

**BART Earthquake Safety Program
Citizen's Oversight Committee**

Report to the BART Board of Directors

September 2009

**Report No. 2
September 2009**

Earthquake Safety Program Citizens' Oversight Committee
Report to BART Board of Directors

September 2009

I. Overview

The Earthquake Safety Program Citizens' Oversight Committee (COC) has been in existence since January 2006. The current Committee is the second Committee empanelled by the BART Board of Directors to carry out the duties specified in Measure AA.

II. Establishment of the Citizens' Oversight Committee

The BART Earthquake Safety Program Citizens' Oversight Committee was created as required following the passage of Measure AA on November 2, 2004. The measure, which authorized the BART District to issue bonds for \$980 million dollars to make earthquake safety improvements to BART facilities in Contra Costa, San Francisco and Alameda counties, stipulated that BART establish a Citizens' Oversight Committee (COC) to verify that bond revenues are spent as promised.

The measure called for a five-member panel to be created from interested individuals who must reside within the three-county BART District. Each member must have specific expertise and fulfill one of the following:

- ☐ One member shall have expertise in seismic retrofitting
- ☐ One member shall have expertise in auditing
- ☐ One member shall have expertise in engineering
- ☐ One member shall have expertise in public financing or project management
- ☐ One member shall represent the community at large

III. Duties and Responsibilities of the Committee

The members of the COC have three key duties to fulfill, as set forth in BART Board Resolution 4920, passed by the BART Board in June 2004. They are to:

- ❑ Review scheduling and budgeting of projects to be funded by the bond measure.
- ❑ Confirm that work is completed and bond funds are expended in accordance with the bond measure.
- ❑ Inform the public concerning the expenditure of bond revenues.

IV. Selection of the COC

On January 24, 2008, the BART Board of Directors selected five members and five alternates to serve as the second Citizens' Oversight Committee. The length of service for this panel will be two years – from January 24, 2008 to January 24, 2010. The current Committee is the second Committee to serve.

2008-2010 Membership

- ❑ H. Andy Franklin, Seismic Seat – Committee Chair
- ❑ James Zumwalt, Public Financing/Project Management Seat – Vice Chair
- ❑ Amin Almuti, Engineering Seat
- ❑ Elmo Wedderburn, Auditing Seat
- ❑ Linda Lautenberger, Community At Large Seat

V. Report

Six COC meetings have been held, and are covered by this report. During the course of these meetings, the Committee has asked Staff for a wide range of information on the seismic upgrade project, from the Management procedures and Audit practices employed, to contingency funding and status of funds from funding sources. The Committee has found the Project Staff to be informative and forthcoming in their responses to questions. The Committee finds that the procedures and practices in place have put the project on sound management and financial footing.

Summary Financial Report

At each meeting, a financial report is presented to the committee detailing how much money has been spent out of the total \$980,000,000 in General Obligation Bond funds. At the July 2009 COC meeting, staff reported that out of 27 total contracts within the Earthquake Safety Program, seven are currently in construction. The project has expended \$155,798,887 which amounts to 16% of the total Bond funds.

A summary of the meetings follows:

April 1, 2008 -- Orientation Meeting

An orientation meeting was held on April 1, 2008 for COC Members and Alternates. The Committee was provided with an overview of the function of the Citizens' Oversight Committee and a review of its responsibilities and duties.

The Committee was provided with the following:

- General Obligation Bond Language
- Resolution 4920
- Committee By Laws
- Brown Act
- Conflict Interest Code
- Earthquake Safety Program Scope
- BART Contacts information

The Committee was given a sample Financial Status Report showing progress of each project within the program. Staff reviewed the documents with the Committee.

The Committee selected H. Andy Franklin as its chair and Jim Zumwalt as Vice Chair for the first year of their two year term.

The Committee requested a baseline budget for the project, broken down into each project component, to be presented at the next meeting.

July 1, 2008 -- Second Meeting

The second COC meeting was held on July 1, 2008. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report
- Contracting Status Report

The Committee discussed frequency of meetings and decided upon quarterly meetings. The tentative meeting schedule for next year was suggested as October 7, January 6, April 7 and July 7.

The Committee discussed the possibility for members to meet separately to discuss their effectiveness as a committee. BART staff reminded the Committee that they are subject to the Brown Act, and that three or more members meeting would constitute a public meeting, which would then need to be publicly noticed and would be open to the public.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for October 2008.

October 14, 2008 -- Third Meeting

The third COC meeting was held on October 14, 2008. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report
- Contracting Status Report

John Love, BART's Principal Internal Auditor and Terry Green, BART's Audit Manager, made a presentation regarding the status of the audit of the COC.

The Committee requested to add the following items to the Future Agenda:

1. Presentation by Procurement Department on Procurement procedures.
2. Recommendations for the creation of Ad-Hoc Subcommittees.
3. Presentation by the Controller Treasurer on the investment of the bond funds.
4. Overview of the entire project funding plan.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for January 6, 2009.

