

WCCUSD BOARD OF EDUCATION  
SUBCOMMITTEE ON CLAY INVESTIGATION  
SEPTEMBER 15, 2016  
ANTON JUNGHERR TESTIMONY  
A.2 CLOSED SESSION INITIATION OF LITIGATION

Disclaimer: The author of this document is a member of the WCCUSD Citizens' Bond Oversight Committee (CBOC). However, the views expressed in this document are those of the author Anton Jungherr and not of the CBOC.

**INITIATION OF LITIGATION**

It is noted that Mr. Clay allegations against Sheri Gamba for negligence, Dr. Harter for facilitation and Mr. Ramsey for possible criminal conduct were outside the scope of VLS investigation as by professional standards VLS is prohibited from rendering such opinions.

Allegations that called for a criminal, civil, or other potential legal opinion by VLS were not selected for testing, a VLS, by professional standards of the AICPA and the ACFE, is prohibited from rendering such opinions. For example, the allegation that a Board member received a kickback would require a criminal investigation and a legal proceeding. The allegation that a District employee was negligent in fulfilling his/her duties would also require a legal proceeding.

However, in regards to the allegation of kickbacks to Charles Ramsey the report stated, "However, VLS recommends that legal counsel provide guidance and counsel to the Subcommittee for the Clay investigation and the Board to determine whether this report should be referred to appropriate law enforcement agencies for appropriate action."

In regards to SGI, "The District should consult with legal counsel to determine whether further course of action is appropriate. Specifically, the failure of SGI to provide requested documents and allow interviews of SGI personnel, which resulted in scope limitation of the work VLS was able to perform. Therefore, SGI may have been in breach of the Right to Audit Clause of the contract between the District and SGI by failing to provide VLS access to requested documents after reasonable notice was provided."

In regards to the engagement of SGI, against the advice of staff, VLS recommended that the District should consult with legal counsel.

In regards to the payment to SGI of \$106,150 for sick, vacation, any other type of paid time off that was expressly not authorized under the contract VLS recommended that the District should consult with legal counsel.

<sup>1</sup> VLS Bond Program Report, September 9, 2016, page 4.

<sup>2</sup> Ibid. page 149.

<sup>3</sup> Ibid. page 149.

<sup>4</sup> Ibid. page 197.

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In regards to whether SGI employees possess the appropriate qualifications as stated in the terms specified in the SGI contract VLS recommended that the District should consult with legal counsel. <sup>5</sup>

In regards to SGI invoices having sufficient supporting documentation VLS recommended that the District should consult with legal counsel. <sup>6</sup>

SGI has been awarded by the District contracts with a value of \$93,960,687.56. <sup>7</sup>

**Recommendations**

That the following matters be referred to appropriate law enforcement agencies:

- Allegation of kickbacks to Charles Ramsey.
- Award of the SGI contract

Further, that the District initiate legal action against SGI on the following matters:

- Failure of SGI to provide requested documents and interviews of their staff
- Sick and vacation payments
- Staff qualifications
- Support documents for invoices

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<sup>5</sup> Ibid. page 197

<sup>6</sup> Ibid. page 197

<sup>7</sup> Primavera data FY2002 to date per CD provided to the CBOC by the District.

WCCUSD BOARD OF EDUCATION  
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B.4 MINUTES AUGUST 1, 2016

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**MINUTES, AUGUST 1, 2016**

I suggest:

1. That all handouts referred to in the minutes be actually attached to the minutes and be noted in the minutes that these documents are attached to the minutes.
2. That page numbers be added to the footer of the minutes.
3. That a note be added to page 4 of the minutes that indicates that subsequently to the August 1, 2016 meeting the date of the next Committee meeting was changed to September 15, 2016 at 5:00 PM.
4. That all documents submitted to the Committee from staff, consultants or members of the public be referenced in the minutes, and be attached to the minutes.
5. That written public comments submitted to the Committee in regards to the VLS Bond Program September 9, 2016 Preliminary Draft be displayed on the Committee's website and be submitted to VLS for review. Further that VLS review be provided to the Committee and be displayed on the Committee's website.

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ARCHITECTS CLIENT FOCUSED. PASSION DRIVEN.

