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August 20, 2012

Sweetwater Union High School District
Pearl Quinones, Board President
1130 Fifth Avenue
Chula Vista, CA 91911

Dear President Quinones:

Thank you for the opportunity to present the Citizen's Bond Oversight Committee (CBOC) analysis and recommendations regarding the District's July 23, 2012 Response to the Proposition "O" Performance Audit for the period Fall 2006 to Summer 2011. The letter is organized as follows: 1) Summary and Conclusions 2) Background 3) Role of the Bond Oversight Committee 4) Recommendations and Discussion. The letter and its recommendations were unanimously endorsed by the CBOC at its meeting on August 16, 2012.

Summary and Conclusions

The Sweetwater Union High School District needs to improve the Transparency, Trust, and Thoroughness associated with its Proposition "O" Bond Program. Until these three "T's" improve, the Board will be forced into a defense posture by the public.

The CBOC takes its job seriously. We want to work with the District and stand here willing to implement positive change. It is our job as an Oversight Committee to bring attention to deficiencies and areas for improvement. In certain cases we may take proactive action to confirm, deny, and then act upon information that "something is just not right".

The following responses and recommendations contained in this letter are intended to set in motion a process that should go a long way in restoring Trust and Confidence. The third leg of the "T's", Thoroughness goes along with its close cousin effective communication. Many of the issues regarding the

close cousin effective communication. Many of the issues regarding the Proposition "O" Program are brought on by poor or no communication between the District and the Public. We at the CBOC seem to spend an inordinate amount of time trying to get information rather than performing our real task.....analyzing that information.

Hiring a financial consultant for the CBOC, conducting a forensic audit, requiring new Initiative vetting against a long term district strategic plan, working with the CBOC to revise your internal policies as necessary, and making the Proposition "O" Web user friendly site are foundational to the implementation of the three "T's".

Background

The following is a summary of the critical milestones and historical perspective relating to our Committee's Response:

November 7, 2007: Proposition 39 The "Smaller Classes, Safer schools and Financial Accountability Act" was approved by the Voters almost six years ago. Proposition "O" is governed by this Act and requires a Performance Audit. Specifically Section 3 (e) of the Act states: "To ensure that the proceeds from the sale of school facilities bonds are used for specified school facilities projects only, and not for teacher and administrator salaries and other school operating expenses, by requiring an annual, independent (emphasis added) performance audit to ensure that the funds have been expended on specific projects only."

October 17, 2011: Board of Trustees Approves Contract with Eric Hall and Associates. At the Board meeting (K-1), a contract was approved with Eric Hall and Associates to provide performance auditing services. The total contract was for \$60,000. Three proposals were received in a Request for Qualifications process.

March 20, 2012 : Board Accepts Performance Audit for year ended June 30, 2011. The Audit was submitted and accepted at the Board meeting. Originally the District engaged the firm of Christy White Accountancy Corporation to conduct the annual independent financial and performance audit of the Measure "O" bond program and report its findings to the board of trustees and to the Independent Citizens' Bond Oversight Committee. Subsequently, the Board of Trustees required a more extensive performance audit. As a result there are two audits. Eric Hall and Associates was retained to conduct the performance audit, and Christy White Accountancy Corporation completed the financial audit. The reports represented the third annual financial and performance audit of the Sweetwater Union High School District's Proposition 39 bond program.

July 23, 2012: Board Approves district responses to Proposition "O" Performance Audit findings and recommendations and receives comments from CBOC Chair.

The Board accepted the District Responses to the Performance Audit. At the Board meeting the CBOC Chair responded to the District Audit Response both on the specific agenda item as well as in the monthly Chair Report.

The following is an excerpt from the Chair Report relating to the Audit:

"There is frustration regarding the lack of a prompt and proactive response to the "Eric Hall and Associates Proposition O Performance Audit Fall 2006 to Summer 2011. This report was published on March 20, 2012. The District response was not released until Saturday July 20, 2012, a total of 92 days. Earlier, the Committee did hear presentations on the report from Eric Hall and Associates. Very little input was sought from the Committee in developing a response to the Audit, which covered the very issues that are under our purview pursuant to the California Education Code. The Committee's expertise and time could have been utilized to develop some consensus on moving forward, rather than reacting to a report submitted by staff. Such a District strategy of non-inclusion is inconsistent with a recommendation on Page 58 of the Hall Report which states 'The CBOC should play a critical role in increasing the community's confidence in the Proposition "O" program.'"

The CBOC should play a critical role in increasing the community's confidence in the Proposition "O" Program. The comments above still apply and are included by reference in this letter.

Role of the Bond Oversight Committee

The recommendations of this CBOC report are drawn from the underlying purpose and intent of Passage of Proposition 39 and subsequent implementing legislation (AB 1908-School Bonds and AB 2659-Education). This legislation passed prior to the Proposition and thus was contingent on voter approval. The CBOC feels that it is important that the Board be periodically reminded that it was the Legislative intent and the Law that there be an **independent** Oversight Committee representing the public (emphasis added).

