

WCCUSD Subcommittee on Clay Investigation
Alvarado Adult Education Campus

September 15, 2016
DRAFT MINUTES
(FINAL MEETING*)

A. CLOSED SESSION

A.1 Call to Order

The meeting was called to order at 5:05 PM by Chairperson Liz Block.

A.2 Disclosure of Items to be discussed in Closed Session (Government Code §54947.7)

Ms. Block announced that the Subcommittee would be recessing to Closed Session to conference with legal counsel about anticipated litigation/initiation of litigation.

Public Comment:

Anton Jungherr provided a document entitled “*WCCUSD Board of Education. Subcommittee on Clay Investigation, September 15, 2016. Anton Jungherr Testimony. A.2. Closed Session Initiation of Litigation.*” **(See attached.)**

Mr. Jungherr spoke about various allegations made against individuals that were outside the scope of the VLS investigation, and those calling for criminal, civil or other potential legal opinion that were not selected for testing by VLS. He commented on several recommendations made by VLS and made recommendations regarding referral to law enforcement agencies and taking of legal action against SGI.

A.3 Recess to Closed Session

A.3.1 Conference with Legal Counsel – Anticipated Litigation/Initiation of Litigation (Government Code §54956.9(d)(4))

The Subcommittee recessed to Closed Session at 5:20 PM.

B. OPENING PROCEDURES

The meeting reconvened at 7:00 PM.

B.1 Roll Call

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

Staff Attendees: Matthew Duffy, Superintendent; Lisa LeBlanc, Associate Superintendent for Operations; James K. Kawahara, Special Counsel; Nancy Ingram, Clerical Staff.

B.2 Approval of Agenda - Approved

B.3 Report/Ratification of Closed Session

Mr. Kawahara said that the Subcommittee met in Closed Session and received the findings of legal counsel and the Subcommittee requested that the legal findings go forward to the full Board.

B.4 Approval of Minutes: August 1, 2016

Public Comment:

Anton Jungherr provided a document entitled “*WCCUSD Board of Education Subcommittee on Clay Investigation, September 15, 2016. Anton Jungherr Testimony. B.4. Minutes August 1, 2016.*” (See attached.)

Mr. Jungherr provided suggestions regarding format changes and attachments, and including a note regarding the subsequent change of meeting date.

MOTION: Ms. Block moved to approve the minutes of August 1, 2016 with the following amendments:

- 1. That a reference to the subsequent change in meeting date be added to Item C. Future Meetings;*
- 2. That the District’s notice of change in meeting date from September 8 to September 15, 2016, is attached as an addendum to the minutes;*
- 3. That the written public comments which were provided at the meeting be attached to the minutes; and*
- 4. That all documents referred to in the minutes be attached to the minutes.*

Ms. Ricco seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0-0.

C. DISCUSSION / APPROVAL ITEMS

C.1 Presentation and Discussion of Phase II Forensic Accounting Investigation Report with Vicenti, Lloyd & Stutzman LLP (report available on District Website)

Public Comment:

Don Gosney spoke about the need for the Board to hold off making any decisions before the document is finalized and to allow time for public response.

Ben Steinberg said that the report showed the result of a total lack of oversight, accountability and independence which has cost the District dearly. He commented that the lower income communities have been ignored. He spoke of the need to hold people and firms accountable.

Kevin McQuarrie, Vice President WLC Architects, Inc., provided a two-page response dated September 15, 2016, which includes comments that rebut specific accusations made in the VLS report and indicate they are without merit. (See attached.)

Presentation by Ernest Cooper, Jenny Dominguez and Ana Rodriguez of VLS

Mr. Cooper said that a preliminary draft of the Phase II Report of Forensic Accounting Investigation was provided to the District in hard copy and electronic format that was

sent out to the public on September 9, 2016. He proceeded to present the preliminary report along with Ms. Dominguez and Ms. Rodriguez by providing highlights of specific areas. He said that following the meeting VLS will finalize the report and present it to the Subcommittee. **(See attached PowerPoint “Phase II - Preliminary Draft”)**

Mr. Cooper added that the District’s responses to the TCs and FIs were included in the report. He noted one subsequent modification since the report was published, FI-2 Page 158. He said the changes will be incorporated into the Preliminary Draft. **(See attached handout, page 158).**

Discussion:

Ms. Ricco inquired about names of the uncooperative vendors. Mr. Cooper said he will be providing those to Mr. Kawahara.

Ms. Cuevas inquired about the level of confidence VLS had in its conclusions. Mr. Cooper said he was satisfied based on the sampling received. He said he felt confident and spoke about the standards used and specific work steps and/or sampling identified.

Ms. Cuevas raised the topic of conflict of interest and the confusion that some people have experienced about the topic, in particular regarding issues of individuals vs. the District. Mr. Cooper responded and noted the areas identified in the report. He commented on recommendations for best practices and training and monitoring by the Task Force.

