



WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

1108 Bissell Avenue
Richmond, CA 94801-3135

Bruce Harter, Ph.D.
Superintendent

Telephone: (510) 231-1101
FAX (510) 236-6784

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Education**

Todd Groves
President

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September 2, 2015

John T. Laettner
Judge of the Superior Court
Contra Costa County Grand Jury
725 Court Street
Martinez, CA 94553

Re: Contra Costa Grand Jury – Report 1514

Dear Honorable Judge Laettner:

The West Contra Costa Unified School District (District) is in receipt of the June 11, 2015 Contra Costa County Grand Jury Report No. 1514, "Bond Program & Citizens' Bond Oversight Committee, A Case Study in Stymied Oversight". The report states that information was obtained from documents, interviews, and meeting minutes reaching as far back as 2007. As a result of new bond program leadership in late 2014, it should be noted that several of the recommendations and findings in the report were fully or partially implemented prior to the report being issued.

The report provides the following examples relating to the "system appears to have been hampered without supporting documentation but the District's response on these particular statements is as follows:

1. Property owners in WCCUSD pay 291% of the state average in school bond assessments on their property tax bills.

The Grand Jury assertion above dismisses two critical facts. First, not all districts have the same assessed value per student. Taxpayers in Districts with high assessed value have lower tax rates than a property-wealth poor district like WCCUSD. For example, the assessed value per student is the Sequoia Union school district is 2.7 times the AV per student in WCCUSD with San Mateo at 2.65 times wealthier than WCCUSD, Fremont 1.94 times, Campbell 1.92, San Ramon 1.52, San Jose 1.51 and Mt. Diablo at 1.29. To renovate and build schools to a quality standard simply takes a greater tax rate in WCCUSD than in other Districts. If WCCUSD had the AV wealth per pupil of Sequoia, the tax rate in 2014-15 would have been \$105 per 100,000 of assessed valuation instead of \$285.

The second fact that the Grand Jury assertion dismisses is that the voters of the West Contra Costa Unified School District have approved each of the measures that goes into the current tax rate and in all cases with a "yes" vote of greater than 55%. In 1998, Measure E passed with 75.7% voting 'Yes.' In 2000, 77.5% supported Measure M; March 2002 brought 71.8% 'Yes' rate to Measure D; Measure J of 2005 passed with 56.7% in support; in 2010, Measure D pass with 62.6% and in 2012, Measure E was

approved by 64.4%. The election results are an overwhelming endorsement of the program that the opinions of the Grand Jury cannot overturn.

Since 1998, 18 schools have had major renovations and 12 have been rebuilt. Several major construction projects are nearing completion including the rebuilding of Coronado elementary, Korematsu Middle, the Greenwood Academy, Nystrom Elementary, the stadium at El Cerrito and Swim Center at Kennedy High. Pinole Valley high is about to proceed into the construction phase of their buildings. The voters have seen the improvements in their neighborhoods and increases in the values of their homes.

2. The cost per square foot of school construction is three times the state average.

The Grand Jury did not provide any data supporting their assertion that West Contra Costa's cost per square foot is three times the state average. There are many factors that affect the cost of school construction and the State of California has been grappling with understanding the differences throughout the State and to collect this data. They developed a reporting process in 2008 as part of their Project Information Worksheet which provides a methodology for calculating the s.f. cost. The State calculation utilizes the total building cost divided by the total building square footage. The total building cost excludes off-site and on-site improvements, utilities, and parking structures since these components are generally unique to each site. The State Allocation staff reported in October 2014, the following data related to new school construction in California from 2008 thru 2014:

Statewide School Construction – Average Cost per Square Foot:

- New elementary schools average construction cost per square foot was \$375.
- New middle school average construction cost per square foot was \$390.
- New high school average construction cost per square foot was \$439.

West Contra Costa Unified – Average and Actual Cost per Square Foot:

- New elementary schools bid between 2009 and 2014 average cost per square foot was \$297/SF (Actual range: \$247/SF to \$371/SF for King ES, Ford ES, Dover ES, Coronado ES and Ohlone ES Building A & B)
- New middle schools bid between 2006 and 2013 average cost per square foot was \$397/SF (Actual range: \$312/SF to \$468/SF for Helms MS, Korematsu MS, Pinole MS)
- New high schools bid between 2006 and 2014 average cost per square foot was \$378 (Actual range: \$311/SF to \$463/SF for El Cerrito HS, DeAnza HS, Greenwood)