Section 2 (g) of the Act states "We need to ensure accountability so that funds are spent prudently and only as directed by citizens of the community." In addition, Section 3 (a) of the Act states: "This measure is intended to accomplish its purposes by amending the California Constitution and the California Education Code: To ensure that before they vote, voters will be given a list of specific projects their bond money will be used for;(d) To require an annual, independent financial audit of the proceeds from the sale of the school facilities bonds until all of the proceeds have been expended for the specified school facilities projects; and (e) To ensure that the proceeds from the sale of school facilities bonds are

used for specified school facilities projects only, and not for teacher and administrator salaries and other school operating expenses, by requiring an annual, independent performance audit to ensure that the funds have been expended on specific projects only." In light of this language, it is believed the CBOC should interview and choose its Committee members.

Key provisions of AB 1908 and codified into the Education Code relevant to our recommendations are as follows: "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. The citizens' oversight committee shall advise the public as to whether a school district or community college district is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. The citizens' oversight committee shall convene to provide oversight for, but not be limited to, both of the following:

(1) Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. (2) Ensuring that, as prohibited by subparagraph (A) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, no funds are used for any teacher or administrative salaries or other school operating expenses."

Also, Section 15280 states: "(a) The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee."

In fact AB 1908 went so far as leaving the option under specified conditions of allowing a restraining order against the expenditure of funds for satisfaction of certain conditions including: "(4) The governing board of a school district or community college has willfully failed to appoint the citizens' oversight committee in violation of the requirements of Section 15278."

In short the underlying Proposition 39 and its implementing Legislation demands an active, independent, and when necessary aggressive Bond Oversight Committee. There is an important distinction between the more common "Advisory Committee" which as the name implies provides insight and recommendations on specific actions before a Governing Board. An example of an Advisory Committee would be a Community Planning Group who provides recommendations to a City Council or Board of Supervisors.

The role of the Oversight Committee is much broader. It functions as a "watchdog" for the taxpayer. Its role is to report to the public whether their funds

are being expended according to the law. If there are areas for improvement it is our duty to provide the Board with advice and recommendations. Conversely if the public questions something within the CBOC purview and we find it to comply with the rules and standards for use of bond funds, it is our duty to assure the public that the funds are being properly spent.

In hindsight and with the recent revelations about questionable expenditure of bond funds around the State, the Legislature was forward thinking in demanding Independent Citizen Bond Oversight Committees.

Recommendations

As mentioned in the Summary Section, the theme of our report and recommendations center around the three "T's", Trust, Transparency, and Thoroughness. Our goal as a Committee is to ensure a Proposition "O" Bond Program that we can all be proud of. We have begun to move in that direction with the preparation of the Performance Audit by Eric Hall Associates and the coming Board opportunity to fill the long vacant Oversight Positions.

However, more needs to be done to move the District towards fully restoring our Committee's confidence. Our recommendations and discussion are as follows:

1. Retain a financial consultant, interviewed and chosen by the CBOC, to act independently on behalf of the CBOC.

Discussion: In an ideal world where there was complete trust that the information provided by the District was fully transparent and thorough, it would not be necessary to retain a consultant to provide such services for the CBOC. We are not there yet on this issue. On an as needed basis the Committee is recommending that a financing consultant be retained to address Committee specific issues as they arise. For this to work properly, the consultant would need to have complete access to District records, files, and staff. An example of a specific issue that could have used a consultant would be the use of Proposition "O" Funds for funding District Operations. This debate should have been settled a long time ago. However, because of incomplete information and lack of thoroughness in supportive backup, this issue had not yet been satisfactorily resolved prior to our August 16, 2012 CBOC meeting. The pending letter from the District and Christy White assuring us that this is the case is believed to allay our concerns on this specific issue. As of the writing of this letter, this correspondence has not been received. We will continue to monitor and revisit this issue if necessary.

2. Update the Proposition "O" web site to be more transparent and user friendly.

Discussion: To say the CBOC has an active following would be an understatement. There has been a newfound interest by the press and media in coverage of School Bond Programs and their issues of questionable practices around the State. A wise District will have the attitude that it is their duty to fully inform the public both the good and the bad that is happening with their Bond Program. If there was an unforeseen site condition discovered in a project that required a significant change order, it should be reported earlier rather than later. The Public is smart enough to understand a reasonable cost increase. They are also smart enough to recognize when the District is not forthcoming.

A concrete example of the type of change would be to include on a real time or concurrent basis Proposition "O" Board Agenda Items and backup being posted on the Proposition "O" web site. For the Public to find the information now they must go to the Board Agenda, then access the backup, and scroll through page after page until Proposition "O" items are discovered. It is not user friendly.

3. CBOC should work with District Staff to revise policies and recommendations relating to the expenditure of Proposition O Funds: a. Quality Based Selection (QBS) Consultants b. Lease Leaseback c. Internal policies and procedures for the selection of all consultants and contractors

Discussion: The CBOC feels that many of the District responses to the Performance Audit were too general in nature with the "meat" of the recommendations put off for future review and action. This is "kicking the can down the road."

