

**COMMISSION MEETING MINUTES**

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**Thursday, February 26, 2009****Every Child Counts  
1100 San Leandro Blvd., Suite 120  
San Leandro, Ca 94577  
Conference Room A**

9:00 AM – 11:30 AM

**Commissioners Present:** *Chair:* Pamela Simms-Mackey M.D., *Vice Chair:* Helen Mendel, CMD, Yolanda Baldovinos, Alex Briscoe, Keith Carson, Gilda Gonzales, Rosemary Obeid**Staff Present:** Mark Friedman, Janis Burger, Rebecca Gebhart, Teddy Milder, Deborrah Bremond, Nancy Lee, ZeeLaura Page

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Chair Pamela Simms-Mackey called meeting to order at 9:05am.

**REGULAR COMMISSION MEETING****1. Public Comment on items not included on the Agenda**

There was no Public comment.

**2. Approval of minutes from January 22, 2009 – Action**Commission Action: The Commission approved the minutes from January 22, 2009 upon motion by Commissioner Baldovinos seconded by Commissioner Obeid and unanimously carried (7 in favor, 0 opposed, 2 absent).**3. Election of Officers– Action**

Chair Simms Mackey asked for a nomination for Chair and Vice Chair of the Commission. Commissioner Obeid nominated Chair Simms Mackey and Vice Chair Mendel to remain in their positions.

Commission Action: The Commission approved the nomination for Chair and Vice Chair of the Commission upon motion by Commissioner Obeid, seconded by Commissioner Briscoe and unanimously carried (7 in favor, 0 opposed, 2 absent).**PROGRAM****4. State Commission and Association – Information  
Legislation and Public Policy – Information**

Mark Friedman, CEO reported that he will combine the State Commission and Legislation updates. He stated that some aspects of Legislation will be better discussed when additional information is known about the economic stimulus funding for Early

Care and Education. He stated that the ECE provision of the American Recovery and Reinvestment Act provides significant new funding for early care and education programs. He stated that it is important to devote time and energy to take advantage of the federal opportunities that are available.

Mr. Friedman reported that as part of the final budget deal the legislature passed ABX3 17 which will put on the ballot a measure for the May 19<sup>th</sup> special election that will redirect up to \$1.4 billion in First 5 funds to help close the budget gap. If passed that measure will constrain local Commissions autonomy and cause a loss to our Commission of up to \$50 million over the next five years. After five years our current full First 5 funding will be restored.

Mr. Friedman stated that the way the bill is written says that funds had to be put toward direct services. Also, the potential for prop 10 revenue decline by the end of the 5 year period it could end up being 65-70% redirected from First 5 county commissions. He stated that the bill will allow the State to supplant funds.

Mr. Friedman stated that the commissioners have in their packets the ballot argument for Prop1D and the rebuttal language. He stated that two of our Commissioners Chair Dr. Pamela Simms-Mackey and Dr. Albert Wang are quoted. Mr. Friedman stated that First 5 message is that First 5 wants to be a part of the solution for children.

Commissioner Baldovinos commented that it is important that we highlight what we have accomplished with the dollars that we have spent so far, and how we will be able to sustain this in the future. Commissioner Briscoe commented that he has some concerns about where the state will get the funds to fill the gap if they are unable to redirect Prop 10 funds. Commissioner Simms- Mackey commented that she had the same thoughts, and acknowledged that as commissioners they have this conflict. She stated that she would still like to have some local control of funds and not give the state the control.

## **6. 2009-13 Strategic Plan Update– Information**

Janis Burger Deputy Director reported that since April of 2008 First 5 Alameda County has been working towards the development of the 2009-2013 Strategic Plan. Over the past 10 months we have developed an Alameda County Situational Analysis, revised the mission, vision, guiding principles, goals and desired outcomes for the 2009-2013 plan, and developed key strategies, specific programs and budget allocations that will have the greatest impact on improving child and families outcomes.

She stated that all of the information has been synthesized and integrated into the Draft Strategic Plan 2009-2013 for the Commissions review and input. The Accountability Plan which will be approved at the March, 2009 Commission meeting will be included in future versions. Ms. Burger stated that there will be a shorter community friendly version available once the plan is complete.

Commissioner Mendel recommends minimizing the use of acronyms.

Commissioner Gonzales stated that it was discussed in the Taskforce meeting to highlight what First 5 is currently doing around sustainability.

Ms. Burger stated that we can add the language. She stated that this will be revised depending on the ballot and how we plan to address sustainability.

