

Santa Clara Valley Open Space Authority

Measure Q Expenditure Oversight Committee

2018/2019 Annual Report

This is the fourth annual report of the Measure Q Expenditure Oversight Committee (MQEOC). The report includes background on Measure Q and the Oversight Committee, findings from required annual reviews, and oversight committee recommendations. Also included is a review of the previous year's findings and the Santa Clara Valley Open Space Authority (SCVOSA) response. This year the MQEOC participated in an Expenditure Sampling Process developed by SCVOSA staff.

The Measure Q Expenditure Oversight Committee (MQEOC) was created as an assurance to voters and taxpayers that an additional degree of scrutiny would be applied to expenditure of Measure Q funds. With no reflection on the exceptional SCVOSA management and exemplary staff, and with no evidence that improper expenditures have occurred or are occurring, the MQEOC believes that the SCVOSA is not in compliance with assurances on expenditures established by Measure Q. Section C.2[f] of the Measure Q Expenditure Plan sets a high standard for oversight and review of SCVOSA expenditures. This presumably appealed to voters who would be taxed by Measure Q. Over the past three years the MQEOC has suggested that it does not believe that the SCVOSA complies with Section C.2[f] of the Measure Q Expenditure Plan. The SCVOSA Board has consistently disagreed with the MQEOC finding and provided its rationale. The MQEOC has repeatedly indicated it does not agree with the SCVOSA Board's rationale presented in responses to MQEOC stated findings and recommendations. Accordingly, this report finds that the SCVOSA is out of compliance with Section C.2[f] of the Measure Q Expenditure Plan.

Background

Measure Q

During November 2014, voters within the Open Space Authority boundaries approved the Measure Q parcel tax. The approval authorized the Authority to levy a tax of \$24 per parcel annually for 15 years. The tax was designed to produce an estimated \$7.8 million per year in additional revenue for the Authority.

Measure Q Expenditure Plan

The SCVOSA published The Open Space, Wildlife Habitat, Clean Water and Increased Public Access Expenditure Plan (Measure Q Expenditure Plan) which summarized how Measure Q funds would be used, identified four program categories within which all funds would be expended, and identified administrative provisions and financial safeguards. The four program areas that are to benefit from this additional revenue were identified in Section B of the

Measure Q Expenditure Plan as follows:

- Protect open space, redwood forests, wildlife habitat, scenic hillsides and agriculture land,
- Protect land and restore natural areas around our creeks, rivers and streams to prevent pollution and improve local water quality and supply,
- Open, improve and maintain parks, open space and trails,
- Create urban open space, parks and environmental education programs.

The administrative provisions and financial safeguards in Section C include:

Section C.1[b] – “... an Independent Oversight Committee shall be convened to review the expenditure of all parcel tax revenues collected under this measure...”; and

Section C.2[f] – “An independent audit shall be conducted to assure that the revenues expended by the Santa Clara [Valley] Open Space Authority under this plan are necessary and reasonable in carrying out its responsibilities under the Plan.”

Expenditure Oversight Committee

The Committee is an independent oversight committee established to review the expenditures of all parcel tax revenues collected under Measure Q. The Oversight Committee consists of seven at-large members appointed by the Open Space Authority Board. Members must reside within the Open Space Authority jurisdictional boundaries, and must not be elected officials of any government, nor employees of any agency or organization that directly benefits financially from the proceeds of the parcel tax. The Committee reviews the Status Report alongside the independent financial audit to provide an independent review of all revenues and expenditures of Measure Q Funds and submits an oversight report and recommendations to the Board.

Meetings will be announced in advance and will be open to the public. The Committee shall meet at least once, but no more than four times per year. The two annual reviews, which are the primary responsibility of the Committee, are:

- Review expenditures on an annual basis to ensure they conform to the Measure Q Expenditure Plan.
- Review the annual audit and report prepared by the independent auditor and submit its recommendations and oversight report thereon.

Committee Members

Frank Cancilla
Hugh Graham
(Vacant)
Jeff Micko
Marilyn Rodgers
Susan Skorey
Michael Smith

Required Reviews

1. Review of Annual Expenditures for Conformance to the Measure Q Expenditure Plan

The MQEOC has reviewed the Fiscal Year 2018/2019 Annual Measure Q Status Report. The report is a well written and organized presentation of Measure Q expenditures by program, project and expense category.