In order to restore confidence in the District and how the District is performing post Seville, it is important that the public see that it is not business as usual. Public confidence has not been fully restored. It behooves the District, if it truly wants to restore trust and confidence to work with the Bond Oversight Committee to develop mutually acceptable ground rules for the process used in retaining the consultants and contractors needed for Proposition O Projects. In point of fact your current processes may be appropriate. We don't have enough information to come to that conclusion. This should be a top priority for the District to address.

For example Seville was paid approximately \$595 per student to manage the Proposition O Program? Would a reasonable person find that per student cost appropriate? What specific changes have been made to make sure we don't ever have situations like this in the future? The use of internal checks, balances, and oversight is critical. We have yet to be assured that both written policies and the institutional culture of the District have changed.

4. The District should not limit themselves to pursuing LEED Certification and look for more cost effective alternatives to accomplish the same result.

Response: Pursuant to the Eric Hall and Associates report:

"1. Under the direction of the District, the bond program managers employed the services of Solterra to assist in developing work practices and documentation to earn LEED points. The architect fee to design to LEED standards was included in the original fee.

2. The District achieved success in its design of facilities to LEED standards. The program is achieving national recognition for its accomplishment and is on target to obtain Gold or Platinum certifications on 16 separate buildings."

While LEED may be prudent in particular instances, the CBOC recommends that the District look to possible alternative programs which achieve the same policy objectives but at a more cost effective approach. LEED is the "in vogue" approach to compliance with AB 32 (Greenhouse Gas Emissions) and other recent legislation.

There may be other alternatives such as The Collaborative for High Performance Schools which believes kids learn better in schools with good lighting, clean air, and comfortable classrooms. CHPS works with schools and experts to make changes to ensure that every child has the best possible learning environment with the smallest environmental impact. It is a more holistic approach to design impacting all areas of the student environment. In short, the CBOC believes the District should keep an open mind for alternatives to LEED and be diligent that an investment in LEED design be cost effective from a life cycle perspective.

5. Conduct a forensic audit of a select period for the expenditure of bond proceeds and report the Public.

Discussion: In order to build the trust and confidence of the CBOC and its constituents, we need to verify that expenditures during and post Seville have been appropriate via a targeted select Forensic Audit. "Forensic" means "suitable for use in a court of law", and it is to that standard and potential outcome that forensic accountants generally have to work. Forensic accountants also referred to as forensic auditors or investigative auditors, often have to give expert evidence at the eventual trial. All of the larger accounting firms, as well as many medium-sized and boutique firms have specialist forensic accounting departments. Within these groups, there may be further sub-specializations: some forensic accountants may, for example, just specialize in insurance claims, personal injury claims, fraud, construction, or royalty audits. (See Wikipedia for further information, information used from this Web site).

The specific scope of work could include the following:

- Review of Financial and Performance Audits to Date
- Conduct interviews of facilities and accounting personnel to gain an understanding of the Districts procurement process, internal controls over Proposition "O" Funds and other possible areas of concern
- Obtain general ledgers for the Proposition "O" Funds for select periods and perform financial analyses to identify total funding received, total expenditures incurred, and identify major projects
- Compare actual project expenditures to approved budgets to identify cost overruns
- Perform testing of project expenditures to verify proper accounting treatment and confirm representations of facility personnel

Attached to this letter is a sample audit report that was prepared for the Calexico Union High School District. We believe the Forensic Audit should review select problematic projects during the tenure of Seville and post Seville to determine what occurred during each period and what, if any, changes were made by the District.

6. New and significant expenditures of Proposition "O" Funds for long term Initiatives (e.g., ipad Purchase) be vetted in the context of Long Range Facility and Education Master Plans of the District for consistency.

Discussion: The acquisition of iPads with Proposition "O" Funds was not made with an adequate long term strategy in place. There was considerable discussion and varying degrees of frustration with an apparent lack of long term strategic planning in relation to acquisition of iPads.

Issues such as long term useful life, technological changes in hardware and software, the relationship of the iPad functions juxtaposed to educational needs and how the iPad acquisition fits into the long term Information Technology Plan for the District were discussed. Although the CBOC agreed the bond language did not prohibit the use of funds for this technology, we repeatedly asked the District to provide a comprehensive plan on how they would continue to fund iPads over the next five years as well as how they planned to measure their success.

The response was that for funding they will apply for grants and look for future money. there was no apparent metric to analyze the effectiveness of this investment in iPads. This is an unacceptable response when \$1.8 million in bond funds are being used this year with more to be used in the future. In short, the

Committee felt that the decision(s) to purchase iPads was made without a complete vetting of pros, cons, alternatives, and consequences.

Thank you for your consideration of my comments made on behalf of the Citizen's Bond Oversight Committee.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Marinovich', with a stylized, cursive script.

Nick Marinovich, Chair
Proposition O Bond Oversight Committee

Cc: Jim Cartmill, Board Vice President
John McCann, Board Member
Arlie Ricasa, Board Member
Bertha Lopez, Board Member
Ed Brand, Superintendent