Commissioner Gonzales stated that the sustainability portion of the plan focuses on Financial. She stated that we should expand it to include other terms of sustainability, like identifying homes for programs and beginning the transition process.

Commissioner Gonzales stated that in the earlier phases of the plan we had some information on county demographics, she recommended that it be included.

## **7. Strategy in the event of Prop. 10 Redirection**

Mr. Friedman reported that in March the Commission will be voting on the Strategic Plan and also at that time we will be looking at the Long Range Financial plan. He stated that this is a way of setting the context if we find that funds will be redirected and how we position ourselves on a short and long term basis.

He stated that if the ballot measure passes, we will need to radically alter our long range financial plan and our spending priorities. He stated that the memo suggests a process and timeline for the Commission to make those difficult choices. We are in the final stages of developing and approving our Strategic Plan for Fiscal Years 2009-2013 which we are required to pass. The recommendation is to finish the strategic plan and be prepared to shorten it to a one year term or make other modifications once we learn about the success or failure of the ballot measure.

Mr. Friedman stated that the May meeting will focus on what comes next. Then over the summer, when we typically do not have commission meetings, we will continue Program committee meetings with the participation of community partners.

Commissioner Carson recommended convening the program committee as soon as possible. He stated that it is important to reach out to other organizations that have a major impact on the same population that First 5 works with. He stated that it will be important to be able to speak together with one voice and position ourselves so that when decision makers on the federal level are ready, there is one voice to be of support to them.

Commissioner Mendel stated that First 5 has always acted as the convener and it is important to bring all the parties together in one place.

Mr. Friedman stated that we should convene our federal representative and not wait for the rest of the global picture to develop.

## **INFRASTRUCTURE**

## 9. Ethics Training

Ms. Gebhart introduced James Harrison, First 5 legal counsel from Remcho, Johansen & Purcell, LLP.

Mr. Harrison stated that there are a number of state laws that prohibit engaging in political action. He stated that the California Supreme Court recently heard argument in the case *Vargas v. City of Salinas*. The case involves a decision by the Sixth district Court of Appeal upholding an anti-SLAPP suit motion by the city of Salinas against a complaint that challenged certain actions taken by the city in response to a local ballot measure that would have repealed the local utility tax, with consequences for the City's budget.

Mr. Harris stated that this is the only case like this since 1970. The court has 90 days to rule on the case. What the court of appeal said is that this is express advocacy. He stated that there are a number of actions that the state and county commissions can take that have been sanctioned by statute. There are clear examples of what cannot be done. He stated that he strongly urges Commissioners to proceed cautiously in the coming weeks, until there is a definitive answer from the Court on the extent to which public funds may be used in a ballot measure campaign.

Mr. Harris stated that unfortunately, the law is in a state of flux, and may not be resolved during the time period when it is important for First 5 to engage in analysis and communication regarding the proposed amendment to Prop. 10. Until the court issues its opinion in *Vargas v. City of Salinas*, the only clear lines are that no public funds may be spent on express advocacy or coordination with a ballot measure committee; public funds may be spent on fair and impartial analysis of the financial and other impacts of the measure.

Commissioner Carson left the meeting.

Mr. Harrison provided an overview of ethics issues including presenting information on Proposition 10 legislation, conflict of interest law, and disclosure of economic interests. California's Political Reform Act requires public officials, including local elected officials and employees of local agencies to file a Statement of Economic Interests (Form 700) annually. Mr. Harrison reviewed public ethics laws including the Political Reform Act, Government Code Section 1090, incompatible activities, use of public funds and the disclosure of economic interests, and SB35 and AB 109 requirements. The annual deadline for disclosure of economic interests for local elected and appointed officials is April 1.

## 8. Community Grants Timeline and Process– Information

Ms. Burger presented the Community Grants timeline to Commissioners. She reported that the next round of CGI funding will begin on January 1<sup>st</sup>, 2010, with a request for proposals released in July of 2009.

Ms. Burger stated that in order for an RFP to be released in July of 2009, specific funding priorities will be brought to the Commission for approval in May of 2009. She stated that in February and March, a small staff workgroup will be meeting to advise the grants team on the selection of recommended funding priorities. She stated that the grants team and the workgroup will consider community input gathered as part of strategic planning, past performance of CGI approaches/strategies, and gaps in programmatic support of desired First 5 outcomes.