September 15, 2016

Good evening, my name is Kevin MacQuarrie, Vice President of WLC Architects, Inc. (WLC) (2600 Tenth Street, Suite 500, Berkeley, CA 94710). I have practiced architecture for nearly 30 years, and have had the honor of working with many school districts, including West Contra Costa Unified School District (WCCUSD).

I would like to address two points of concern regarding opinions expressed in the audit. I say "opinions" because this audit is just that. As recently as last night's meeting, some members of the Bond Oversight Committee, and the District Board publicly characterized the audit as a costly and inaccurate political football.

Here are the facts, not just opinions.

WLC is a recognized leader in the K12 design market. For over 40 years, we have worked with dozens of school districts throughout the State of California. We've partnered with WCCUSD on four schools over nearly two decades: Lovonya DeJean Middle School, El Cerrito High School, Coronado Elementary School, and the currently under construction Pinole Valley High School (PVHS). We were awarded those commissions through a qualifications-based selection and our work was scrupulously vetted by the District during the entire process.

As far as I am aware, no WCCUSD board members reviewed the architects' statements of qualifications (SOQ). In fact, I have no idea who actually reviewed the SOQs. When WLC was granted an interview, which was not always the case, we would then present to any number of people including principals, teachers, and community members. Each time it was a different process with new questions and priorities specific to each project. There was no guarantee we were the best fit. Our selection was completely the individual Site Committee's recommendation.

Although WLC's designs represent only a small fraction of the District's visionary and ambitious school building program, the audit chose to focus only on WLC and one other firm. The other dozens of vendors involved in the Bond Program apparently were not scrutinized by the auditor or appear not to have been as forthcoming as WLC. We cooperated fully because we care about the District, education, and our part in being a good corporate citizen.

With that said, this audit report completely mischaracterized WLC's appropriate and transparent fee structure that absolutely follows current industry standards.

WLC's base fee structure was developed under the scrutiny of the Engineering Officer and appropriately reflected the anticipated scope of work, schedule, and budget of the project at that time. The audit report indicates that the Office of Public School Construction (OPSC) Fee Structure is the "industry standard." This is completely false, and reveals the auditor's utter lack of understanding of current architectural practices statewide and specifically in the Bay Area. The OPSC fee schedule is over 48 years old, was abandoned by the state in 1998, and was used solely as a base level fee for state reimbursement purposes only. It always allowed for increased fees for necessary and additional consultants' scope.

The audit opinion on the Pinole Valley High School (PVHS) additional service implies that it was solely authored by WLC. This is also absolutely false.

Over the course of hundreds of meetings with the District staff, teachers, students, community, the City of Pinole, the Facilities Subcommittee, and the WCCUSD Board, WLC carefully responded to requests by the District for increases in the project size, scope, schedule, and budget. We also provided and fully discussed options which would maintain the original scope, budget, and schedule.

After the Board made the decision to approve the scope increases, WLC submitted our fees for providing additional professional services to complete that expanded effort. By way of comparison, if a contractor was asked to double his effort and time on a project, there would be no question he was due additional money. WLC's fee requests took over a year of vetting, and had to be approved by the Engineering Officer, the Project Manager, the Associate Superintendent, the Superintendent, the Facilities Subcommittee, and the Board. This process was especially thorough with the express purpose of protecting the taxpayers. There were many checks and balances by the District. WLC exhibited no influence in the process.

Which brings me to my final point.

This audit includes a not so veiled accusation of "pay to play" improprieties on the part of WLC Architects. This is surprising, because an audit is supposed to present facts, not support a political or preconceived agenda.

Let me be clear, these accusations, whether considered veiled or direct, are completely without merit.

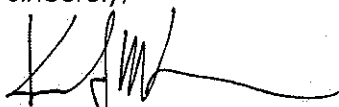
WLC is routinely asked to contribute to causes related to public education. Virtually all of those requests come from the staff, Boards, school sites, and committees connected with the Districts for which we are already providing professional services. Those requests have always come from the district to WLC, not from WLC to the district.

We virtually never give financial support to a district for which we are not already providing professional services. In fact, we go to great lengths not to cross that line.

If District officials do not want WLC's financial support, then WLC suggests they stop asking us for it. In fact, I received a request from WCCUSD just last week for a contribution to your parcel tax campaign. We support the cause for better schools and educational opportunities, but we will never let our support damage our spotless reputation. We will push back, using all means within our power, to defend ourselves from false accusations or threats.

