

PUBLIC COMMENTS

Phase II Report of Forensic Accounting Investigation

WCCUSD BOND PROGRAM

9/9/2016

ATTACHED is our 5-page letter to the Members of the Subcommittee (cc'd to the Officers of the CBOC), dated Saturday, September 10th, 2016. It should be self-explanatory as to intent and content.

In lieu of our presence in person, **PLEASE ACCEPT** these as our public comments **FOR THE RECORD** for the Subcommittee meeting scheduled for Thursday, September 15th, 2016 regarding the "*Phase II Report of Forensic Account Investigation*" of the WCCUSD Bond Program.

Thank you,

Gregg Visineau

Peggy Wilcox

El Cerrito Residents

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Saturday, September 10th, 2016

Gregg Visineau
Peggy Wilcox

1428 Lawrence Street
El Cerrito, CA 94530

510 236 0761
pwilcox00@yahoo.com
gvisineau@gmail.com

WCCUSD BOND PROGRAM

"Phase II Report of Forensic Accounting Investigation"

Preliminary Draft, dated September 9th, 2016

PUBLIC COMMENTS FOR THE RECORD

West Contra Costa Unified School District (WCCUSD)

To: *Subcommittee on Clay Investigation*
Ms Liz Block, Subcommittee Chair
Ms Valerie Cuevas
Ms Ivette Ricco

Cc: *Citizens Bond Oversight Committee (CBOC)*
Mr Tom Panas, Committee Chair
Ms Chris Kelly
Mr Anton Jungherr

SUBCOMMITTEE on CLAY INVESTIGATION

Thursday, September 15th, 2016

6:30 pm, Room 1
Alvarado Adult School
5625 Sutter Avenue
Richmond, CA 94804

Dear Ms Block, Ms Cuevas and Ms Ricco,

We regret that we are unable to attend your very important Subcommittee meeting on Thursday, September 15th. However, because the September 9th Preliminary Draft of the *"Phase II Report of Forensic Accounting Investigation"* (the Forensic Audit) is so critical to improving the performance of the WCCUSD, **we submit these written comments for inclusion with the public record of that meeting**, via letter (by post and by e-mail attachment), individually to each of you.

We have read all of the Forensic Audit (thru the Closing Paragraph); and have utilized the Acronyms and Exhibits after that, as necessary, to fill out our understanding of its full breadth and depth.

Rather than dwell on individual comments keyed to very specific items, line-by-line, we focus instead on two broad categories for the Subcommittee to recommend to the WCCUSD Board for leadership, comprising six main areas for visible and constructive action:

TO DEMONSTRATE IMMEDIATE OWNERSHIP & LEADERSHIP OF CHANGE:

1. Deal with the Seville Group, Inc (SGI);
2. Improve Board Governance (especially re: Conflicts of Interest); and
3. Implement the Forensic Audit Recommendations: The Task Force.

TO DEMONSTRATE AN ONGOING COMMITMENT TO EXCELLENCE:

4. Improve Contracting, Procurement and Contract Management;
5. Improve Financial and Management Accounting; and
6. Improve Information Technology Management.

DEMONSTRATE IMMEDIATE OWNERSHIP & LEADERSHIP OF CHANGE

Deal with the Seville Group, Inc (SGI)

It is abundantly clear from the Forensic Audit that SGI is long past deserving of the trust given to it by the WCCUSD Board and the District staff over the past many years and into 2016.

We could argue from so many facts provided in the Forensic Audit that that trust was broken long before the release of the Forensic Audit. However, suffice it to say that SGI's failure to cooperate fully, completely and openly with the Forensic Audit process renders any further legal, business, personal or contractual relationship with them to be completely and utterly detrimental to the WCCUSD, its Board, its staff and its public constituency.

We therefore cannot urge your Subcommittee strongly enough, in no uncertain terms, to recommend to the Board that it:

- Immediately sever all current relations with SGI, contractual or otherwise (subject, of course, to ongoing and/or future claims); and
- Use the fullest, strongest measures to force them to comply with all outstanding contractual obligations (including but not limited to their Right to Audit responsibilities).

This is extremely serious. Any other interaction with SGI, in any capacity other than above, will only call into question the Board's, the WCCUSD's and its staff's genuine commitment to implement the Recommendations from the Forensic Audit, as well as any other actions to improve the WCCUSD's performance.

