
KB seconds the nomination
DP accepts the nomination
All in favor
DP is approved as the new Chair

6. Discussion: Staff Report by Van Pelt Construction Services

a. Financial Update: Measure G Projects in Planning and Current PCO Status

Kelli Jurgenson (KJ) gives a report on the Change Orders - she also gives an overview of what a Change Order is, "A Change Order is when a change happens financially over the course of a project". ED JC jumps in to discuss the Change Orders at Rosa Parks and legacy projects. "We knew that we were going to be opening up a can of worms at Rosa Parks with many many Change Orders. Rosa Parks was never closed out so we had to turn it into a legacy project and actually do the closeout." KJ points out closeouts are very difficult and common. ED JC continues, "at Rosa Parks there was a bathroom that was drawn and approved by DSA - the inspector didn't catch it, the field inspector didn't catch it and eventually DSA made us redo the entire bathroom." The process of how projects are closed out is different now, and all facilities are cleaning up the mess. "Even though Rosa Parks wasn't built that long ago, the process to close out the projects is different now. That's not how the process was done years ago. It's just a mess." In summary, unforeseen conditions can add huge costs. KJ notes that the Change Order Log is smaller now as we wrap up many projects and get ready for new ones that are currently in the design phase.

b. Draft Annual Report:

KJ shows a previous report from fiscal year 20-21 for reference to see if the CBOC would like to accept this format. "This is really an opportunity to run through this document to see if the committee is happy with this document and if so, staff can start to prepare this report for fiscal year 21-22." DP thinks the CBOC should draft a more informative document for the community. "Everything the committee has done for the past year," says DP. WS interjects that the main thing the committee has been focused on is the By-Laws and the Guidelines. KB asks if this is required by statute and KJ responds, absolutely, it's required by law. DP interjects that his impression is that this previous report is not very substantive and that they could do better. He wants to draft their own report to the Board without help from staff. Chanita Stevenson clarifies this is a high level summary for the Board. Whether or not you agree with this report or not, it is a requirement of this committee. KJ wants to be clear this report that is currently due is for the fiscal year starting July 1, 2021 through June 30, 2022. DP wants to know what should be reported. What activity should be highlighted.

By-laws and Guidelines? Parking and Tennis? Audits? CS thinks there should be a draft circulated to the CBOC members and they can provide feedback. DP Agreed to get this draft started - DP would like the previous report in word document. How does that sound to everybody? All members agree this sounds reasonable. "Any other comments on the annual report?" asks DP. WS replies, "we were beginning to understand how projects are prioritized. We did have the architect come in and give a presentation on that, but I'm not sure we got enough clarity on that, and perhaps we can include that? I still have questions on project prioritization. Maybe that is a future agenda item?" DP thinks it's reasonable to include that presentation to include something "substantive" in the report. KB says, "you don't have to call it Annual Report, you can call it Periodical Report or First Report of 2022. We just need to issue reports on activity and we have to issue at least one a year. That's our primary piece of ammunition is a report where we gather information during meetings, we get consensus among committee members, and we vote on it and that's the organ of the committee, and we can bring to the board's attention anything we find." ED JC is not clear on how they would present this report to the board and would like to bring legal in to discuss how these would be posted. He knows there is an Annual Report that is supposed to be presented to the board. Some of the other things, "while you have the right to report on other things, I'm not totally clear on how that would be presented, and will need to pull in legal." Ultimately ED JC does not want them to shoot themselves in the foot. CBOC is appointed by the board and the board does not have to accept this way of reporting. ED JC just wants to keep them out of trouble. KB states, "We're happy to spar with council on this. I can read statutes just as well as anybody." WS thinks we can cohabitate and figure all this out and post what we are supposed to post and figure out the process of how this goes to board. KB doesn't think the committee would say anything so incendiary that the board would want to mussel them. ED JC just, "isn't sure of how this report would be posted, is all." CS thinks it's important that everyone is meeting in person and will be at the next meeting for sure.

7. Action: Approve Updated By-Laws and Guidelines

a. By-Laws and suggested changes (Review section 18):

DP has made some changes to section 18 and to 17 as well. Is there any discussion on Section 18? no discussion except to take the one line at the end of section 17 and duplicate it section to 18.

KJ wants to be clear that you would be approving these BY-Laws and then they would need to be taken to the board.