We look forward to continuing our professional partnership with WCCUSD and to successfully completing PVHS, which we are confident will be an outstanding facility for the District and the community for decades to come.

Sincerely,



KEVIN A. MacQUARRIE  
Architect, AIA  
Vice President, Principal

During the review of the budget transactions exported by the District from the server, VLS identified several budget entries made by the Principal Accountant on 3/8/2016 into Munis with an effective date of 7/1/2015. Since the budget entries have an effective date of 7/1/2015, the entries should have been posted into Munis as part of the posting of the adopted budget for the 2015/16 fiscal year.<sup>160</sup> Additionally, the budget entries were not included in the First and Second Interim Reports as they were entered on 3/8/2016. The District stated that the entries assigned a project budget string to the previously adopted budget; therefore, the entries did not affect the budgeted amounts by object code in the Original Budget column of the Interim Reports. The District provided VLS with the 2015/16 general ledger budget detail transactions, and VLS confirmed that the entries did not affect the object codes that were part of the adopted budget.<sup>161</sup> Additionally, VLS confirmed that the Interim Reports were not affected by the backdated entries.<sup>162</sup>

Table 15 summarizes the budget entries by major object for the selected schools. See FI2-3 recommendation for this area.

**Table 15: Summary of 3/8/2016 Budget Entries with 7/1/2015 Effective Date**

School	Major Object 4000	Major object 5000	Major Object 6000	Total
Coronado Elementary School	\$ —	\$ 71,250	\$ 3,669,367	\$ 3,740,617
De Anza High School	—	97,500	2,337,423	2,434,923
Korematsu Middle School	750,000	78,750	9,301,519	10,130,269
Nystrom Elementary School	562,500	31,125	12,076,250	12,669,875
Sylvester Greenwood/LPS	—	52,500	5,243,637	5,296,137
Totals	\$ 1,312,500	\$ 331,125	\$ 32,628,196	\$ 34,271,821

### Conclusions

- 1) Table 13: Comparison of Project Budgets and Expenditures, the expenditures for the Sylvester Greenwood Academy/LPS project exceeded the Board approved project budget. Additionally, the project budget for De Anza High School appears to be sufficient as compared to the expenditures; however, the project budget will not be sufficient when encumbrances are considered. Refer to section TC (6) for TC6-1 and TC6-2 recommendations for this area. Additionally, see FI2-1 and FI2-4 recommendations for this area.

<sup>160</sup> The posting of the adopted budget for each fiscal year occurs immediately after its approval by the Board no later than June 30.

<sup>161</sup> The District's adopted budget for 2015/16 fiscal year was approved by the Board on 6/24/2015; however, the adopted budget was posted into the Munis general ledger on 9/11/2015.

<sup>162</sup> The cut-off dates for preparation of the First and Second Interim Reports are October 31<sup>st</sup> and January 31<sup>st</sup> of each fiscal year, respectively.

- 2) One contract tested for Sylvester Greenwood Academy/LPS has no available budget; therefore, it appears that the District approved the contract for a bond project that was underbudgeted. Refer to section TC (6) for TC6-1, TC6-2, and TC6-9 recommendations for this area. Additionally, see FI2-4 recommendation for this area.
- 3) Based on VLS's interview with District staff and the testing performed, it appears that the claim that the District increases budgets to match actual costs is substantiated as shown in Table 14: Summary of Contracts – Budgets Entered After Board Approval of Contract. Refer to section TC (6) for TC6-2 recommendation for this area. Additionally, see FI2-2 recommendation for this area.
- 4) ~~Budget data entries made on 3/8/2016 that were backdated to 7/1/2015 significantly altered the overall budget in Munis by \$34,271,821 as shown on Table 15: Summary of 3/8/2016 Budget Entries with 7/1/2015 Effective Date. Since the entries were made on 3/8/2016, the entries were not included in the preparation of the First and Second Interim Reports with the cutoff dates of 10/31/2015 and 1/31/2016, respectively. This specific event leads VLS to conclude that the First and Second Interim Report budget presentations to the Board were not accurate and may be misleading. Refer to section TC (6) for TC6-6 recommendation for this area. Additionally, see FI2-2 and FI2-3 recommendations for this area. The District posted budget data entries into the Munis general ledger on 3/8/2016 with an effective date of 7/1/2015. Although the entries did not affect the budgeted amounts by object code in the Original Budget column of the Interim Reports, there was an eight-month delay in the posting of the journal entries. See FI2-2 and FI2-3 recommendations for this area.~~

4) —

**(C) Determine whether budgets submitted to the Board historically have been sufficient and free of errors.**

**Related Allegation**

**BUD (5)** - Bond program budgets submitted to the Board are one page summaries; The beginning balance does not match the prior report's ending balance.

