

WCCUSD Subcommittee on Clay Investigation

Alvarado Adult Education Campus

SPECIAL MEETING

January 20, 2016

Minutes

Approved May 23, 2016

A. OPENING PROCEDURES

A.1 Call to Order

The meeting was called to order at 3:00 PM by Chairperson Liz Block.

A.2 Roll Call

Committee Members Present: Liz Block, Valerie Cuevas, Ivette Ricco.

Staff Attendees: Lisa LeBlanc, Associate Superintendent for Operations; James K. Kawahara, Special Counsel; Phyllis Rosen, Clerical Staff.

A.3 Approval of Agenda

MOTION: Ms. Cuevas moved to approve to strike B.2 and incorporate that information into B.1 as background information. Ms. Block seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0-0.

Public Comment:

Ben Steinberg spoke against staff recommendations in the January 20, 2016 Board Agenda saying that the Clay Subcommittee recommendations made on January 11, 2016, involved careful and transparent action, enormous time and included the public.

B. DISCUSSION / APPROVAL ITEMS

B.1 Discussion of Subcommittee Recommendation to Board of Education for (a) Phase II Scope of Work, (b) not-to-exceed contract amount for forensic accounting services, (c) not-to-exceed contract amount for related legal counsel services, and (d) proposed timeline for completion of Phase II.

Discussion of staff-prepared Précis for January 20 2016 meeting of the Board of Education, including Staff Recommendation for a not-to-exceed \$400,000, and Attachment "A" "Forensic Accounting" document.

Public Comment:

Mr. Steinberg spoke in favor of the Subcommittee's recommendation to pass the full Phase II forensic audit in order to ensure fairness and gain the trust of the community.

Elliot Haspel with Education Matters spoke against staff recommendations and in favor of reaffirming the Subcommittee's recommendation for a full forensic audit. He said that the voters need to know what happened before voting for another bond measure.

Linda Ruiz-Lozito said that important parts of the forensic audit that no one discussed omitting, such as conflict of interest, were gutted and caused her to lose trust in the process. She added that regarding Item FI-1, the Securities and Exchange Commission will not be reporting to the District.

Anton Jungherr handed out a document in the form of a précis which presented the Subcommittee's prior recommendation and suggested the Subcommittee submit it to the Board tonight to replace the current précis prepared by staff. He said he supports the full audit.

Tom Panas said he was surprised at the reduced scope of the audit being recommended and said the cost for the full audit is reasonable. He said the performance audit will not duplicate the work being done in the forensic audit and that the work of the performance audit uses the weakest auditing standards allowed, whereas the forensic audit will use the strongest standards that exist.

Jack Weir, President of the Contra Costa County Taxpayers Association, said we are really after that which benefits the kids and their future and so it is vital we determine what happened and hold people accountable. He said that the entire public school model is under pressure and he urged the Board to go through with full audit.

Fatima Alleyne spoke about the differences between the performance audit and forensic audit. She said only a forensic audit will reveal any fraud, waste or abuse and that we need an expert to conduct the full investigation.

Valerie Snider spoke in favor of funding the complete Phase II audit and spoke of several instances where the District spent money without prior Board approval.

Board Comment:

Ms. Ricco said she called the meeting because she wanted to know how the Subcommittee's recommendation was not forwarded to the Board exactly as approved. She said she supports the Subcommittee's recommendation which she said resulted from working together responsibly for many months. She would like to ask Mr. Kawahara how to proceed to make sure this is clear to the Board at tonight's meeting.

Ms. Cuevas asked Mr. Kawahara to reiterate the task given to the Subcommittee. Mr. Kawahara said it was to oversee the recruitment and selection of a forensic auditing firm and to make that recommendation to the Board, and then to oversee the incorporation of the findings of the forensic audit and the legal findings and report that back to the Board.

Ms. Cuevas raised questions regarding how the précis was created, why certain aspects of the Subcommittee's decision process were not included in the précis and why there was no communication regarding modifications. She said the précis was incomplete and had misinformation, and she would like to have it fixed. She requested that Mr. Kawahara create a précis that would better inform the Board because she could not support staff's recommendation.

Mr. Kawahara provided clarification saying under the District's Board Policies, the superintendent is the Clerk for the Board, and the superintendent and Board president meet and approve the agenda, so normally the précis is prepared by the superintendent's office.

Ms. Block said the goal of this meeting was to get the Subcommittee's recommendation to the Board tonight. Mr. Kawahara said the motion for tonight's meeting would be that the Board consider the recommendation of the Subcommittee first prior to considering the District recommendation, because that is not clear in the agenda which only has the District's recommendation as the action item for the Board.