January 6, 2009 -- Fourth Meeting

The fourth COC meeting was held on January 6, 2009. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report
- Contracting Status Report

Oji Kanu, BART's Manager of Contract Administration, attended the meeting and provided an overview of the procurement process.

Staff recommended the creation of Ad Hoc Subcommittees for review of specific issues. The Committee was in agreement with the creation of Ad Hoc Subcommittees. Staff agreed to prepare procedures for the Ad Hoc Subcommittee.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for April 7, 2009.

April 7, 2009 -- Fifth Meeting

The fifth COC meeting was held on April 7, 2009. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report
- Contracting Status Report
- Audit Report

John Love, Principal Internal Auditor for BART, provided the Committee with the Audit Department's report, reviewing the COC's activities, requested by the 1st term COC.

Scott Schroeder, BART Controller Treasurer, provided a response to questions raised by the Committee via an email exchange after the last meeting regarding the investment of funds received but not yet used by the project.

Ad Hoc Subcommittee Procedures were presented to the Committee. The COC Chair indicated that he discussed the procedures with Staff and wanted the Committee to review and comment on them. The Committee concurred on the as-needed creation of the Subcommittee. These Ad Hoc Committees would dissolve after reviewing the question they were formed to review, and report their finding to the whole committee.

The Committee decided to postpone the annual election of the COC Committee Chair and Vice Chair to the July meeting, as one member and two alternates were not present.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for July 7, 2009, and subsequently rescheduled to July 14, 2009.

July 14, 2009 -- Sixth Meeting

The sixth COC meeting was held on July 14, 2009. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report
- Contracting Status Report

Scott Schroeder, BART Controller Treasurer, provided a response to questions raised by the Committee at the last meeting regarding the investment companies MBIA and FSA and their corporate rating downgrading and the related impact of bond funds they hold on behalf of the project.

The COC reviewed activities of the Ad Hoc Subcommittee. Two site tours were held on June 23, 2009 and June 30, 2009 (see V. below.) The COC indicated that, overall, the tours were informative and allowed Committee members to view a wide variety of retrofit activities throughout the system. Committee members indicated that work sites were well contained, especially with regard to ongoing public use of some areas, with a great deal of attention paid to worksite safety. Committee members requested that prior to future site tours a presentation be made by Construction Managers regarding the type of work being done at the sites.

The Committee re-selected H. Andy Franklin as its chair and Jim Zumwalt as Vice Chair for the second year of their two year term.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled tentatively for October 13, 2009.

VI. COC Ad Hoc Subcommittee Site Tours

Two site tours were attended by members of the Citizens' Oversight Committee Ad Hoc Subcommittees. The Subcommittee members toured four current work sites for Earthquake Safety Program upgrades. Tours were held on June 23rd and June 30th.

June 23, 2009 Tour

Attendees:

Amin Almuti (Member), William Kaplan (Alternate), & Jim Zumwalt (Member)

Sites Visited:

Rockridge Station

- Micropile drilling before concrete was poured
- Column footing increase with heavy reinforcement
- Poured shear keys

- Welding of column steel casing

Lake Merritt Station

- Fiber wrapped columns

MacArthur Station

- Traction Power room – slab cutting and flexible floor joints
- Train control room - asbestos tile removal before slab cutting

June 30, 2009 Tour

Attendees:

Robert Barksdale (Alternate), H. Andy Franklin (Member), & Claudia Spencer (Alternate)

Sites Visited:

Rockridge Station

- Micropile drilling before concrete was poured
- Column footing increase with heavy reinforcement
- Poured shear keys
- Welding of column steel casing

North Oakland Aerials

- Pouring Micropiles
- Doweling of Columns
- Elastomeric seismic bumpers

MacArthur Station

- Traction Power room – slab cutting and flexible floor joints
- Train control room-asbestos tile removal before slab cutting

VII. Public Access to the COC

The Earthquake Safety Program has established a number of systems for the public to contact them with questions. These include:

- A dedicated COC telephone information line
- An email address
- COC section of the BART website

The telephone and email are checked daily by project staff. Any inquiries that are received via phone or email are sent on to the COC Chair and the appropriate COC seat holder to provide a response. Project staff provides the Chair with additional information or assistance as required. Additionally, when the COC website is updated with the agenda and minutes of the meeting, an email is sent to the Earthquake Safety Program electronic

mailing list, which includes 853 members (July, 2009). To date, the COC has received three inquiries from the public.

VIII. Summary Committee Report

After completion of the first year of the second term of the Citizens' Oversight Committee, members of the Committee reached agreement that information provided by BART staff was presented in an informative manner, helping members understand work schedules and funding processes. During the term, members have thoroughly reviewed the schedule and budget for projects funded by the General Obligation Bond and confirm that the work is being completed and that funds are spent according to the Bond Measure.

Members are satisfied with presentations made by BART's Auditing and Procurement departments, in addition to those made by Earthquake Safety Staff. The Committee has concluded that the project staff is effectively structured and organized to address potential issues and complete the project.