

CITIZENS' OVERSIGHT COMMITTEE PASADENA UNIFIED SCHOOL DISTRICT

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Pasadena, California

May 20, 2017

Kimberly Kenne – Board Liaison

Mr. Lawrence Torres
Vice President, Board of Education
Dr. Elizabeth Pomeroy
Member, Board of Education
Mr. Scott Phelps
Member, Board of Education
351 South Hudson Avenue
Pasadena, CA 91109

Dear Dr. Pomeroy and Messrs. Torres and Phelps:

I respond to your cautionary letter of May 17, 2017, which I realize you offered in the spirit of cooperation. I hope that you will receive my response in the same manner.

As you know, the principal duty of the Citizens' Oversight Committee is to insure that Proposition TT bond funds are spent in accordance with the law. Over the past eighteen months, the Committee has become far more active in its oversight function than it had ever been before.¹ The Facilities Department understandably resents this oversight, because it impedes the Department's ability to spend Proposition TT funds as it would like. The Facilities Department has responded to oversight by ignoring or slow-walking the Committee's requests for necessary information, by inundating us with massive

¹ The trigger for the change was the Committee's discovery that the District had spent Proposition TT funds on a public relations survey, an expenditure that was clearly impermissible and, after strenuous objection by the Committee, was reversed.

amounts of information that we have not requested and do not want or need,² and by cutting back on the administrative support to which the Committee is entitled by law.

More serious are the District's continued attempts to spend Proposition TT funds in a manner contrary to law. While such attempts are relatively rare, they continue despite prior unequivocal rejections of them by the Committee and rejection by the Board. The latest example is Board Report 114-B, which seeks an additional \$200,000, payable entirely from Proposition TT funds, for legal services rendered and to be rendered to the District by the law firm Atkinson, Andelson, Loya, Ruud & Romo. The Board Report states that such "[s]ervices include representation for general and construction legal services as well as providing the District with informative newsletters, training opportunities and conferences to help the District with daily legal concerns."

"General" legal services, "informative newsletters," "training opportunities," and "conferences" are, by their very terms, not directly related to the "construction, reconstruction, rehabilitation, or replacement of school facilities. . . .," which is the governing legal standard.³ Rather, they are general administrative services, and under the California Constitution⁴ and the Education Code,⁵ they cannot legally be paid out of Proposition TT funds. The explanation provided by the Facilities Department at the Committee's meeting of May 17 was that Board Report 114-B is simply an update of a prior, similar Board Report.

I do not know whether this is the case, but assuming that it is, that is no justification for violating the law now. Consequently, at its May 17 meeting, the Committee unanimously recommended disapproval of this Board Report and so informed the Facilities Committee of the Board on May 18.

Given the law, which is clear on its face, and given the Committee's (and the Board's) prior rejection of similar expenditures, one wonders why the District would even submit Board Report 114-B. Doing so hardly instills confidence in the District's competence or good faith.

To reduce friction between the Committee and the Facilities Department, Dr. McDonald has asked that all communications from the Committee involving the

² Here is the latest example. The existing budget for Norma Coombs is \$4.636 million. The "Spend-out Plan" promulgated in April shows \$6.879 million. In an attempt to figure out how the latter number was determined, the Committee asked for certain specific documents but was given more than 1000 pages of data, none of which explained where the \$6.879 million number came from. How can anyone be expected to monitor the expenditure of Proposition TT funds if there is no reliable base against which those expenditures can be measured?

³ California Constitution, Art. XIII A, sec. 1(b)(3)

⁴ Art. XIII A, sec. 1(b)(3)(A)

⁵ Sec. 15278(b)(2)

Facilities Department be directed to him.⁶ Of course, we will comply with his request. Whether this new process will improve or impede the exchange of information remains to be seen.

Your reference to “excessive gathering of detail” implies that the Committee has been asking for too much information from the District. That is simply not correct. The Committee wants *much less* information than the District thrusts upon it. (See footnote 2 above.) The Committee does want *critical project information* so that it can perform its duties. Since March we have been attempting to obtain the 10 key items of information recapitulated in my letter of May 11, 2017 to Dr. McDonald in order to prepare a clear, concise summary of project status for the Board and the public. Please take another look at those items and let me know which ones you think the Committee should *not* receive, which items the Board would not want to know. We still have not received all the requested information, although it is readily available to the Facilities Department. We have not been told exactly when we can expect it. We have not even been assured that it will be provided.

You say that information requests by the Committee “may slow the process of spending the TT funds and therefore the completion of the projects at our schools.” There you are correct. Gathering information is a necessary component of our oversight duties and oversight, by its very nature, slows the performance of the function overseen. That is an inevitable cost of any oversight. In this case, California voters, Pasadena voters, and the California Legislature have chosen care over speed.

This is not to suggest that the Committee has any desire to slow the Proposition TT construction process.⁷ On the contrary, we wish to expedite it—so long as doing so is consistent with the law. It would help if simple requests for information did not take months to fulfill and the District did not propose clearly improper expenditures of Proposition TT funds. Dealing with unnecessary problems like these takes a great deal of everyone’s time.

Finally, I appreciate your willingness to expedite the improvement of the Committee’s website. Considerable work in that regard has already been done, but no one has addressed our major outstanding request: that the Committee be listed on the main directory of the PUSD’s website (the red task bar at the top) rather than under “About PUSD.” One conducting a casual search for information about the Committee is not apt to consult “About PUSD.” Furthermore, the Committee is an independent entity which deserves equal billing with the various functions of the District.

⁶ I have deliberately chosen not to rebut your charge that the Committee’s Vice Chair went behind the Chief of Facilities’ back, because I want this letter to focus on substance, not personalities. However, you have apparently heard only one person’s side of the story. I am familiar with all the details, and that one-sided story is, to be generous, misleading.

⁷ And we have no desire or ability to become project managers. Any suggestion that we do is just plain wrong.

On behalf of the Citizens' Oversight Committee, I pledge our continuing efforts to monitor expenditures of Proposition TT funds objectively and fairly and to make recommendations about them to the Board. The Committee has no authority to compel anything. We can only inform the Board and rely on it to do the right thing.

Sincerely,

/s/ Clifton B. Cates
Chair, Citizens' Oversight Committee