Mr. Kawahara said there is a phone call scheduled with VLS, Ms. LeBlanc and himself to organize the presentation for tonight, and asked if it was the Subcommittee's intention to have their recommendation addressed first in front of the Board. Ms. LeBlanc added that VLS will also provide an overview of the risk assessment because the full Board had not yet heard that. Mr. Kawahara said he would propose that VLS have 30 minutes for their presentation to go through Phase I Risk Assessment and how that relates to Phase II, and after that address the Subcommittee's recommendation first.

Ms. Block said that in the précis there was not a clear differentiation between the District opinion and the Subcommittee's recommendation.

Ms. LeBlanc said the timing of getting all the documents was unfortunate and compromised her ability to properly analyze the information. She added that she received an updated proposal from VLS four days after her précis is typically due to the superintendent's office. Ms. LeBlanc provided a spreadsheet with her comments regarding each item in the Test of Controls and Forensic Investigation sections.

Ms. LeBlanc said she only recently had the opportunity to speak with VTD who reviewed the VLS proposal and confirmed that there was overlap in several areas with regard to the scope of the VLS audit. She explained that she wanted to provide the Board with the information looking at it from a fiscal basis, with fiscal responsibility because there is only \$200 million of remaining bond authority through 2021 and that did not include any increased costs for the Pinole Valley High School project.

Ms. Cuevas said that at the prior meeting the Subcommittee determined in due diligence that the two audits are not the same thing, and expressed concern that information was being presented to the Board that never got presented to the Subcommittee.

Ms. Cuevas recommended approval of the Subcommittee's prior recommendation with an updated amount from the revised proposal from VLS of \$725,224.

Discussion followed regarding how the motion should be worded. Mr. Kawahara clarified that the only difference between the Subcommittee's recommendation on January 11th and today is that VLS has discounted their rate.

MOTION: Ms. Cuevas moved to adopt the full Phase II scope of work for the forensic accounting investigation in an amount not to exceed \$725,224.00, as revised on January 13, 2016, and that be taken to the Board tonight as the official recommendation of this Subcommittee. Ms. Block seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0-0.

Discussion followed regarding the order in which this item is presented to the Board at the meeting tonight. Mr. Kawahara provided clarification. Ms. Cuevas asked that Mr. Kawahara open and lead the agenda item. Ms. LeBlanc clarified that normally Dr.

Harter opens every item and turns it over to her, and she said that tonight she will turn this item over to Mr. Kawahara.

MOTION: Ms. Block moved that this item be presented to the Board by Mr. Kawahara beginning with VLS' presentation on the Phase I Risk Assessment in conjunction with their Phase II scope, and following the VLS presentation the Subcommittee will make their presentation to the Board and ask for a vote. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0-0.

Board Comment:

Ms. Block said she is glad we have a unanimous vote to go to the Board and for that reason she is glad they met.

Ms. Ricco said her concerns had been with regard to costs and the timeframe to do a full audit because this is a lingering issue that keeps festering within the community and it will affect any future bond measures or parcel taxes. She believes that the Subcommittee's recommendation of January 11th, even though it was 2:1, should have gone to the Board for them to review and consider.

B.3 Approve Next Steps

Mr. Steinberg inquired about Mr. Kawahara's contract, saying that although approved at the January 11th meeting, it was not included in tonight's Board agenda.

Ms. Block inquired about a revised agenda item to include the contract. Mr. Kawahara said there is no action item set on tonight's agenda to approve the contract, but that it would be part of the report to the Board as informational. Ms. Cuevas said she thought it should be reported saying it is anticipated that the Board approve his contract in relation to Phase II. Ms. LeBlanc suggested the item be set for the next Board meeting.

Mr. Kawahara said he will report that the Subcommittee, on January 11th, approved legal services for Phase II. Ms. Cuevas said she would like him to come back to the podium as the primary lead on this presentation for questions through the end, and he agreed. Ms. Cuevas requested that Mr. Kawahara present a full description of what has occurred, and he agreed.

Public Comment:

Mr. Jungherr recommended that the motion just passed be formally written up and distributed at tonight's Board meeting, because the only thing in front of the Board is the motion in the Board packet that was not recommended by this Subcommittee.

Board Comment:

Ms. Cuevas said she was in favor of a written report and there was consensus. Mr. Kawahara said he will prepare a written report to be provided at tonight's public meeting, as requested.

C. FUTURE MEETINGS: Next meeting to be determined.

D. ADJOURNMENT

Chairperson Block adjourned the meeting at 4:18 PM.