The District's cost per square foot takes into consideration the Board approved educational specifications/standards for higher quality, longer life of buildings and improved maintenance/operation features and designs (i.e. energy efficiencies, waterproofing). In addition, the District has been committed to provide full service community schools that have features and expanded spaces (health services, parent spaces, community spaces) that students and their families don't normally have access to as compared with other communities. Several other key factors in the cost of construction include the economy at the time the project was bid, costs in the region where the project was bid, whether the project was constructed under a Project Labor Agreement, bidding climate (number of other projects being bid at the same time), type of school (elementary or secondary), number of stories, double or single-loaded corridors, degree of technology infrastructure, specialized classrooms, designing to LEED or high performing school standards, local design standards, and community space. In light of these factors, there continues to be differences throughout State but the District's cost per square foot for new construction of schools is close to State averages.

In addition, the District adopted a Project Labor Agreement and also encourages local participation of workers and businesses. Since 2003, local hiring participation is 57% on projects. Encouraging local participation stimulates the local economy which is a direct benefit to the voters that passed the bond measures funding construction of the

schools.

3. Twenty-nine percent of the \$1.1 billion (nearly \$300 million) spent through June 2015 went for non-construction costs- program management and architect's fees.

Hard costs generally account for approximately 75-80% of a new school's total project cost. Soft costs are typically 20-25% of the total project cost. Soft costs include much more than program management and architect's fees. Soft costs also include surveying, geotechnical studies, furniture/equipment, technology, permitting fees, inspections (including special inspections), environmental and hazardous materials services, commissioning, and in-house staffing costs. As of June 30, 2015, the District has expended \$1.260 billion in bond funds and of that amount, \$354M has been expended for non-construction (soft) costs. This equates to approximately 28% of bond funds being expended for soft costs related to construction, which is just slightly higher than industry norms. The Board of Education approved higher standards which include, but are not limited to, extra measures to ensure waterproofing and energy efficiency (high performing schools), that require additional design, and commissioning services.

4. WCCUSD is running out of money well before all of its scheduled projects are completed.

As of May 30, 2015, the District has \$492M in bond authority, cash balance and anticipated State funds. It is anticipated that approximately \$290M of the \$492M will be needed for projects currently underway (including funds currently budgeted for Pinole Valley High School). There remains approximately \$202M available for upcoming projects to be planned. The Board of Education approved moving forward with a Long Range Facilities Master Plan to prioritize projects and provide recommendations for future funding strategies. There were several schools with construction drawings started and others which were master planned with the anticipation that they could be built if the passage of bond measures continued as they had in the past. Measure H was unsuccessful in 2014 which makes the planning process and community outreach for the remaining funds even more critical to understand future project scheduling.

In accordance with California Penal Code Section 933.05, the District's response to each of the numbered Findings is as follows:

- F1. The WCCUSD school board appoints CBOC members who oversee it, which may make CBOC members feel beholden to WCCUSD board members, which may result in an inherent conflict of interest.

District Response: District partially disagrees with the Finding. The five Board appointees do not represent a majority of the 19 members of the committee; however, for complete transparency and responsiveness to this concern, the Board, along with its Governance Subcommittee, will be considering revisions to Board Policy 7214.2 within the next several weeks to address the size and make-up of the committee.

- F2. CBOC membership is currently set at 19, which makes it difficult to reach a quorum or to get business done with so many voices to be heard at meetings.

District Response: District partially disagrees with the Finding. Since January of 2013, the CBOC has held 27 meetings, all of which have had quorums. Due to the size of the \$1.6 billion dollar bond program, and its related complexities, the Chair of committee found it necessary to have a large committee to allow participation on subcommittees related to specific work, i.e. change orders, cost savings, website, etc. However, due to so many committee members, it can lengthen agenda items due to the many voices needing to be heard. Board policy revisions will be proposed to the Board, after input from the Governance Subcommittee, within the next several weeks that could have the opportunity to reduce membership.

- F3. The School Board had added a discretionary category for a member of the Public Employees Union Local 1 on CBOC.

District Response: District agrees with the Finding. Board Policy 7214.2 does have a discretionary category for a member of the Public Employees Union Local 1. The position is currently vacant and the Board, after input from the Governance Committee, will be considering revisions to Board Policy 7214.2 within the next several weeks to address the size and make-up of the committee.

- F4. WCCUSD did not agree to post CBOC's meeting materials on its website when requested to do so by CBOC.