Improve Board Governance (especially re: Conflicts of Interest)

It is abundantly clear from the Forensic Audit that members of the Board, the WCCUSD and its staff have been (or are) engaged in activities – whether legal or not – which do not reflect well on their ability to maintain true arms-length relations with suppliers, contractors, consultants, vendors, etc. Whether substantive or not, the mere appearance of Conflicts of Interest is more than enough to severely harm the Board's, the WCCUSD's and its staff's ability to pursue excellence for its parents, its students and its citizenry.

The startup, administration and ongoing oversight of the Ivy League Connection (ILC) is only one of many concrete examples from the Forensic Audit to fall in the category of "*where there's smoke there just may be enough fire to urge pause*" amongst the public constituency of the WCCUSD.

We therefore cannot urge your Subcommittee strongly enough, in no uncertain terms, to recommend to the Board that it:

- Put in place policies (and contractual conditions for service to and/or employment by the District) which preclude employees, relatives and family members from in any way participating in or benefitting from such organizations; and
- Direct all elected officials of the WCCUSD to NOT solicit or accept any form of campaign contributions (directly or indirectly) from any party who has been, currently is or may in the future be under contract to do business with the WCCUSD.

These should be easy and immediate improvements for Governance, especially for the appearance of Conflicts of Interest. We're sure there are others which your Subcommittee can recommend from the Forensic Audit.

Implement the Forensic Audit Recommendations: The Task Force

We cannot agree strongly enough with the Forensic Audit recommendation "that a strict *Recommendations Implementation Task Force* be established so accountability measures are put in place by the District to ensure these recommendations are implemented".

We therefore cannot urge your Subcommittee strongly enough, in no uncertain terms, to recommend to the Board that such a Task Force be empowered; and further that it be adequately staffed and remain at arms-length from those parties subject to action under the recommendations from the Forensic Audit. For example, it would make little sense to have this Task Force comprise only 1 or 2 employees housed solely inside the WCCUSD's Finance, Operations or Engineering domains, since they are all subject to separate actions under the Forensic Audit's recommendations.

Further, the Board and the citizenry must be actively and transparently involved throughout the Task Force's duration. If there are bodies already in place which could logically morph into the Task Force, with adequate and appropriate staffing, then that could well make implementation significantly more seamless from the Forensic Investigation through the complete implementation of its recommendations.

DEMONSTRATE AN ONGOING COMMITMENT TO EXCELLENCE

Improve Contracting, Procurement and Contract Management

It is abundantly clear from the Forensic Audit that the Board, the WCCUSD and its staff have been in the past – and may well still be (at least up to the release of the Forensic Audit) – underutilizing its own Contracting, Procurement and/or Contract Management expertise; or was (and still is) too dependent on third party expertise. At the very least, there appears to have been a severe lack of involvement and/or oversight by any in-house Contracting, Procurement and Contract Management professionals.

Two examples suffice to make the point; so many others exist as to boggle the mind that this was not seen and corrected years before the release of the Forensic Audit:

1. It is wholly and completely against any reasonable level of Contracting and Procurement expertise to eliminate the "*right to terminate for convenience*" from any contract. There is no commercial, economic, market or other justification for this. In fact, with the bargaining power of the WCCUSD and with the number of suppliers willing to compete for its business in any given sphere, any negotiations which do remove the "*right to terminate for convenience*" should be deemed an abject failure (if not professionally negligent of the District's financial and therefore its educational interests).
2. Any Contracting or Procurement process which does not utilize all available industry standards, metrics and benchmarks to its fullest advantage should likewise be deemed an abject failure, if not professionally negligent. For example, the inability, unwillingness or lack of experience to consistently use the "OPSC Architect Fee Schedule" (or equivalent) for design services provided by WLC Architects, Inc for the Pinole Valley High School project is unfathomable; not to mention significant: Up to a \$5.2 million overage for just this one vendor on just this one project (i.e., \$16.1 paid v \$10.9 benchmark).

We therefore cannot urge your Subcommittee strongly enough, in no uncertain terms, to recommend to the Board that it put in place, in-house to the District itself, a single position (and appropriate supporting function) equivalent to the private sector position of Chief Procurement Officer (see *Special Note*). To succeed, it will need the reporting relationship and independence of their private sector counterparts, as well as all the responsibilities thereto, including the right to hire and fire their own staff as necessary to meet the requirements of the WCCUSD, its Board and its citizenry.

