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July 24, 2015

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. Thank you for the opportunity to submit the monthly Bond Oversight Chair Report. Here are the highlights of Citizen's Bond Oversight Committee (CBOC) activities since the June 22, 2015 Board of Trustees Regular meeting and recent developments in Bond Oversight:

A CBOC meeting was held on Wednesday July 22, 2015 at Bonita Vista High School. Highlights are as follows:

1. Site Tour. A 45 minute Site Tour was conducted by Principal Bettina Batista with assistance and input from the Community and District staff. In terms of upkeep, the overall appearance of the Campus had improved significantly since our last meeting in September. Most of the campus had been painted and there had been some maintenance work done such as repairing broken stadium railing and new asphalt slurry sealing.

A classroom that had been improved under Proposition BB as well as the one that needs improvement was toured. The Band and Weight Rooms were also viewed. The Band Room and space on site is inadequate for the size of this award-winning program. It was mentioned that Southwestern Community College had been used in the past for band practice but that this option was not available anymore.

The weight room was old and needs work. The equipment in the Weight Room was deplorable.

As we heard in our earlier tour of this School, Bonita Vista High does a tremendous job

at excelling despite physical conditions of the School which are clearly inferior when compared to some of the schools we have toured. To our surprise we found that the desks in the classroom are very rarely replaced.

As with several of the older Schools toured such as Mar Vista High and Montgomery Middle, this is a School that needs significant attention in future Proposition O investments. The Staff/Teachers and students should be commended for high performance despite the less than ideal physical condition of the site.

2. Public Testimony. The meeting was well attended by the Public. The Community is actively engaged in acting as advocates for their school. Trustees Hall and Segura along with Superintendent Karen Janney were in attendance and clearly listening to what was being said.

Chris Thompson, an Athletic Coach at Bonita, expressed concerns about the physical condition of the Athletic facilities and the safety hazards associated with the athletic fields. Several other members of the public also expressed their continued frustration with the disparity in funding between this school and others. Community Member Adato expressed dismay at the quality of the asphalt work that was recently done and an appropriate siting of a roof drain. Other concerns were raised on the level and continuity of the asphalt job and its relationship to the roof drain.

Some of the issues pointed out in the Public Testimony such as the Asphalt job are not within the purview of the CBOC as no Proposition O Funds were used to finance the Project. They are pointed out here for information purposes and in the interest of informing the Board and public on what was said at the meeting.

The Tour of this site once again reinforces and highlights a Policy Issue facing the Board of Trustees in the spending of future Bond dollars: To what degree will there be parity by campus and what functions should have roughly the same type of condition by school (e.g. basic classroom IT infrastructure) vs. ones that may not exist at each site such as expanded Performing Arts Center or a Swimming Pool?

Our CBOC really appreciates the public involvement at these meetings. It does make a difference.

3. Old Business/Requests for Information. A new and reformatted Item has been added to our Agenda to go over past requests for information. In this regard there was a spirited discussion mixed with frustration over still not getting information on a timely basis from Staff. Mr. Aguirre has gotten this message numerous times from our CBOC and me and clearly wants to rectify the concerns.

The CBOC emphasized that if the information requested does not exist or that if it is so time consuming to collect and compile that it is not warranted, that Staff just indicate so to the Committee. The CBOC is frustrated some of the basic information we need to conduct our business (specific detailed expenditure by function, buildings) of

Proposition O spending does not easily exist by School.

There was extensive discussion about the lack of a rigid Warranty Logs for School improvements and investments. This could result in expensive repairs which might have been avoided if there had been adequate documentation. The CBOC feels the situation with less than ideal record keeping with the warranties is probably an indication of a bigger issue within the entire Bond Program and was called out in the Moss Adams Audit (e.g. staff hours). Better documentation needs to be done.

We do understand that some of the changes will take time and may occur as staff changes over time. Our CBOC must have timely and detailed information to do our job most effectively.

Staff did indicate they would be providing us with information on inspection costs next meeting. Member O'Neill requested this information in June.

3. Performance Audit Implementation Review. Our CBOC, working with District staff, will have a status report on the implementation of the Performance Audit Recommendations at each meeting. Mr. Aguirre did report positive progress on getting a robust accounting/tracking system of staff hours spent on Proposition O Projects.

The improved accounting will include quarterly tracking of resource commitments. Staff has shared their approach with the Performance Auditor Moss Adams. While it is taking longer than some on the CBOC would wish to get this improved tracking of hours spend on Projects, Mr. Aguirre is doing everything he can to get it right and comply with collective bargaining issues involving recording of time spent working.