District Response: District partially disagrees with the Finding. There may have been times in past that this occurred. The CBOC website committee and District have and are collaborating to insure that meeting materials, including agendas and back-up documents, are available on-line 72 hours in advance of meeting dates. This new procedure was implemented by new District leadership in January 2015.

- F5. WCCUSD has complete control over CBOC's website.

District Response: District partially disagrees with the Finding. The District is required to provide the CBOC with the technical assistance to publicize the conclusions of the CBOC. The District has control over the website in order to provide the needed technical assistance to the CBOC. Since the Fall of 2014, the District and the CBOC website committee have met regularly to collaborate and to ensure that all CBOC requested changes and additions are added to the website.

- F6. WCCUSD has denied CBOC's requests for access to CBOC's website and rejected CBOC's suggestions.

District Response: District partially disagrees with the Finding. The District is required to provide the CBOC with any technical assistance to publicize the conclusions of the CBOC. The District has control over the website to provide the needed technical assistance. Since the Fall of 2014, the District and the CBOC website committee have met regularly to collaborate and to ensure that all CBOC requested changes and additions are added to the website.

- F7. WCCUSD has not always timely furnished financial reports to CBOC, allowing CBOC very little time for any thoughtful analysis.

District Response: District partially disagrees with the Finding. Financial data is now provided monthly to the CBOC 72 hours prior to meeting dates. At the January 28, 2015 CBOC, new financial reports were provided to the CBOC and continue to be presented at every CBOC meeting. These documents include In addition, the CBOC is now receiving a list of warrants for bond expenditures in the previous month. Prior to that time, frequency of providing financial data was inconsistent.

- F8. Financial reports provided by WCCUSD to CBOC are not always accurate and complete.

District Response: District partially disagrees with the Finding. Financial data is now provided monthly to the CBOC 72 hours prior to meeting dates. At the January 28, 2015 CBOC, new financial reports were provided to the CBOC and continue to be presented at every CBOC meeting. In addition, the CBOC is now receiving a list of warrants for bond expenditures in the previous month. Prior to that time, frequency of providing financial data was inconsistent.

- F9. WCCUSD and the School Board were not in compliance with law in refusing to support CBOC's requests for public posting of CBOC agendas and minutes on WCCUSD's website

District Response: District partially disagrees with the Finding. In accordance with the Brown Act, the CBOC website committee and District have and are collaborating to insure that meeting materials, including agendas and back-up documents, are available on-line 72 hours in advance of meeting dates. If any documents are handed out at the meeting, District uploads the documents after the meeting occurs. This new procedure has been in place since January 2015.

F10. WCCUSD has not consistently provided timely, adequate and independent training for new CBOC members. Recommended training manuals and pamphlets have not been furnished to CBOC members.

District Response: District partially disagrees with the Finding. The District has provided training in the following areas: Construction, Change Orders and Bond Finance. In addition, the District's financial auditor provided training to the CBOC on the Performance Audit prior to the CBOC receiving the 2013/14 Performance Audit. CBOC attendance is generally very limited at live trainings so website training is encouraged, which includes Brown Act training. The Board of Education approved legal counsel for the CBOC and additional training opportunities will be conducted regularly. The District has now added the majority of the recommended training and informational guides to the CBOC website as suggested by the Grand Jury.

F11. CBOC had lacked a member who was active in a senior citizen's organization.

District Response: District partially disagrees with the Finding. Board Policy 7214.5 will be considered by the Board within the next several weeks to require CBOC candidates to provide proof of being active in a mandatory membership category prior to appointment.

F12. The school Board has not always required an application before approving CBOC members.

District Response: District partially agrees with the Finding. Membership applications are now required and reviewed by the Board of Education prior to appointment by the Board of Education.

RECOMMENDATIONS

R1. The School Board should eliminate the following six member positions from CBOC at the expiration of their terms, to eliminate any concerns about conflicts of interest.

- Five members, one recommended by each member of the Board of Education
- One member representing the Contra Costa Building and Construction Trades Council

District Response: This recommendation requires further analysis and has not yet been implemented but it is anticipated that the Board of Education, after input from the Governance Committee, will be considering policy revisions within the next several weeks to make adjustments to the size and make-up of the committee.

R2. The School Board should change the School Board discretionary category of "Public Employees Union Local 1" to that of an "at large" position from the general community in order to allow for a greater pool of qualified candidates to apply.