In the report, expenditures of Measure Q funds have been categorized to fall within the four program areas identified in the Measure Q Expenditure Plan. In conformance with Measure Q Expenditure Plan requirements (Section C.2[d]), administrative expenses (other than the cost of the Oversight Committee) did not exceed 5% of the revenue generated by Measure Q. Grant

funding did not exceed 25 percent of revenue. Expenditures for Oversight Committee's activities were one-tenth of one percent (0.1%) of the gross proceeds of the parcel tax, which is consistent with Measure Q Expenditure Plan Section C.2[g].

Projects Expenses

The report lists project expenditures within four Expenditure Plan Categories (EPC). More specific information has been provided with respect to the nature of the expenditures within the EPCs.

The report further subdivides expenditures in support of those projects in seven major expense categories. The expense category breakdown is informative and useful for general oversight and understanding of the SCVOSA operation. However, the cost breakdown provided in the report does not enable concluding that all expenditures were necessary and reasonable for carrying out responsibilities under the Measure Q.

An Indication of Completion was included for each Tier One project in the FY 2018/2019 Annual Measure Q Status Report. Beginning with the FY 2019/2020 Work Plan, the Authority will add the additional information suggested in the previous report to all Tier One Work Plan Projects' status.

The final FY 2019/2020 dashboard report provided to the Board of Directors will be included in the FY 2019/2020 Annual Measure Q Status Report as an appendix.

Administrative Expenses

Section C.2[d] of the Measure Q Expenditure Plan stipulates that:

No more than 5% of the revenue generated by this measure and provided to the Santa Clara [Valley] Open Space Authority may be used for administrative expenses.

The report clearly describes what expenses are included in administrative costs. However, the provision in Measure Q which limits administrative costs to 5% could be misleading, because it implies effectiveness and control. Implementation of the provision does not necessarily impact total Measure Q administrative spending, but rather the portion of that spending that is actually charged to Measure Q. The Report indicates how the amount of Measure Q funds used to pay administrative costs is limited to 5% and how any remaining balance, associated with actual administrative costs, is charged to other funding sources.

Grants

Measure Q Expenditure Plan Section C.2[g] stipulates that no more than 25 percent of the revenues generated by this funding measure will be made available for this Grant Program.

Grants funding did not exceed 25 percent of revenues generated. Grant allocations were \$549,589 which is 17.5 percent of \$3,138,605.

The Annual Report provides a good qualitative description of grant management and control. The report states that:

“Grantees are required to submit final reports confirming completion of the project and project goal results, which the Authority verifies against the grant agreement. During the independent audit, disbursements paid during the fiscal year are reviewed against the grant agreements. Through this process from award to disbursement, the Board provides feedback and approval on the grant awards, staff reviews and processes reimbursements, and the independent auditor examines disbursements to ensure all projects funded by the Authority with Measure Q funds support the urban communities within the Authority’s boundaries and are consistent with the Authority’s mission and objectives of the Expenditure Plan”

If expenditures by grantees are necessary and reasonable then SCVOSA grant funding expenses are necessary and reasonable. It would help the MQEOC determine conformance with Section C.2[f] of the Measure Q Expenditure Plan if the independent auditor could provide a conclusive statement to the effect that a significant number of expense records of the grantees were reviewed and found necessary and reasonable. It would also be helpful if an annual performance audit were to be conducted to supplement the annual financial audit, as discussed in the following section.

2. Review of the Annual Audit and Report Prepared by the Independent Auditor

As was the case in 2015/2016 and 2016/17, the annual report did not appear to completely fulfill the requirement of Section C.2[f] of the Measure Q Expenditure Plan. As stated previously, C.2 [f] states, “An independent audit shall be conducted to assure that the revenues expended by the Santa Clara [Valley] Open Space Authority under this plan are necessary and reasonable in carrying out its responsibilities under the Plan.”

In 2015/2016 the MQEOC recommended, that future audit contracts should require an explicit finding related to Section C.2[f] of the Measure Q Expenditure Plan.

The Authority responded: At the February 23rd Board meeting where these recommendations were presented, it was concluded that Measure Q does not direct that an independent financial auditor conduct programmatic level audit services. This position was reaffirmed by Administration and Budget Committee. However, as noted in Response to Recommendation #1, the Annual Project Status Report will include more detailed project descriptions and financial expenditure information to assist the MQEOC in their annual review of Measure Q expenditures.

