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December 15, 2014

To: President Frank Tarantino  
Board Member Nick Segura  
Board Member Kevin J. Pike  
Board Member Paula Hall  
Board Member Arturo Solis

Dear President Tarantino:

Greetings President Tarantino, Board Members and Superintendent Glover. Congratulations to all of you on your election to the Board.

This monthly Chair Report will present a brief overview of our Citizen's Bond Oversight Committee (CBOC) developments since the last regular Board meeting on November 20, 2014. There have been no Bond Oversight Meetings since November 20. We do not have a scheduled meeting in December, as typically December is a "dark" month because of holiday schedules.

### **Meetings and Contact Information**

Our next meeting is scheduled for Wednesday January 14, 2015 at Bonita Vista Middle School @ 6:00 PM. As always you and the public are welcome to attend and participate. The Board, staff, and public may contact me via [cboc@sweetwaterschools.org](mailto:cboc@sweetwaterschools.org), my personal email [nickmarinovich52@gmail.com](mailto:nickmarinovich52@gmail.com) or 619-934-4982.

There is a joint meeting of the Board of Trustees and the CBOC on January 12, 2015 at the Professional Development Center. This will be part of a larger workshop which will be in two parts: 1) CBOC with Long Range Facilities Master Plan and Proposition O Capital Facilities Financing Plan 2) Community Facilities District, Asset Utilization, and third party review.

### **Role of Bond Oversight**

Education Code Section 15278 (b) provides the specific role of the CBOC:

- *The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues.*

- *The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction.*

Principal duties of the CBOC are to ensure that proceeds have been expended for the purposes set forth in the Proposition "O" ballot language, report the progress annually to the public and assure the public the bond program is in compliance with California Constitution provisions regarding bond oversight.

As stated in Education Code Section 15264 " It is the express intent of the Legislature that the members of the Committee "promptly alert the public to any waste or improper expenditure of school construction bond money." [Education Code §15264]. Our role is to question decisions where appropriate as well as report the positive aspects of the Bond Program. We have do direct say in how bond proceeds are spent. We are in a nutshell the "Accountability Committee."

### **Concerns over the Performance Auditor Selection**

The California Constitution and Education Code both require an annual Performance Audit. The Performance Audit must review at minimum: 1) whether any District operating expenses were paid for out of bond proceeds 2) bond revenues were only used for specific purposes outlined in the Constitution (e.g. replacement of school facilities) 3) whether there is a list of projects to be funded and that it has considered various factors in its development (eg. evaluation of safety, class size reduction measures). Many school Districts opt for a basic Performance Audit, which does not take an expanded review of the Bond Program (e.g. review of change order process, contracting procedures, effectiveness of the Bond Oversight Committee).

To this District's and Bond Oversight Committee's credit, we have advocated and conducted three Expanded Performance Audits for the Bond Program, including the last two fiscal years. The Sweetwater Union High School District would not have gotten the highest transparency rating from the San Diego County Taxpayers Association if it had not done this expanded performance audit last year.

The California League of Bond Oversight Committees has been a significant advocate for an Expanded Performance Audit and reforms related to Audit Standards. The CBOC played a major role in the development of the project scope for this current Audit.

There is an Agenda Item before you on December 18, 2014 related to the selection of Nigro Nigro as the Performance Auditor for FY 13/14. It is solely the District's prerogative to choose the Performance Auditor.

To the credit of the District, the CBOC has been included in the development of the Request for Proposals (RFP) Scope of Work and the Evaluation of the two current responses. The scope of work in the current RFP included the same performance audit scope as last year plus the following additional items:

- A specific detailed review of the Change Orders for National City Middle School
- A comparative analysis of the lease leaseback approach for National City Middle School versus the design build at Montgomery High in terms of cost effectiveness

- An overall assessment of the Change Order process and procedures practiced by the District
- A review of the Power Purchase Agreement and related change orders

A Request for Proposals was issued on October 24, 2014 and responses were due November 14, 2014. Two proposals were received from Nigro Nigro which has done the last two Performance Audits and Moss Adams.