District Response: This recommendation requires further analysis and has not yet been implemented but it is anticipated that the Board of Education, after input from the Governance Subcommittee, will be considering policy revisions within the next several weeks to make adjustments to the size and make-up of the committee. This position is currently vacant. It should be noted that the CBOC recommended that the general community "at large" position, after consideration by the Board of Education, have construction experience.

- R3. The School Board should create an independent selection committee to select new nominees for CBOC, comprised of the CBOC Chair and a designated appointee from CBOC, two members from the Board of Education, and School Superintendent or designee, for a committee of five. Selection should be based on merit and be a transparent process to ensure public confidence in this vital selection process.

District Response: This recommendation requires further analysis. There are challenges to identify potential members that have the time and commitment to serve on the committee. There are rarely multiple individuals at any one time vying for a spot on the committee. A selection committee could discourage participation and volunteerism and lengthen the process. The CBOC recommended that a selection subcommittee be formed consisting of one CBOC member and the Board of Education liaison to the CBOC to review potential candidates prior to appointments being recommended by the Board. It should be noted that membership applications are now reviewed the Board of Education prior to appointment. It is anticipated that the Board of Education, after input from the Governance Subcommittee, will be considering this recommendation along with possible policy revisions within the next several weeks.

- R4. WCCUSD should provide CBOC members with complete, detailed and comprehensive financial data relating to the expenditure of bond revenues and items put to vote on the board agenda at least 7 days in advance of the board meetings, in order to permit meaningful and effective review and oversight.

District Response: The recommendation has been implemented commencing with the January 28, 2015 CBOC meeting with the exception of the items being put to vote on the Board agenda. Financial data is provided monthly to the CBOC 72 hours prior to meeting dates, pursuant to Brown Act requirements and Board of Education action is not required prior to the data being presented. Furthermore, the CBOC does not provide advice to the Board of Education on expenditures prior to their approval.

- R5. WCCUSD should allow CBOC full access to the CBOC website.

District Response: This recommendation has been fully implemented to CBOC's satisfaction. In the Fall of 2014, the District the CBOC website committee have met monthly to collaborate and to ensure that all CBOC requested changes and additions are added to the website.

- R6. WCCUSD should not change or add items to CBOC's website without the permission of the CBOC chair.

District Response: This recommendation has been implemented. The CBOC website committee and District meets monthly to discuss changes or additions to the website. District is responding timely to the requested changes.

- R7. WCCUSD should provide CBOC with accurate, understandable and timely financial and non-financial reports concerning bond funded projects as well as other relevant information requested on the bond construction program at least monthly.

District Response: This recommendation has been implemented. Financial and cashflow reports are provided to the CBOC on a monthly basis. The reports are generated by the Executive Director of bond finance and presentation of the reports commenced in January, 2015. The CBOC and District staff have been working together on a KPI report that continues to be in draft form due the financial system and the construction management software not being fully integrated.

- R8. WCCUSD should provide CBOC with a comprehensive master plan for the school construction projects within the next three months and as requested by CBOC.

District Response: The recommendation has not yet been implemented but will be implemented upon completion of a Long Range Master Plan. The district awarded a contract to Darden Architects on July 21, 2015 to begin the planning process which is anticipated to take a minimum of 10 months.

- R9. WCCUSD should provide timely and comprehensive training to all new CBOC members on a timely basis. The following training materials, at a minimum, should be provided to all new CBOC members within one week of their appointment:

(a) California League of Bond Oversight Committee recommended Best Practices

(b) San Diego County Taxpayers Association "Oversight Committee Best Practices" Guide

(c) California Coalition for Adequate School Housing "Proposition 39 - Best Practices Handbook"

(d) Little Hoover Commission 2009 Report "Bond Spending: Expanding and

(e) California League of Cities "A Guide to The Ralph M. Brown Act"

(f) State Controller's Office 2011 Audit Report on the Los Angeles Community College District's bond construction program

District Response: The recommendation has been implemented with the exception of f) above. The training materials are on the CBOC website and new members will be encouraged to review them after their appointment to the committee.

- R10) The School Board should follow all of its policies.

District Response: This recommendation has been implemented. Revisions to Board Policy 7214.2 will be considered by the Board within the next several weeks. Ongoing responsibilities identified in the policy will continue to be refined and implemented by the committee and the District's new bond program leadership.

- R11) The School Board should ensure that the CBOC contains a member from each category required by California Education Code Section 15282.

District Response: The recommendation will be fully implemented as a result of membership applications now being required and reviewed the Board of Education prior to appointment by the Board of Education.

Sincerely,



Todd Groves
Board of Education, President