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October 15, 2012

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

Dear Ms. Quinones:

Thank you for the opportunity to represent the Citizen's Bond Oversight Committee (CBOC). The purpose of this letter is to present a summary of CBOC discussions since your last Board meeting on August 20, 2012. The CBOC met on September 6, 2012 and October 11, 2012. Highlights of these two meetings are as follows:

SEPTEMBER 6, 2012 CBOC MEETING

Significant Progress has been made relative to the operation and progress of the Independent Bond Oversight Committee. With the appointment of three new members we are only missing one member. Unfortunately it took way too long to fill the positions. Trust has been built with the community in general and "activists" i.e. Stakeholders, who have been diligently following this program for years, that the Committee represents the public not other interests.

The Proposition O web site is much improved particularly in the area of completeness and inclusion of our correspondence (e.g. no confidence letter). This is a hard working engaged Committee who understands that we are independent and provide oversight not advisory input to the public and Board of Trustees. The Committee has a great diversity of backgrounds. In short, it is trying to do its job according the law...the Education Code. Much more work, however, needs to be done by the District in meeting our needs especially in the area of transparency.

Committee members are now engaged with the California League of Bond Oversight Committees (Calboc). Calboc is an all volunteer, non-partisan association of Bond Oversight Committee members, current and past, who are interested in helping other Citizen Bond Oversight Committees. I met with the

Executive Director and their web master on September 22, 2012. They are very organized, have a great web site, involved with the political process as it relates to legislative reforms, and have an extensive media distribution system. At their request, I have been selected to be on the Board of Directors. Committee member Kevin O'Neill will be on their Policy Advisors. There will be strength in numbers and media attention. Calboc is growing and wants to create Chapters around the State to foster implementation of compliance with the California Education Code and other appropriate laws that govern our missions.

Vote of No Confidence. On September 6, 2012 the Committee voted 5-0 with three new member abstentions to declare a vote of no confidence regarding Dr. Brand's support of our Committee. Our vote of no confidence was not taken lightly and comes as a result of months of frustration with respect to the support we need to meet our statutory requirements.

OCTOBER 11, 2012 CBOC MEETING

This meeting considered a number of significant items such items as our request for additional resources to do our job, beginning an accelerated process for the annual performance audit and its scope of work, a review of the By-laws and their relationship to the Education Code and Best Practices of the California League of Bond Oversight Committees and others, the 700 Forms and the process used for selection of new members.

Here are the highlights of this meeting:

Adoption of the California League of Bond Oversight Committee Operating Standards. Of the 94 Committee Operation Standards (Best Practices) 42 are based upon recommendations from our San Diego County Taxpayers Association and 19 come from the California League of Bond Oversight Committees (Calboc). The remaining standards come directly from the California Education Code.

Calboc states in their by laws that "The primary objectives and purposes of this corporation shall be to help Bond Oversight Committee members, appointed under the provision of Proposition 39 [Education Code Section 15278 (a)] perform the civic duties they have taken on in the best manner possible through training, providing a forum for discussion and representing common interest at the statewide level."

Calboc has already provided invaluable assistance to the Chair through exposure of the vast amount of information on its web site. I met with the Executive Director and discussed in detail the scope of work and options/requirements for our annual Performance Audit.

Significant thought and research went into these Standards. Most noteworthy is

the fact is that our San Diego Taxpayer's Association developed a significant portion of these Standards. The District should take a leadership role and show its commitment to a strong independent citizen's oversight by approval of the Standards. These standards have been attached.

Detailed Performance Audit Recommended. The attached agenda item prepared by Chair and considered by the Committee are in my opinion the most critical issue facing this Committee and District to allow us to do our job. Originally we used the term "select forensic audit" as to what we needed as a Committee. Given general funding constraints and Auditing Guidelines and after consultation with the California League of Bond Oversight Committee, it was determined that this audit could be folded in the Education Code's requirement for an Annual Performance Audit. Such as Audit can be funded by Bond proceeds not the general fund.

Calboc recommended that the most complete thorough Performance Audit was done for West Contra Costa County. We are recommending we use this Audit as a guide for developing our scope. The ultimate control over the Audit Control, Scope and Funding is the Board of Trustees. Thus, while the Committee has the basic charge to do a number of reviews of the Bond Program and the Performance Audit provides the major tool to do a lot of this work, the ultimate authority to actually allow us to do this is beyond our legal control.

Finally there comes the issue of cost and why another audit? The cost of the Audit preliminarily is estimated to be \$125,000. The scope is a work in progress and I am working with District Staff and Committee members to get this work started asap. Staff has been very responsive.

With respect to "why another audit...have we not done enough of these?", I can point in summary form from the Expanded Performance Audit prepared by Eric Hall dated March 20, 2012. It is stated for instance on page 2 of the Executive Summary: "Inconsistencies were detected in documents regarding the District approval of program manager contracts between the board item and actual contract. The board agenda items and some contracts did not fully detail exact payment obligations for reimbursable amounts and the contracts in one instance did not include the attachment regarding program manager staffing. Given the inconsistencies and the amount of funds involved, a further audit (emphasis added) of the program manager contracts, board approved material, and amendments, authorizations, and invoices is recommended."

Also on Page 2 it is stated: "The District could improve communications and efficiency and transparency by formalizing policies and procedures regarding the merit based selection of contractors and consultants. Given the recent developments, the District could benefit from Board policies addressing donations and gifts to staff and the board by contractors and consultants." My understanding is that there is a Conflict of Interest Policy elsewhere on the

agenda. I am curious how/if this report's observation addressed any of these issues.