Ms. Burger stated that the recommended funding priorities will be targeted in order to focus the activities supported through the CGI so that they may be more effective at achieving priority outcomes. While the majority of the CGI awards will be made within the parameters set by the funding priorities, there will be some portion of the awards that will be open to support innovative, and community driven approaches. All of the awards, both those that are targeted and those that are responsive to community initiative, will align with the outcomes and strategies set forth in the Strategic Plan.

Ms. Burger stated that the Community Grants Team welcomes the input of Commissioners in the process of selecting funding priorities. We are recommending that a full presentation of the funding priorities recommendation be discussed with the Commission Strategic Planning Task Force in April and be brought to the full Commission in May. The Grants Team staff would be happy to provide work group status updates to any Commissioner who would like to receive them.

#### **10. 2008-09 Budget Modification– Action**

Rebecca Gebhart, Director of Finance and Administration presented the 2008-09 Budget modification.

Ms. Gebhart stated that budget modification was reviewed by the Executive Committee. She stated that the annual budget was approved by the Commission in May and that in January, a mid year budget modification is conducted to recognize any changes in revenue and expenditures.

Ms. Gebhart stated that the most significant change to revenue is the proposed reduction of the Tobacco Tax projection to reflect the current year's actual trend based on the first six months of revenue. The effect of this change is a decrease of \$940,406 from the original projection.

Commissioner Helen Mendel asked why there is a decline from the projected amount of Tobacco Tax. She asked if we are double checking to make sure that the tobacco tax allocation is accurate.

Ms. Gebhart stated that there are numerous factors that could contribute to the decline, including the Board of Equalization withholding more funds from the counties due to their increased costs, or if there are more births in other counties, it could reduce Alameda County's allocation.

Ms. Gebhart reported that the original 2008-09 budget projected expenses totaling \$26,395,320. The proposed budget modification changes this amount to \$28,037,554, an increase of \$1,642,234.

Ms. Gebhart stated that the COLA adopted in December 2008 was added to the salaries of regular full and part time staff. However, salaries and benefit costs showed a decrease of \$8,385. This is due to staff turnover and vacancies in Family Support Services, Early Care and Education and Support Strategies. She stated that there were seven staffing changes wherein longer term employees with higher salaries were replaced with new employees, which offset the total cost of the COLA.

The remaining changes were.

- a. The Family Support Services' contracts line decreases by \$58,888.
- b. The Early Care and Education contracts line item increases by \$908,872.
- c. The Support Strategies' contracts line item increases by \$705,635.
- d. The Support Strategies Training Supplies line item increases \$25,000 to cover initial costs of custom items for the new Asian language Parent Kits.
- e. The Evaluation & Technology contracts line item increases by \$60,000 to include evaluation expenses associated with the SART Pathways data system.
- f. The Administration General Expenses Professional Services line item increases to \$10,000 to cover costs of the single audit of federal funds.

Ms. Gebhart stated that the fiscal impact of the budget modification is an increase of \$1,642,234 to revenue/available funds and expenses, bringing both to \$28,037,554. She stated that funds from the Sustainability Fund are projected to increase to \$6,592,043, due to decreases in revenue and increases in expenses.

Commission Action: The Commission approved the 2009-08 Budget Modification upon motion by Commissioner Baldovinos, seconded by Commissioner Obeid and unanimously carried (6 in favor, 0 opposed, 3 absent).

## **11. Operating Reserve Recommendation– Action**

Ms. Gebhart stated that at the January Commission meeting, Commissioner Baldovinos requested staff to research and prepare a recommendation to create an operating reserve of funds sufficient to lay off all staff. While the likelihood of such a mass layoff is extremely low, it is prudent to consider reserving these funds to ensure the organization's ability to meet the obligation outlined in the Personnel Policies.

Ms. Gebhart stated that First 5 Alameda County Financial Policies, Section 2.B on Financial Reserves and Goals, allows the Commission to specify use of reserves. She reviewed the Governmental Accounting Standards Board Codification basic rules for reporting reservations and designations of fund balances and net assets. According to the GASB definitions, the purpose proposed would not be a liability, nor a restriction of assets, nor a formal reservation of the fund balance. It would be shown as a

“designated fund balance” on the balance sheets, and could be referenced in the Notes to Financial Statements and the Management’s Discussion & Analysis.

Ms. Gebhart stated that the fiscal impact of the recommendation to designate a Reduction in Workforce reserve is to decrease the Sustainability Fund by \$960,000, which is the estimated cost to lay off the entire staff, at their current levels of salary and years of service. Ms. Gebhart noted that the Commission reserves the right to change, decrease, or increase the amount at anytime.