In the 2016/2017 Report, MQEOC Responded: It is correct that Measure Q does not direct that an independent financial auditor conduct programmatic level audit services. The Measure Q Expenditure Plan does refer to “An independent audit ...to assure that the revenues expended by the Santa Clara [Valley] Open Space Authority under this plan are necessary and reasonable in carrying out its responsibilities under the Plan.” The Measure Q audit provided by the SCVOSA did not provide that assurance or conclusion. The 2016/2017 Annual Measure Q Status Report does not provide sufficient detail to support a finding that the revenues expended by the Santa Clara Valley Open Space Authority under this plan are necessary and reasonable in carrying out its responsibilities under the Plan. As such, the MQEOC cannot say with certainty that an independent review of all revenues and expenditures of Measure Q Funds has been performed.

In 2016/2017 the MQEOC recommended: In accordance with the Measure Q Expenditure Plan, expand the independent audit procedures to verify that "revenues expended by the Santa Clara [Valley] Open Space Authority under this plan are necessary and reasonable in carrying out its responsibilities under the Plan.”

On July 18, 2018 The Authority responded: “The Authority cannot direct or influence the independent auditor to conduct or expand its procedures and best practices beyond that applicable to generally accepted accounting principles.”

In the 2017/2018 Report, MQEOC Responded: The MQEOC does not agree. Certainly, if a financial audit is contracted then a financial audit will be delivered. However, the scope of an audit can be customized or a different type of audit conducted to supplement the financial audit. For example, school districts that wish to pass bond measures with 55% voter approval per Proposition 39 (2000) must commit to having both independent financial and performance audits conducted on an annual basis. While a financial audit is conducted to obtain reasonable assurance that financial statements are free of material misstatement, a performance audit is typically conducted to verify that bond proceeds are only used on projects listed in the ballot statement. In the case of Measure Q, an annual performance audit could perhaps be structured to verify that "revenues expended by the Santa Clara [Valley] Open Space Authority under this plan are necessary and reasonable in carrying out its responsibilities under the Plan.”

On January 9, 2019, the FY2017/2018 Measure Q Audit was presented to the MQEOC: The auditor explained their method of reviewing a statistically significant number of transactions as a basis for establishing accounting conformance. Upon questioning, the auditor indicated that the nature or appropriateness of the transactions relative to the mission was also reviewed. If this could be put in writing, it could provide a partial basis for an MQEOC finding of conformance with the requirement of Section C.2[f] of the Measure Q Expenditure Plan.

Perhaps a statement could be provided to the effect that a statistically significant number of random transactions were reviewed for relevance and that all of the transactions reviewed appeared to be reasonable for provision of goods and services necessary for the SCVOSA to

carry out its responsibilities under Measure Q. Additional support for a finding of conformance with the requirement of Section C.2[f] of the Measure Q Expenditure Plan could be provided if the SCVOSA were to contract for a separate annual performance audit to supplement the annual financial audit.

In the 2017/2018 Report the MQEOC recommended

1. In accordance with the Measure Q Expenditure Plan, expand the independent audit procedures to verify that "revenues expended by the Santa Clara [Valley] Open Space Authority under this plan are necessary and reasonable in carrying out its responsibilities under the Plan."
2. Direct the independent auditor to provide a conclusive statement to the effect that a significant number of expense records of the grantees were reviewed and found necessary and reasonable.

July 31, 2019 Authority Response

The Board responses to the Annual Measure Q Oversight Report were presented to the MQEOC at the July 31, 2019, meeting.

Section C (1) of the Measure Q Expenditure Plan states that the Measure Q Expenditure Oversight Committee's (MQEOC's) responsibility includes:

- *Reviewing Plan expenditures on an annual basis to ensure they conform to the Plan.*
- *Reviewing the annual audit and report prepared by an independent auditor and submitting its recommendations and oversight report thereon.*

Notably, while the Expenditure Plan indicates the MQEOC's responsibilities as reviewing the annual report under Section C (1), Citizen Oversight and Independent Financial Audits, the "necessary and reasonable" language is not set forth in this section. The language is found in Section C (2), Additional Allocation Criteria and Community Benefits. Section C (2)(f) mandates that an annual independent audit be conducted, but it does not prescribe expanding audit procedures to include separate verification by the MQEOC. All Authority audits are performed by an independent financial audit firm.

It has previously been concluded by the Board of Directors that the Measure Q Expenditure Plan does not direct that an independent financial auditor conducts programmatic level audit services.