4. Proposition O Priority List. There was brief discussion about the Proposition O Priority List. It was emphasized that the prior List that was supplied to the Board and CBOC that showed various projects would be substantially revised as the Master Plan is developed and the Board gives Policy direction. Mr. Aguirre said additional information and recommendations regarding this List would be distributed at the Facilities Subcommittee Meeting to be held on August 4, 2015.

In that regard, it is important to emphasize the following text from the last Chair Report:

*What has been evident in the CBOC meetings over the past several years and the discussions heard by your new Board: **“There has not been a systematic, articulated, consistent and specific policy rationale that can be pointed to with respect to the funding of projects.”** The Project Priority list process should be folded into the Master Plan.*

The Facilities Subcommittee process is now up and running and the Chair will be attending and reporting back to the CBOC on their actions. Mr. Aguirre emphasized the entire Priority process is being refined, the list of schools and project phasing handed out a few months ago will be substantially revised, and future timelines

developed. While Assessed Value estimates are still being scrubbed, it is clear they will not be in the neighborhood to float a \$200-250 million bond issue mentioned awhile back.

The timeline for the Master Plan process is also still being developed. A very positive development has been public statements by Trustees and Staff regarding the need for more engagement by the Public and operational stakeholders aka Students, Teachers, and District Support staff. Also, mention of the need for Strategic Visions and Education Initiatives as critical components of the Master Plan are also positive developments.

Our next CBOC meeting will have another presentation about Information Technology needs in relation to the Bond Program.

CBOC member Gutowski recommended and the CBOC concurred staff should explore the possibility of acquiring new Furniture Fixtures and Equipment for new facilities in advance of actual construction so that it could be used in the older buildings until new ones are finished. He has professional experience with this approach being an Administrator within a Bond Program.

5. Lease Leaseback Contracting Method. The Fifth District Court of Appeal (Stephen K. Davis vs. Fresno Unified School District) found that the Lease Leaseback approach where a site is leased for a nominal amount to a contractor, a contractor is selected in part based upon qualifications (i.e. Not a pure lowest responsible bid pursuant to the Education) is not legal. The Court stated: “we conclude that Davis’s allegations are sufficient to state a cause of action for a violation of the competitive bidding requirements in section (Education Code) 17417 or Public Contract Code section 20111.”

Lease Leaseback can occur through a competitive process where the size, qualification, expertise, or organization of a team amongst other factors in the selection of an entity for construction of a facility. Typically design is complete and the selected Lease Leaseback Firm then competitively bids all the subcontracting fields.

Lease Leaseback has been used extensively around the State. It is a method to narrow competition to more established firms compared to a firm with the lack of experience or expertise for a project that could submit under a hard bid. The District has extensively used Lease Leaseback in the past as summarized in the table below:

Project	Contractor	Year	Amount	Description
Sweetwater High School Project 1	Sundt Construction	2009	\$29.0 million	New 3-story classroom theater/library/administration building, stadium structural upgrades, demolition and interim housing.

Project	Contractor	Year	Amount	Description
Chula Vista High Project 1	Turner Construction	2009	\$19.3 million	New performing arts center and library, modernization of boy's and girl's PE, demolition and interim housing.
Montgomery High Project 1A	Swinerton Builders	2010	\$11.7 million	After termination of the low-bid contractor, the project was completed under a lease-leaseback contract. New 2-story classroom/media center building, conversion of old library into a learning center, modernization of various rooms, demolition of buildings and creation of new quad.
Montgomery Middle School Project 1	Balfour Beaty, Inc.	2012	\$20.6 million	New 2-story classroom building and library, counseling center and food service buildings, demolition, and upgrade of parking and drive entrance.
National City Middle School Project 2	McCarthy Building Companies	2013	\$12.0 million	New 2-story classroom building to match project 1, demolition of buildings and new quad.

As indicated above, this approach has been used extensively about the State including many local School Districts. It has also been associated with the Play to Pay criticism of some bond programs around the State. The \$92.6 million in Lease Leaseback Projects represents about one third of all spending on Proposition O Projects (includes State Match and other funding sources in this calculation).

A Subcommittee was convened (Carriedo, O'Neill, Gutowski, Munoz) to discuss what if any position the CBOC should take regarding the use of Lease Leaseback, the current Court Case and Appeal to the Supreme Court, and legislative discussions about amending the Law to in effect making the lease leaseback approach referenced in the Court Case specifically authorized in the Education Code.