Ms. Gebhart stated that the Work Force Reduction policy did not put a cap on severance. She stated that we will research what similar organizations are doing and will bring that to the Commission in March.

Commission Action: The Commission approved the Operating Reserve Recommendation upon motion by Commissioner Baldovinos, seconded by Commissioner Gonzales and unanimously carried (6 in favor, 0 opposed, 3 absent).

## **12. 2009-13 Long Range Financial Plan– Action**

Ms. Gebhart reported that she did not go into great detail on the proposal based on the decisions that are currently being made in the legislature. She stated that the Long Range Financial Plan was approved in June 2008 which is appendix B, and was revised in January 2009, appendix C, to align with the 2009-13 Strategic Plan Funding Allocation proposal.

Ms. Gebhart stated that at the January meeting, Commissioner Wang requested a presentation of a more sloping reduction that had the result of keeping more funds in the Sustainability Fund for a longer time horizon. Appendix D shows a more gradual use of the Sustainability Fund. The gradual use allows an additional two years, 2017-19, of use of the reserve. She stated that the sloping usage of the Sustainability Fund involves a large decrease at the beginning of 2011-12.

Ms. Gebhart stated that it is important to note that these scenarios do not consider a redirection of Proposition 10 funds by the California Legislature or the voters of the state of California. In the event of these possibilities, new Long Range Financial Plan scenarios will be brought before the Commission for consideration.

Commissioner Gonzales asked if there is an estimate of what the reduction in funding will be if Prop 1D passes. Mr. Friedman responded that the redirection would be approximately \$8 million which is half of our annual allocation.

Commissioner Obeid asked would we be at risk of losing fiscal leveraging. Mr. Friedman responded that if the State Commission goes away there is the State matching funds will likely go away as well. He stated that most of our state contracts will finish in 2010.

Commissioner Briscoe commented that Prop 1D has potential for such a huge impact that it is difficult to make a decision with so much at stake. Chair Simms-Mackey commented that one of the recommendations would be to draw from sustainability to continue to allow for planned transition.

No Action: This item was tabled, to be revisited in May.

### **13. Contract Authorizations – Action**

- Kidango

Commission Action: The Commission approved the above contracts upon a motion by Commissioner Mendel, seconded by Commissioner Gonzales (5 in favor, 0 opposed, 1 abstention, 3 absent).

- Bananas Inc.

Commission Action: The Commission approved the above contracts upon a motion by Commissioner Gonzales, seconded by Commissioner Baldovinos (4 in favor, 0 opposed, 2 abstentions, 3 absent).

### **14. Approval of First 5 CA Annual Report– Action**

Teddy Milder Director of Evaluation and Technology presented the First 5 California annual report for Commission approval. She stated that the Commission is required to approve the state report annually. She reported that the stated annual report does not contain specific information on Alameda County. She stated that it is a report primarily on the initiatives of the state such as the Kits for New Parents and School Readiness.

Commission Action: The Commission approved the First 5 CA Annual Report upon motion by Commissioner Mendel, seconded by Commissioner Baldovinos and unanimously carried (6 in favor, 0 opposed, 3 absent).

### **15. Announcements**

Ms. Burger announced to the Commissioners that there is a handout in their packets that provides an update on the status of the Alameda County Children's SART systems. She stated that the Steering Committee and various workgroups have been working intensively in each area of the SART areas in preparation for the official launch in late spring of 2009.

Ms. Milder announced that she attended the Staff Development summit and met with the Bay Area Regional Evaluators group. She stated that the BARES group was asked to provide data and factual information about outcomes which is being consolidated into a Bay Area report.

Commissioner Gonzales asked for First 5 support in providing resources and information to local food pantries. Commissioner Baldovinos commented that she has access and training information on the food stamp program. She stated that the services are underutilized and many families are not aware that they can qualify. Mr. Friedman stated that First 5 will feature this topic in the FYI newsletter and direct people to resources.

Ms. Milder announced that she attended the Maternal and Child Health Program conference in Washington, DC. She stated that the mood in Washington was very optimistic. She stated that the MCH block grants have not been settled. She stated that there is an effort from the state to move toward categorical funding.

Commissioner Baldovinos announces that Alameda County Social Services Agency is in their second year for Title 4 E funding waiver, which is a 5 year waiver that is generating savings in the system. She reported that Alameda and Los Angeles were the only two counties in the state that applied. She stated that they successfully reduced the cost and number of children in the system. She stated that they are going through the process of reinvesting the money that they have saved.

**15.** Meeting adjourn at 11:09am