CBOC Member Ditas Yamane was one of three members of the Evaluation Committee along with two District staff from Purchasing and Finance. Moss Adams and Nigro were rated roughly equal in technical competence. CBOC member Yamane gave Moss Adams a higher technical score. The RFP Evaluation Criteria gave cost as 25% of the total points. Moss Adams submitted a cost proposal of \$65,200 and Nigro Nigro \$24,500. Largely because of the significant cost differential between the two submittals, Nigro Nigro was recommended, based upon the criteria set forth in the RFP, for approval.

The day following the Evaluation Committee recommendation, I received a call from CBOC Member Yamane very concerned about how the selection process was structured with cost being given such a large consideration. She felt that cost seemed to be “driving the decision.” As Chair I was asked to intervene and review the situation.

Since we have no meeting in December and this seemed to be time sensitive, I convened an Ad Hoc Subcommittee (myself, Dave Butler, Ditas Yamane, Terry McKearney) to review the information and process and make a recommendation to the District.

It was recommended by the Ad Hoc Subcommittee that before the District makes a final recommendation there should be interviews of the two firms (persons involved), we should determine why the cost differential was so high between the two firms (40k) and ask for a breakdown of hours by major tasks for each consultant.

Again we do understand this is the District decision and you must be able to justify the selection process outlined in the RFP. Unfortunately the Auditor selection and process is being done after our last Bond Oversight meeting and during December when we have no scheduled meeting.

As Chair I can give you my added insights into the Subcommittee recommendation without the formal approval of the CBOC but with the experience of the dynamics and past approaches used by our Committee. Here are my personal observations:

1. The total hours for Moss Adams was 312 versus 184 for Nigro Nigro. Clearly Moss Adams thinks there is more effort needed to complete the scope of work than Nigro Nigro.
2. Moss Adams does not provide a specific acknowledgment of the scope of work in their response. Nigro Nigro does outline scope items but omits the added scope items (eg. review of the National City Middle School Change Orders). It may be that both intended to evaluate the full scope but this needs to be clarified in an interview including the level of effort required to complete each scope item.
3. There are also other Scope items mentioned in the RFP not specifically mentioned in the Nigro response and silent in the Moss Adams. This alone speaks to having an interview to

glean exactly what each consultant is actually providing for the cost. We must have a level playing field (apples to apples) in evaluating cost among the two proposals.

Again the CBOC recognizes this is your decision not ours as is the case with all Proposition O Bond Program expenditures. No matter what the decision we will work cooperatively with District staff to make sure the Scope of Work is completed in an adequate and complete manner.

### **Master Plan Process Concerns**

As indicated above, the Master Plan will be discussed at our January 12, 2015 joint meeting and will be released publically on or about January 6. Our CBOC does not have a meeting scheduled until January 15, 2015. After conferring with District staff and CBOC members, I may request the CBOC meeting be moved or we have a Special Meeting before the Board workshop to discuss what if any position we want to take on the Draft Master Plan. Proposition O paid for this Master Plan and the CBOC must have an active role in reviewing its completeness, logic, analysis, recommendations and insights.

As Chair I have gotten numerous complaints and concerns about the last round of the Master Plan process i.e. the recent Community meetings. There is a general feeling that the meetings were not noticed properly and there was not enough input from District staff and community. Whether this is in fact true is not the point. If people feel that way then the issue should be addressed. To the District's credit they are reaching out to the Site Councils this month for input. We hope to work positively with the District as this Master Plan process moves forward.

### **Subcommittee Structure**

Because of our busy schedules and some of us have day jobs, this can always be a challenge for any CBOC. The Chair feels we need to rethink and get more active in Subcommittees and I will be working on this over the month. I do think we need a Master Plan Subcommittee, a more thorough review of legal cost issues, and periodic analyses of District change orders and procurement processes.

### **Senior Member**

The California Education Code requires that: "One member shall be active in a senior citizens' organization". Per the District By Laws, the person does not have to live in the District. Initially, I was going to join an organization so that my Community Member At Large could be backfilled since multiple solicitations have not yielded any applicants for the Senior Position. However I just am "volunteered out" and do not have the time to spend this extra effort. I will work with District staff to help get us a person.

I look forward to these monthly written reports and would also be pleased and encourage you to hear a brief verbal summary of this letter at the Board meeting.

Sincerely,

Nick Marinovich, Chair  
Sweetwater Citizen's Bond Oversight Committee