**Results of Work Performed**

Starting with the EAW approved on 6/1/2011, VLS analyzed all the EAW reports for mathematical accuracy. VLS selected a sample of five schools to illustrate the analysis performed by VLS. The analysis is summarized in Table 15 and Table 16. The columns included in Table 15 are explained further below.

- Column (1) – School: Identifies the school site with an approved project budget.

# VLS – Forensic Services Division

Working together to build a culture of integrity and productivity within your workplace

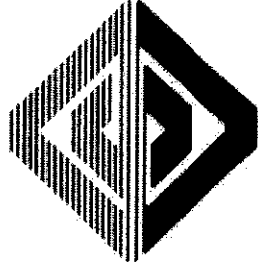
## **WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT BOND PROGRAM**

### **PHASE II REPORT OF FORENSIC ACCOUNTING INVESTIGATION**

September 9, 2016

#### **PRELIMINARY DRAFT**

Prepared by:  
Vicenti, Lloyd & Stutzman, LLP  
CPAs and Business Advisors



**VICENTI • LLOYD • STUTZMAN**<sup>LLP</sup>  
BUSINESS CONSULTANTS AND CPAs



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# Vetting and Review Process

- TC sections, once completed, were submitted to the District for review. This included the results of testing and recommendations.
- FI sections, once completed, were NOT submitted to the District for review. Only the recommendations were submitted to the District for a response.
- Normally, Draft reports are submitted to the client for review prior to formal publication. This allows for corrections to be made, when needed, prior to publicizing a report.
- For this project, it was decided that the Preliminary Draft would be made available to the public at the same time it was made available to the District and Subcommittee.



**The allegations brought to  
light high risk areas and  
internal control weaknesses  
at or near the time these  
allegations were raised by  
complainant(s).**



# Highlights: New Risk Scores

Risk Area	Score Level	Phase I Original Risk Score	Phase II New Risk Score	Number of Recommendations to Lower Risk Score
Conflict of Interest	High	8	0	6
	Medium	0	7	
	Low	0	1	
Compliance with Legal Requirements and Board Policies	High	3	1	9
	Medium	2	4	
	Low	1	1	
Budgeting Practices	High	6	5	15
	Medium	1	2	
	Low	1	1	
Vendor Contract Administration	High	7	2	13
	Medium	6	10	
	Low	3	4	
Billings and Performance of Outside Construction Manager	High	2	0	5
	Medium	5	7	
	Low	0	0	
Change Order Approval and Accounting Practices	High	4	0	10
	Medium	3	7	
	Low	0	0	
Project Accounting Systems - Munis	High	3	2	6
	Medium	3	4	
	Low	0	0	
Project Accounting Systems - Primavera	High	0	0	4
	Medium	3	3	
	Low	0	0	
Financial Reporting	High	3	0	10
	Medium	1	4	
	Low	0	0	
TOTAL	High	86	10	78
	Medium	24	38	
	Low	5	7	



**Allegation:**

BUD (2) – District increases budgets to match actual costs

**Work Step – FI (2) B:**

On a sample basis, review past project expenditures and compare to identified budgets.

**Conclusion (Page 158):**

Based on VLS's interview with District staff and the testing performed, it appears that the claim that the District increases budgets to match actual costs is substantiated as shown in Table 14: Summary of Contracts – Budgets Entered After Board Approval of Contract (on page 157).



### Allegation:

VCA (16) – District's bond program has not been a timely pay for vendors.

### Work Step – FI (5) B:

Conduct appropriate investigative steps to test a sample of vendor invoice payments to verify payment was made timely.

### Conclusion (Page 244):

Based on the results of testing, some invoices were paid after 30 calendar days, which does not comply with the District's policy.