Improve Financial and Management Accounting

It is abundantly clear from the Forensic Audit that the Board, the WCCUSD and its staff have been chronically unable, unwilling or lacking the expertise to properly manage accounts related to the bond program; and/or to provide accurate and meaningful management accounting reports in real-time for the effective management and oversight of the bond program. This appears to remain a challenge to this day.

We therefore cannot urge your Subcommittee strongly enough, in no uncertain terms, to recommend to the Board that it put in place, in-house to the District itself, a single position (and appropriate supporting function) equivalent to the private sector position of Chief Financial Officer (see *Special Note*). To succeed, it will need the reporting relationship and independence of their private sector counterparts, as well as all the responsibilities thereto, including the right to hire and fire their own staff as necessary to meet the requirements of the WCCUSD, its Board and its citizenry.

Improve Information Technology (IT) Management

It is abundantly clear from the Forensic Audit that the Board, the WCCUSD and its staff have been chronically unable, unwilling or lacking the expertise to properly design, procure, install, maintain, upgrade and integrate its IT systems (hardware + software) to facilitate many of the activities discussed above; as well as many other activities which are so crucial to success for its parents, students and citizenry.

We therefore cannot urge your Subcommittee strongly enough, in no uncertain terms, to recommend to the Board that it put in place, in-house to the District itself, a single position (and appropriate supporting function) equivalent to the private sector position of Chief Information Officer (see *Special Note*). To succeed, it will need the reporting relationship and independence of their private sector counterparts, as well as all the responsibilities thereto, including the right to hire and fire their own staff as necessary to meet the requirements of the WCCUSD, its Board and its citizenry. Chief among these duties would be developing and maintaining a District-wide IT strategy, including but not limited to the funding plan (capital/bonds + operating expense) required to implement that strategy over time.

Thank you very much for this opportunity to go on record with your Subcommittee regarding the content of the September 9th Preliminary Draft of the *“Phase II Report of Forensic Accounting Investigation”* for the WCCUSD Bond Program.

We do not take this Forensic Audit lightly; and we know that you all do not, either. There is much here to anger us; and much to just shake our heads at, that such actions could take place over such a long period of time, to the detriment of our parents, our students and our citizenry. But there is also abundant cause for

action to improve. So now is the time to stand up and be counted; and to work hard to make things right, regardless of where the chips may fall.

These comprise our comments-to-date, in the short time available to us to review the voluminous document in advance of your September 15th meeting. We of course reserve our rights to comment further as you continue your work; as you make your recommendations to the Board; and as it moves ahead with recommendations for implementing the results of the Forensic Audit.

Most Sincerely, from: **Gregg Visineau**
 Peggy Wilcox
 El Cerrito Citizens

Special Note

RE: Chief Procurement Officer (CPO), Chief Financial Officer (CFO) and Chief Information Officer (CIO)

There is not a centralized, in-house, independently reporting CPO or CFO or CIO position (and supporting functions) on any WCCUSD organization chart or website (that we could find in any public resource); there is a Chief Technology Officer position, whose duties and responsibilities are not specified.

With all due respect to these duties being otherwise somehow divided up and/or shared within the current WCCUSD organization, the Forensic Audit screams out in no uncertain terms that they do NOT function as they must, i.e., as centers of professional expertise, strategic planning & analysis and oversight for:

- Contracting, Procurement and Contract Management;
- Financial and Management Accounting; and
- Information Technology (IT) Management.

Reliance on third party expertise is clearly NOT the answer (according to both the Forensic Audit and to well-established practices in private industry). Third party expertise in these three key areas has NOT proven to be in the best interests of the Board, the WCCUSD, its staff, its parents and students and its citizenry. Divided and/or shared expertise & responsibilities within the WCCUSD organization has likewise proven itself to be ineffective in these three key functions.

This should be corrected so that this expertise is centralized AND closely held in-house to the WCCUSD.

If you're wondering how to pay for the CPO, CFO, CIO and each of their functions, just consider that having had these organizations in place previously would have saved the WCCUSD the very significant expenses of:

- (1) Paying for third party expertise in these areas;
- (2) Paying for the Forensic Audit;
- (3) Overpaying vendors against well-established and well-known industry benchmarks (such as the possible \$5.2 million overage to WLC Architects, Inc on the Pinole Valley High School project, as well as many others highlighted in the Forensic Audit); and
- (4) Inefficiencies within the WCCUSD organization in trying to manage and coordinate the currently divided and/or shared functions in each of these three areas, including expertise from third parties.