Based upon the Subcommittee deliberations, the full CBOC unanimously adopted the following recommendations:

1. Any future lease leaseback use by the District follow Education Code Section i.e. It be a "true lease" and not the approach that has been used by the District.
2. The District review other possible delivery methods such as Design Build.
3. No entity who participated in the design and/or bid documents be allowed to compete for selection of construction.
4. The Board of Trustees send a letter to the Legislature opposing attempts to Legislatively change the Education Code to allow the Lease Leaseback approach discussed in the Fifth District Court of Appeal and allow the process to work through the Judicial System.

In short, the Legislature should avoid making retroactive changes in the Law to make the use of Lease Leaseback "legal" at issue in the Court of Appeal Case.

The National City Middle School was the last Leaseback Project. **THE CHAIR CAN WORK WITH DISTRICT STAFF TO COMPOSE THIS LETTER WITH YOUR AUTHORIZATION TONIGHT OF RECOMMENDATION FOUR ABOVE.**

6. Bond Project Updates and Pending Board Items.

Unfortunately the Bond Projects Updates were not posted until the day of the meeting. This cannot continue. The CBOC is an active and hard working Group. It is a disservice to not have information to us in a timely basis.

Staff verbally indicated there were not any major items coming before the Board on Monday but no Board Item report was available as well.

Here are the highlighted bullets from our Discussion on these two Board items:

- The current workload for the Proposition O Program is substantially lower than a few months ago. For instance in January there was \$3.7 million in expenses and 20 bids. In June expenses were \$657,554 with no bids.
- The National City Middle School continues to be a problematic project. An installed sidewalk has to be removed and redone because of color matching. There have been issue with the current contractor Whillock and the follow up project, which includes the construction of the new employee parking lot, is behind schedule.
- The IT Upgrade at schools is complete and the District Office upgrade will be done in August.

The discussion at the next meeting will be more robust as we will have received the material farther in advance. In the interest of keeping the meetings moving, the Chair will attempt to get questions in advance to staff.

7. Subcommittee Assignments and Tasks.

On consent the CBOC approved the attached Subcommittee Tasks and Assignments.

As always, I am prepared to answer questions at the Board meeting.

Sincerely,



Nick Marinovich, Chair
Sweetwater Bond Oversight Committee

cc. Superintendent Karen Janney

ITEM 13-CBOC SUBCOMMITTEE UPDATES AND FORMATION OF NEW SUBCOMMITTEES

Over the past several meetings, we have briefly discussed Subcommittee membership. After the last CBOC meeting, the Chair agreed to forward recommendations regarding their structure and assignments. Here are my recommendations for which I welcome your input, modification, and advice going forward.

As important as the name and membership of each Subcommittee is the issues to be discussed. They are sample examples included but certainly additional issues will evolve over time. At attempt was made to make assignments by professional and academic experience:

Subcommittee	Proposed Members	Mission/Role	Sample Issues
Steering and Planning	Terry McKearney Nick Marinovich Robert Carriedo Kevin O'Neill	Assure compliance with Bond Oversight Law Identification of Process Improvements for CBOC Master Plan Review and Comment Training and Education of CBOC members	By Law Changes Refinements on Subcommittee roles Coordination of Joint Meeting with Board of Trustees
Audit and Finance	Dave Butler Dan Gutowski Nick Marinovich Ditas Yamane	Review and comment on Annual Performance and Financial Audits Review of District Financial and Project Budgets Review of Meeting Minutes Participate Auditor Selection	Input for Scope of Work FY 14-15 Performance Audit Assess District Implementation of FY 13-14 Audit Recommendations Review expenditure compliance with Bond Language
Information Technology	Terry McKearney Edgar Guerrero Robert Carriedo Rafael Munoz	Provide review comment and input on District's IT Component of Proposition O Spending Report to the full CBOC on IT related Board Agenda Items	Review research and provide comments on specific IT expenditures on future classroom needs Review District web site interface Provide Input to the Technology Component of the Long Range Master Plan

Subcommittee	Proposed Members	Mission/Role	Sample Issues
Construction and Deferred Maintenance	Dan Gutowski Kevin O'Neill Rafael Munoz Edgar Guerrero	Review and provide reports on project change orders Comment on cost effectiveness of District Project Scoping and Delivery Systems	Provide recommendations on District construction specifications Assessment of cost effectiveness of District procurement procedures
Annual Report	Dave Butler Nick Marinovich Ditas Yamane Terry McKearney	Provide description of CBOC activities over last Fiscal Year Provide review and comment on compliance with Ballot Measure	Analyze actual expenditures to date versus bond language

Periodically, there will specific issues that arise that do not fall easily into a Subcommittee Assignment. In those cases, the Chair will convene four people who best fit the question at hand. This was recently done for the Lease Leaseback issue.