Table 40 – List of Warrants Paid After 30 Days of Receipt of Invoice

Warrant #	Invoice #	Date Received	Date Paid	Days to Payment
00409643	1119	12/19/08	1/22/09	34
00424837	276-322204	3/4/10	4/21/10	48
00446271	201109248	10/31/11	12/14/11	44
00447479	201110232	12/6/11	1/25/12	50
00463724	201206096	9/17/12	4/16/13	273
00406397	Various (7 total)	9/8/08	10/15/08	37
00406397	2591612	9/4/08	10/15/08	41
00409293	10000287	12/10/08	1/14/09	35
00441481	ERA-AMWES	5/4/11	7/27/11	84
00460247	2012.180.03	12/13/12	1/15/13	33
00459087	ECT2012-19	11/9/12	12/12/12	33
00445178	ERA-RV PORT21	8/20/11	11/16/11	88



## Allegation:

BPO (1) – WLC billed existing design as new design.

## Work Step – FI (7) G:

Conduct appropriate investigative steps to assess the claim that Lovonya DeJean MS design was inappropriately billed as a new design and assess if this payment meets industry standards for this type of design.

## Conclusion (Pages 317-318):

- Many factors that should be considered when negotiating fees related to the re-use of architectural designs.
- A reduction of fee is generally anticipated when architects re-use plans. A typical fee would generally be between a flat rate of 5% and the OPSC fee schedule.
- The re-use of designs for Lovonya DeJean MS was limited to two buildings from other schools. In this scenario, a credit would not be typical as it is a very limited re-use of designs, and WLC still had to prepare designs for the entire school and fit these two buildings into the designs.
- Ultimately, a credit of \$100,000 was given to the District for the plans that were re-used, which appears appropriate.



**Allegation:**

VCA (14) – Contract retention was released (paid) earlier than in past (Gomper/Greenwood Project).

**Work Step – FI (9) A:**

Conduct appropriate investigative steps to determine if contract retentions were released (paid) earlier than project completion.

**Conclusion (Page 330):**

Based on the results of samples tested, instances of partial retention release were in compliance with District policy. These instances of partial retention release were not limited to one specific contractor or project.





### Allegation:

COA (6) – Information for expected change orders was lost when the Primavera server went down. These expected change orders are currently uncoded.

### Work Step – FI (11) C:

Conduct appropriate investigative steps to determine whether any change orders from the period when Primavera went down are currently not recorded in Primavera.

### Conclusion (Page 357):

- All recaptured PCOs and COs identified by the Master Scheduler were recorded in Primavera.
- Based on additional testing performed by VLS, 30 of 33 approved COs were included in the PCO logs and the dollar amount agreed to the amount that was approved by the Board.
- There were three COs that were approved by the Board but not in the PCO logs as they were not construction contracts and were not recorded in Primavera.



### Allegation:

PAP (1) – Not all projects reflected in Munis are reflected in Primavera.

### Work Step – TC (15):

Review and assess the internal controls in place to ensure reconciliation between Munis and Primavera is accurate and complete. (Excerpt only)

### Results of Testing (Page 103):

- The Master Scheduler created a standard system for generating project numbers that provides consistency in communication between Munis and Primavera.
- The Master Scheduler and Project Analyst developed a list of Munis-Primavera cost codes, which assist the two systems in recognizing each other's transactions.
- The Master Scheduler does not receive a copy of the construction or professional services contract for bond projects and has to conduct research to determine which contracts are not in Primavera, which may not be the most efficient process.



### **Allegation:**

PAM (4) – Munis project ledger was not set up correctly.

### **Work Step – TC (14):**

Review and assess the internal controls in place to ensure that the procedures for Munis tracking of budgets, including the multiyear functionality is adequate, reliable and accurate. (Excerpt only)

### **Results of Testing (Pages 96-97):**

- Although District staff makes changes to the budget through the use of the *Project Budget Amendment/Transfer Form*, there is no process in place to track those changes entered into Munis.
- The detailed, line-item budget prepared for the 2016/17 fiscal year, appears to be sufficiently detailed and include the necessary line items. In addition, the detailed multi-year, line-item budget for the Pinole Valley High School Campus project appears appropriate. However, this data has not yet been entered into the multi-year function of the Contracts Module in Munis.
- The multi-year function in Munis has been tested by the Principal Accountant; however, its full capabilities remain to be seen.