Ms. Cuevas said she wanted there to be an opportunity for feedback. Mr. Cooper said that information and comments from the public is absolutely critical and need to be heard in the Task Force, which he described as an ongoing process.

Ms. Block asked Mr. Cooper to identify the top three findings. Mr. Cooper spoke about the Risk Scores being top priority, the Task Force and the high risk areas.

Ms. Block asked specifically about the Board overruling the District’s recommendation to discontinue using SGI and how that occurred. Ms. Rodriguez said that Section FI-3, page 166, provided a timeline of the process and rationale.

A question was raised about the District’s responsibility and relationship with the Ivy League Connection and nonprofit funding. Mr. Cooper directed the conversation to Section FI-2, page 140 regarding establishing clear criteria.

Ms. Cuevas and Ms. Ricco asked about the report findings and recommendations. Mr. Cooper responded that the recommendations were based on fact finding from documentation and interviews and testing of internal controls. Recommendations were made to lower risk and work steps were provided toward the best interests of the District.

Ms. Block raised the issue of improving budget reporting and the District striving to have better reporting. Ms. LeBlanc clarified that the Director of Bond Finance oversees Bond Fund 21 and the Director of Bond Finance reports to the CFO, the Associate Superintendent over Finance.

C.2 Discuss and make recommendation to the Board of Education regarding role of Clay Investigation Subcommittee

Public Comment:

Anton Jungherr provided a document entitled “*WCCUSD Board of Education Subcommittee on Clay Investigation, September 15, 2016. Anton Jungherr Testimony. C.2. Role of Clay Investigation Subcommittee.*” (See attached.)

Mr. Jungherr said he agrees with the VLS’ recommendation to establish a Recommendations Implementation Task Force. He said the only person he believes is capable of controlling bond expenditures is Superintendent Duffy, and that there is a conflict of interest having the internal auditor reporting to the Chief Financial Officer. He said the Clay Subcommittee must continue to monitor the implementation of VLS recommendations through December 31, 2017.

Charles Cowens spoke against having too many committees. He recommended coming up with the top three findings and ending the Subcommittee. He suggested that the Task Force report to the CBOC semiannually, and that the work of the Task Force should be transparent and publicized.

Don Gosney expressed concern that the community is unable to correct factual concerns before the final report is delivered. He said that there was limited knowledge presented of the Ivy League Connection’s day to day operations and full disclosure to the Board.

Discussion:

Ms. LeBlanc provided a document entitled “Clay Investigation Subcommittee – September 15, 2016. Recommendations Implementation Task Force (Draft)” which outlines staffs recommended members for the Task Force to include: Superintendent; Associate Superintendent, Operations & Bond Program; Internal Auditor; Director of Contracts, Bond Program; Member from the Citizens’ Bond Oversight Committee and Member from the Solutions Team. (See attached.)

Ms. Block recommended having someone from the Clay Subcommittee and member from the CBOC on the Task Force.

Ms. Cuevas recommended disbanding the Clay Subcommittee once their charge is completed. She supports having a member of the subcommittee on the Task Force but most importantly to hold one another accountable.

Ms. Ricco spoke of the need to take control of the District’s bond program and the need for another billion dollars from bond measures to give the children what they deserve and what the community was promised. She said she has confidence in the new staff to do things better but that there is tremendous work to do.

Ms. Block said she believes this should be the last meeting and that she would be happy to be on the Task Force with Ms. Ricco.

MOTION: Ms. Block moved that the Subcommittee recommend to the board that this Subcommittee be discontinued following delivery of the final report and acceptance by the Board. Ms. Ricco seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0.

C.3 Next steps and recommendations to the Board of Education regarding the Forensic Accounting Investigation Report

Public Comment:

Anton Jungherr provided a document entitled “*WCCUSD Board of Education Subcommittee on Clay Investigation, September 15, 2016. Anton Jungherr Testimony. C.3. Next Steps.*” (See attached.)

Mr. Jungherr said he was very pleased with the audit being on time and doing exactly what it was asked to do. He provided his recommendations for determining whether there was a basis for taking action against various individuals and SGI, and guidance from counsel as to whether the report should be referred to law enforcement.

Discussion:

Ms. Block opened the discussion about recommending a task force to the full Board and taking the final report to the full Board on September 21st.

Ms. Ricco said she believes the subcommittee has done its job and she is ready to ask the Board to accept the report and recommendations.

Ms. Block added that she is pleased with the results of the audit.

MOTION: Ms. Ricco moved that the Subcommittee recommend taking the final report to the Board for acceptance on September 21st and the implementation of a task force. Ms. Cuevas seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0.

C. FUTURE MEETINGS

None. (The Clay Subcommittee was dissolved September 21, 2016.)

D. ADJOURNMENT

Chairperson Block adjourned the meeting at 9:02 PM.