The independent auditor conducts its audit in accordance with the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require the independent auditor to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. The result of the June 30, 2018 Audit Report disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

Additionally, Government Auditing Standards prescribe the content of the Audit Report and do not allow for including documentation of the sample size in the Report. However, this data is presented by a representative from the audit firm in a verbal presentation to the MQEOC along with the Audit Report each year.

2017/2018 MQEOC Response

The Board responses were similar to previous years. The Board confuses a standard financial audit in conformance with generally accepted accounting procedures with what was stated in the Measure Q Expenditure Plan which was an independent audit to find expenditures reasonable and necessary. In support of it's response, the Board misstates Section C (2)(f) Measure Q Expenditure Plan, approved by the voters, which actually reads.

“An annual independent audit shall be conducted to assure that the revenues expended by the Santa Clara County Open Space Authority under this Plan are necessary and reasonable in carrying out its responsibilities under this Plan.”

The fact is that no independent audit has been conducted wherein a finding or assurance that the “revenues expended by the Santa Clara County Open Space Authority under this Plan are necessary and reasonable in carrying out its responsibilities under this Plan” has been presented. As such The MQEOC cannot review the annual audit and report prepared by the independent auditor and support a finding that revenues expended by the Santa Clara County Open Space Authority under this Plan are necessary and reasonable in carrying out its responsibilities under this Plan. The MQEOC therefore finds that the SVCOSA is not in compliance with this requirement of the Measure Q Expenditure Plan.

Measure Q Transaction Sampling Process.

The Board response to the Annual Measure Q Oversight Report, included a sampling process that was recommended by staff to assist the Committee. The process gives the MQEOC a new tool in addition to reviewing the agency's Annual Audit Report and Annual Measure Q Status Report. Although providing this information is not explicitly required by the Plan, Staff believed it would be helpful to the committee.

At the November 13, 2019 meeting, the Committee finalized a sample process for the Fiscal Year 2018 / 2019.

Trial Run

A trial run of this transaction sample process by the MQEOC occurred in February of this year. Eleven (11) transactions were selected for evaluation. They were split as follows:

- 3 expenditures related to land acquisitions
- 5 non-land expenditures with the highest dollar values
- 3 unique project expenditures of \$500 or more

Staff provided to committee members an "invoice cover sheet" upon which to document their transaction review and evaluation.

Measure Q Transaction Sampling Process Findings

The sampling process was elucidating. The MQEOC appreciates the staffs work in preparing the process and providing documents necessary to facilitate the process. The MQEOC generally found SCVOSA records comprehensive and appropriate. This is consistent with the MQEOC's general impression that the SCVOSA is a very well managed organization with highly competent staff.

2018/2019 Measure Q Expenditure Oversight Committee Finding and Recommendation

- A. The MQEOC is not an independent auditor and was not established to conduct detailed review of SCVOSA records. SCVOSA should obtain an independent auditor in accordance with the Measure Q Expenditure Plan.
- B. Based on the committee experience with this trial run, suggestions for improving the transaction review process were conveyed to staff.
 1. Increase the number of transactions for review from 11 to 12. This change enables the even division into 3 or 4 review transaction packets containing 4 or 3 sample transactions.
 2. Transactions chosen by the Committee shall be new expenditures not evaluated in past fiscal years
 3. Change the transaction category split as follows:
 - a. Three (3) expenditures related to land acquisitions
 - b. Three (3) expenditures related to open space land improvements

- c. Three (3) expenditures related to maintenance of facilities
- d. Three (3) expenditures selected by MQEOC members not among the three prior types and totaling \$1000 or more.

- 4. Transaction sample list table provided to committee members include a column for *“Project and Grant number”*.
- 5. Transaction materials information, including amounts and descriptions, be provided as consistently as able.

- 6. Cover sheet be changed as follows:

- a. The invoice category boxes on top and titles conform with #3 above
- b. Change *‘Vendor’* to Vendor/Grantee/Contractor
- c. Change GL# to Grant#
- d. Change single column of boxes on left to 3 columns: Y, N, NA
- e. Add a comment section

f. Have place at bottom with box saying *Y/N transaction consistent with expenditure plan and with place for reviewer name.*

- A. Each year provide additional exposure to Open Space Authority’s activities’.e.g., MQEOC field trip to one or more new or proposed open space preserves, and provide information on crucial connections, obstacles encountered, open space staff member experience etc. that will give the committee something more than paper work and keep us interested enough in our committee membership to keep volunteering.