### Allegation:

FRP (3) – Inaccurate and/or no reports were provided to CBOC and/or the Board.

### Work Step – TC (16) A:

Review and assess the internal controls concerning the District's preparation and distribution of the various financial reports summarizing program expenditures and encumbrances to ensure they are adequate, thorough, transparent and financially sound. Perform a test of these internal controls to assess overall effectiveness.

### Results of Testing (Pages 114-115):

- It appears that the projection of cash receipts and expenditures on which the proposed Master Plan scheduled through June 2023 is based has not been shared with the Board, the FSC, or the CBOC.
- The reports being prepared for the CBOC by and at the direction of the Executive Director are still in the development stage.
- The types of reports and the frequency of the reports submitted to the FSC appear to be consistent and predictable.

# Implementation Task Force

- VLS strongly encourages the establishment of a **“Recommendations Implementation Task Force”** so accountability measures are put in place by the District to ensure all recommendations from the work performed in Phase II are implemented.
- A Chairperson to “shepherd” the task force should be designated and key person(s) in areas impacted should be appointed as members of the task force.
- Consider the Subcommittee for the Clay Investigation remaining in play for a period of time so that the task force may report directly to it. A representative of the Facilities Subcommittee could be a member. This would go a long way towards ensuring transparency, accountability and continuing positive momentum.
- VLS has included in the Exhibits section, a detailed “List of all Recommendations” with reference to the applicable TC and FI work steps, which can be utilized as a starting point to establish an action plan for this task force.



# Closing Statement

- VLS thanks the District staff for their assistance, patience, and cooperation during this process.
- VLS thanks the Board, CBOC, and community members who agreed to be interviewed by VLS as well as the District vendors who provided VLS with requested documentation and agreed to be interviewed.
- VLS sincerely appreciates the opportunity to be of service to assist the Subcommittee for the Clay Investigation during both Phase I and Phase II of this engagement.
- **The District is Moving in the Right Direction**



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C.2 ROLE OF CLAY INVESTIGATION SUBCOMMITTEE

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**ROLE OF CLAY INVESTIGATION SUBCOMMITTEE**

The Clay Investigation Subcommittee has played a vital role in selecting the special legal counsel and forensic auditor.

VLS has recommended:

"The District should evaluate the adequacy of resources assigned to the INTERNAL AUDIT DEPARTMENT for review of the Bond Program." <sup>1</sup>

"VLS strongly encourages the establishment of the '**Recommendations Implementation Task Force**' so accountability measures are put in place by the District to ensure all recommendations for work completed in Phase II are adequately assessed and implemented." <sup>2</sup>

I support the formation of a staff task force to implement the VLS recommendations.

I support the recommendation to evaluate the resources of the Internal Audit Department.

In VLS opinion a high risk exists that the District may be at risk for waste, improper expenditures or fraud (financial irregularity) related to Bond Program expenditures because, "There is no system, process, or individual, responsible or capable of controlling project spending." <sup>3</sup>

In VLS opinion Chief Financial Officer Gamba, Associate Superintendent LeBlance, and Bond Manager Bonnett are not capable of controlling bond expenditures.

In my opinion the only person capable of controlling bond expenditures is our new Superintendent Duffy.

The Internal Auditor Kim must report directly to Superintendent Duffy and not to Chief Financial Officer Gamba as is the current arrangement. This is necessary to provide the Internal

<sup>1</sup> VLS Bond Program Report, September 9, 2016, page 14.

<sup>2</sup> Ibid. page 4.

<sup>3</sup> VLS Bond Program Report, September 9, 2016, Exhibit II-B, page 7.

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Auditor Kim independence as Ms. Gamba is responsible for managing the internal control, budgets and expenditures of the bond program. You can't have Internal Auditor Kim report to the Chief Financial Officer Gamba as there is a conflict of interest with Ms. Gamba.

Further you can't have the Internal Auditor report to Associate Superintendent LeBlanc, as has been suggested by Ms. LeBlanc, as this also is a basic conflict of interest as Ms. LeBlanc manages the bond construction program.