Motion to approve the By-Laws by CS

Second to approve by KB

All in favor

Motion Carries

b. Suggested CBOC Guidelines:

WS discusses the Guidelines and the suggestions the CBOC would adopt. He had worked on it today, and KJ points out they need to be posted 72 hours in advance so the most recent draft has not been uploaded. WS thinks this committee is not about lowest cost, but “best value”. “It’s not always about lowest cost architect,” he continues, “ or lowest cost contractor, I want to make sure we are not a committee based solely on cost, but also on value.” Explain Project Approach is added. As far as Fast Track - sometimes fast tracking projects can get into problems with overspending and under thinking. Property Acquisition is there more or less because the district has properties that need to be addressed, Oxford and now Plant Operations that are kind of liabilities. DP wants to let everyone know including CS that these questions are works in progress and the committee could just use as a basis. ED JC would like clarification on section 13b. WS says this is in response to Plant Operations going into measure G just recently and we know nothing about how much maintenance will be required. ED JC wants to clarify that maintenance is not part of the bond funding. It is a totally separate fund, and the best place to discuss these questions would be the FSMOC. KB feels it is a useful framework for communication, “To the extent these guidelines are useful and they can also be struck down if members decide so.” In our communications we can use these questions to show the CBOC findings. CS thinks this is okay, but it will need to be revisited because the public still doesn’t understand that this committee doesn’t have any oversight over regular operating expenditures. “We need to be really careful about the language in these guidelines otherwise the public is going to continue to ask CBOC about questions that are better served elsewhere.” ED JC points out again, there are oversight committees that can address some of the community concerns. The Guidelines will live on the CBOC website.

Motion to approve the Guidelines by WS

Second to approve by KB

All in favor

Motion carries

DP would like staff to provide a link to the By-Laws and Guidelines posted on the CBOC Website. KJ points out we can absolutely put this on the website, however, the website has not been updated in some time because the committee has been so focused on the Guidelines and By-Laws. She suggests this as a future agenda item and the committee can also let staff know what they would like their website to look like. Once the website is updated, it would then make sense to provide a link at that time. DP suggests to put the Guidelines right under the By-Laws on the website, for now.

c. Agenda Process:

KJ would like to review the process leading up to this meeting and confirm the agenda process moving forward. KJ wants to develop the timeline. DP will have a standing document with the standing items and the members can let him know during the meeting what they would like at the next meeting. He will “probably send that out.” How many days will the district need to get this out? ED JC replies, “We have to get the Agenda posted a minimum of three days before the meeting. We would need the Agenda 8 days prior.” ED JC wants to be careful, “the reason this was the way it was prior is because we would need at least 8 days as far as what we can deliver.” Starting now, DP will have an agenda template and he will solicit from members and create a Draft Agenda. He will send it to the district eight (8) business days before the meeting. The district will then have five (5) business days to review and collect the necessary documentation before posting to the district website 72 hours (three days) before the next CBOC meeting on May 31st. KJ wants to reiterate please please please do not reply to all of the emails because of the Brown Act. KB sarcastically says, “they will knock on your door from the Brown Act Police.” ED JC would like to clarify the Brown Act and serial meetings. DP cuts him off and says we don’t have time. ED JC, “you’ve raised this, we need to finalize this.” DP interrupts, “you’re not a legal expert on this, John you know that. Stop taking our time.” ED JC states, yes that is correct and we need to bring legal into this to confirm what is or is not legal. KB interjects, “Damian stop talking about this. You are the Chair, you control the room. So we’re ending this conversation.” ED JC wants legal at the next meeting.

8. Discussion: Committee Comments

a. Tennis and Parking with Plant Ops Project presentation by DP.

According to DP it’s “weird because we haven’t spent the money yet, but we should still be thinking about these questions.” DP wants to know if anyone has looked at the questions he proposes here? The members feel this should be an entire meeting just on these questions proposed here. KJ replies that we do have answers to these questions, but would not be able to complete them in the 12 minutes remaining. CS wants to put this on the next agenda. KJ says this will be an important item to address for the CBOC and the public. They will be posted along with the agenda and other pertinent information. DP has questions about moving cars and some other issues regarding whether or not this is still a problem, he thinks not. KB has heard that parking at Willard is also difficult. DP has checked around and found that a few residents raised an objection with teachers getting parking permits, and that killed the option of giving teachers parking permits for the area around BHS. According to DP, “Teachers aren’t moving cars nearly as frequently as they used to.” KB wants to know why can’t we have parking rules that benefit teachers? CS

interjects, “these seem to be really specific items related to parking policy, and if we are to make some kind of recommendation, we should look at the whole system. Berkeley seems to hold on to something as if it's a life preserver and trying to get something changed after the fact is quite difficult. It's going to be ineffective and this should be something we address at the next meeting and elect or reelect or approve or disapprove of future bond measures.”

Additional comments - will get written responses and go from there.

The citizens should know about where it is appropriate to go for community questions. CS will write up something to put on the website to help community members know where it is appropriate to go. KB notes that not getting into the weeds with the details is very important.

9. Discussion: Next Meeting May 31, 2022

a. Is there anything the CBOC would like to discuss at future meetings?

- CBOC Website Content
- Audit Report
- Policy regarding community inquiries (CS)
- Bike parking (KB)

Adjournment: The meeting was adjourned at 7:32pm

* Please note: You have five (5) business days to respond to these meeting minutes. Once those five days have passed, the minutes will be official.