Site Tours. The Committee has expressed an interest in unguided (ie. not part of the CBOC meeting) to inspect and review completed Proposition O projects. We would coordinate with District staff and use of course staff to access secure or sensitive areas. This would have to be with a few members along to avoid Brown Act Issues.

Form 700. This is an expanded coverage of our discussion on the Calboc Standards. The following is the background on the 700 form issue and whether there is an existing Board Policy that would require the BOC to submit the forms as it is not a requirement of the Government or Education Code. The Education Code does allow for an affidavit from each member certifying that we have no conflict of interest. In light of our recent vote of No Confidence for the Superintendent regarding his ability to work with the BOC, it makes this recent harshly worded memo to the Trustees seem like retribution.

My summary is as follows:

- On August 29, 2012 Kevin O'Neill and I met with Dr. Brand. Dr. Brand said that something was going on with the BOC and he was going to make us fill out the 700 Forms. In an email to Dr. Brand after the August meeting when this issue first came up, Mr. O'Neill wrote, "I would like to review the District Conflict of Interest Code you mention in the letter that accompanied the 700 Form. I will be happy to submit my 700 Form as soon as the Board requests me to do so or they formally openly authorize you to do so. Neither of those things requested have been provided."
- At the September 6, 2012 Bond Oversight Committee staff heard from Tom Calhoun on the importance of filling out the Forms. The consensus was that we should try and fill out the Forms by the next BOC meeting but some members wanted more time to needed to think about the Superintendent's direction.
- In my almost weekly meetings with Tom Calhoun and Paul Woods we discuss the Form 700's. As Chair I have been mindful of the District's request.
- On October 1, 2012 Tom Calhoun emailed me "I spoke to Dr. Brand this morning after our meeting and he asked how many members had submitted their Form 700s. I said only one as far as I know, but that you were going to have the remaining members submit by the next CBOC Meeting on 10/11/12. He wanted to make sure that happened since he had asked that they be done by 9/30/12. The requirement is to have it done within 30 days of appointment and then annually by the end of April

each year and then again upon leaving the CBOC."

- Shortly after receiving that email I reminded BOC members of Dr. Brand's direction regarding filing the 700 Forms.
- On October 7 Trustee Lopez called me and asked me what was the reason why we did not want to comply with the filling out the 700 Forms. She stated that if we did not fill out the 700 Forms that we would be removed as Committee members. I explained to her that we did not object to filling out the 700 Forms, that it was the manner in which Dr. Brand was forcing the issue on us. She insisted that we should fill out the Forms.
- I was extremely upset to find out that the Superintendent had made a decision to force us to comply with this 700 provision or have us removed by a letter to Trustees without the professional courtesy of a copy. I need to remind this Board that we are volunteers and have spent many hours to do the job as set forth in the Education Code. My question to you is this 700 Form requirement being made by the Board or the Superintendent?
- Having spent time on October 6, 2012, I concluded that although BOC members were not required by Law to file, I encouraged them to do so.
- On Monday October 8, 2012 I requested and received a copy of Dr. Brand's letter from Tom Calhoun at our regular Monday morning meeting. Several Committee members with whom I shared considered it bullying and intimidation by Dr. Brand. I concur with their observations.
- It should be noted on September 9 at the CBOC meeting we took a decision to give Dr. Brand a Vote of No Confidence as it relates to the Bond Program. The reason we took such a decision was due to among other factors: 1) taking months to fill positions and only after we held a Special Meeting demanding this to occur 2) receiving incomplete information on borrowing from the financial officer 3) lacking complete financial reports for months 4) the handling of the Southwest dirt issue 5) the lack of a long term strategic plan as it relates to the acquisition of Ipads.

You can see why one has to wonder whether this is retaliation for holding him accountable. As a Committee we take compliance with the Education Code seriously as it relates to providing Citizen Oversight.

- On October 11, 2012 after considerable discussion the Bond Oversight Committee voted to adopt the California League of Bond Oversight Committee Standards, which includes filling out the 700 Forms.

If the Board wishes I can give a much more thorough accounting of this issue at

the next meeting Board meeting. Here is my main point. The process we have just experienced with respect to the 700 Forms lacked the formal structure notification, deadlines, and reasons why we have to fill out the Forms. There was no letter from the Superintendent upon accepting our Positions on what was expected from us regarding the 700 Forms. As far as we know no prior BOC members have been asked to comply with these Forms. The three new Committee member were handed out by Dr. Brand at their orientation meeting on August 28, 2012.

The manner in which this issue was handled by the District Superintendent is troubling. It gives the appearance the Board has something to hide, don't want an active Committee like us, and will use as an excuse to get rid of us.

This is not good government. In my personal opinion this is an example of why this issue may be indicative of the need for improvement in other processes within the District as it relates to the Bond Program. That is why we need a Performance Audit in which we can address these shortcomings.

I want to remind the Board we are volunteers. I know that every single member of this Committee has donated significant time to this Committee. The lack of a structured process on this issue raises the need for looking at improving the District Policies and Procedures relating to the Bond Program. The BOC needs a Performance Audit in order to address such issues. As a Board you should direct Dr. Brand to work with the Bond Oversight Committee and hold him accountable for his actions.

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

Sincerely,



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