To ensure the implementation of the VLS recommendations and to reduce the possibility of waste, improper expenditures or fraud it is my opinion that the Clay Subcommittee must continue to monitor this matter.

**Recommendation**

That the Subcommittee on Clay Investigations recommend to the Board of Education that they continue through December 31, 2017 with the following additional role:

Have the Superintendent and Internal Auditor report to them on a quarterly basis in January 2017, April 2017, June 2017, September 2017 and December 2017 on the status of implementing the VLS recommendations compared with the project plan, testing of implementation by the Internal Auditor, and additional resources that may be required, if any, to complete the implementation of all of the VLS recommendations.

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DRAFT

**Clay Investigation Subcommittee – September 15, 2016**

**Recommendations Implementation Task Force**

In the Executive Summary of the Preliminary Draft Phase II Forensic Accounting Investigation Report, Vicenti, Lloyd, & Stutzman, LLP, strongly encouraged the District to establish a strict "Recommendations Implementation Task Force" so accountability measures are put in place to ensure that the report recommendations are implemented. District staff recommends that the task force be comprised as outlined below and will report to the Facilities Subcommittee or the Clay Investigation Subcommittee on a quarterly basis and to the Board of Education semi-annually. The Task Force to consist of no more than 7 members as follows:

**Recommended Members of the Task Force:**

Superintendent  
Associate Superintendent, Operations & Bond Program  
Internal Auditor  
Director of Contracts, Bond Program  
Member from the Citizen Bond Oversight Committee  
Member from the Solutions Team

WCCUSD BOARD OF EDUCATION  
SUBCOMMITTEE ON CLAY INVESTIGATION  
SEPTEMBER 15, 2016  
ANTON JUNGHERR TESTIMONY  
C.3 NEXT STEPS

Disclaimer: The author of this document is a member of the WCCUSD Citizens' Bond Oversight Committee (CBOC). However, the views expressed in this document are those of the author Anton Jungherr and not of the CBOC.

**NEXT STEPS CLAY INVESTIGATION SUBCOMMITTEE**

The VLS Bond Program report vindicates whistle-blower Dennis Clay's courage on publically releasing on April 22, 2015 hundreds of documents alleging financial mismanagement in the District's bond program.

VLS also made recommendations to improve the overall efficiencies and effectiveness of the management and operation of the bond program and to lower the risk of fraud.

It is noted that Mr. Clay's allegations against Sheri Gamba for negligence, Dr. Harter for facilitation and Mr. Ramsey for possible criminal conduct were outside the scope of VLS investigation as by professional standards VLS is prohibited from rendering such opinions.

I am pleased with the VLS report which was on time, on budget and delivered what was promised.

I encouraged Dennis Clay to testify before the Contra Costa County Civil Grand Jury, which he did. His testimony supported their June 2015 WCCUSD CBOC report.

Board Member Todd Groves (who did not support doing a forensic investigation), and Board President Randy Enos (who did not support Phase II of the forensic investigation) both did not seek reelection to the Board of Education in November 2016.

On September 15, 2016 the Board of Education Subcommittee on Clay Investigation will consider next steps. My recommendations are:

- Determine if there is a cause of action against Bruce Harter and/or Charles Ramsey, and take appropriate action, if any.
- Determine if there is a basis for misconduct action against Sheri Gamba.
- Determine if there is a cause of action against SGI, and take appropriate action, if any.
- Request legal counsel to provide guidance and counsel to determine whether this report should be referred to appropriate law enforcement agencies for appropriate action.
- Have the Clay Subcommittee continue with an oversight role on this matter.

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September 15, 2016 (revised since posted to include Ms. Ricco)

Clay Investigation Subcommittee – Item C.2

Role of Clay Investigation Subcommittee

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|---------------|---|
| June 24, 2015 | Board of Education appointed Board Members Cuevas and Block and Ivette Ricco (CBOC Chair) to the Clay Investigation Subcommittee to review potential independent counsel and forensic audit firms   |
| July 21, 2015 | <p>Board of Education confirmed the role of the subcommittee:</p> <ul style="list-style-type: none"><li>(1) Identifying and recommending special counsel</li><li>(2) With the help of special counsel, identifying and recommending a forensic auditor</li><li>(3) Assisting the special counsel and audit firm in combining the findings from the forensic audit with a report of legal findings to the Board of Education</li></ul> |