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Response To Grand Jury Report Regarding the Citizens' Bond Oversight Committee Solano Community College District

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Areas Covered In This Presentation

- What a Citizens' Bond Oversight Committee is, and does.
- Response to the Civil Grand Jury's report on this District and its CBOC.
- Response to requests by some members of this CBOC to expand powers beyond what the law provides.

WHAT IS AN OVERSIGHT COMMITTEE?

What Is A CBOC?

- Created by the Education Code:
 - “The purpose of the citizens’ oversight committee shall be to **inform the public** concerning the expenditure of bond revenues. The citizens’ oversight committee shall actively **review and report** on the proper expenditure of taxpayers’ money for school construction. The citizens’ oversight committee shall **advise the public** as to whether a school district or community college district is in compliance with the requirements of [Proposition 39].”
 - Ed. Code 15278(b)

Oversight In Service Of Informing The Public

- “The citizens’ oversight committee shall convene to provide oversight for, but not be limited to, both of the following:
 - (1) Ensuring that bond revenues are expended only for the purposes described in [Proposition 39].
 - (2) Ensuring that, as prohibited by [Proposition 39], no funds are used for any teacher or administrative salaries or other school operating expenses.”
 - Ed. Code 15278(b)(1), (2)

How The CBOC Does Its Job

- **“In furtherance of its purpose**, the citizens’ oversight committee may engage in any of the following **activities**:
 - (1) **Receiving and reviewing** copies of the annual, independent performance audit...
 - (2) **Receiving and reviewing** copies of the annual, independent financial audit...
 - (3) **Inspecting** school facilities and grounds to ensure that bond revenues are expended in compliance with [Proposition 39]...
 - (4) **Receiving and reviewing** copies of any deferred maintenance proposals or plans...

How The CBOC Does Its Job, Ct.

- “ (5) **Reviewing efforts** by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:
 - (A) Mechanisms designed to reduce the costs of professional fees.
 - (B) Mechanisms designed to reduce the costs of site preparation.
 - (C) Recommendations regarding the joint use of core facilities.
 - (D) Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design.
 - (E) Recommendations regarding the use of cost-effective and efficient reusable facility plans.”
 - Ed. Code 15278(c)

From 3/16/2015 CBOC Report:

- "All expenditures have been consistently presented and transparent by District Staff and Consultants.
- When CBOC members have requested information, the District and Consultants have been forthcoming with whatever detail has been requested.
- Funds have been spent only on school facility improvements as authorized by the Act.
- To the best of CBOC knowledge, SCC District has complied with requirements of CA law in accounting for and expending funds."

What The CBOC Does NOT Do

- All of the above is designed to help the CBOC do its only statutory job: inform the public.
- Nowhere does the law authorize or request the CBOC to have any role in:
 - Advising the District
 - Having input into what the program should or shouldn't do
 - Making recommendations to the District, or staff, or consultants etc.

Why Not?

- Because the language of the law establishes the CBOC's mission.
- CBOCs are, by law, set up as representatives of the public as a whole, with members from:
 - one business organization
 - one senior citizens' organization
 - one taxpayers' organization
 - one student
 - one foundation or support organization.
 - Ed Code 15282(a)
 - Not based on expertise in construction, or bond finance, or design, or education....

What About “Independence”?

- CBOCs are established by a code section, and are put in place by the Board:
 - “the governing board of the school district or community college shall establish and appoint members to an independent citizens’ oversight committee, **pursuant to Section 15282...**”
 - Ed Code 15278(a)
 - “An employee or official of the school district or community college shall not be appointed to the citizens’ oversight committee. A vendor, contractor, or consultant of the school district or community college district shall not be appointed to the citizens’ oversight committee.”
 - Ed Code **15282(b)**

More On Independence

- Like any public body, the CBOC has various limits on its independence:
 - Compliance with the Brown Act (public meeting laws)
 - Exposure to liability for conflicts of interest
 - Ed. Code 15282(b)
 - The Board appoints and can remove members, and adopts and controls CBOC bylaws
 - Ed. Code 15278(a)
 - The composition of the CBOC is largely set by statute
 - Ed. Code 15282(a)

Other Protections

Re: Spending Bond Funds

- Annual professional performance audit
- Annual professional financial audit
- Board oversight
- Board policies
- Legal processes and law enforcement
- Steering committee, user groups etc.
- County Office of Education
- State Chancellor's Office
- Program/Construction Management

THE CIVIL GRAND JURY REPORT

What Is A Civil Grand Jury?

- First: it is not a criminal grand jury.
- It is a group of ordinary citizens, given the choice of their areas to investigate during their term.
- One civil grand jury concentrated on the District and its bond program; we address the report issued regarding the CBOC.

The Civil Grand Jury Report

- The District has responded to the findings and recommendations.
- But the report also includes many inaccuracies, such as:
 - “none of [the CBOC members] had ever participated in any form of orientation or training regarding their roles and responsibilities”
 - There were **three trainings** as of the time of the report, as reflected in the CBOC’s own records
- Many editorial comments regarding the repeated theme of “this CBOC’s lack of independence” with no connection to the actual statute that governs the CBOC.

The Report, Ct.

- Makes an incorrect assumption that the CBOC's role is **advisory**, and asserts that the CBOC:
 - “is simply informed as to what has already happened.... **This is hindsight.** Neither recommendations nor proposals may be made (or are relevant to) regarding an event that has already taken place.”
 - p. 5 of 8 (emph. in original)
 - “Recommendations nor proposals” – neither relates to the CBOC's actual mission: to inform the public.

Summary

- The civil grand jury report is a flawed document, based on an unsupported view of the law that governs CBOCs.
- Extending the reach and role of CBOCs would require legislative action, not action by this District.
- And the report does not resolve the question of how this CBOC, or any CBOC, could effectively operate in an advisory capacity.

THE CBOC'S REQUESTS

Themes

- Similar defects to civil grand jury report: seeks to convert a duty to report to the public into a mandate to advise the District.
- Proposed CBOC bylaws impose undue hardships, would discourage potential members from joining, and could have the effect of allowing a small group to take over the CBOC:
 - Excessive meetings;
 - Reduced quorum;
 - Reduced majority vote;
 - Appoint and remove the CBOC members.

Issues To Be Addressed

- The CBOC history of use of District resources:
 - More than 1/3 of CBOC meetings to date have had no quorum;
 - Average of 12+ hours of staff and consultant time spent per meeting, whether reached a quorum or not;
 - Note: District support of the CBOC is from general fund, not bond funds.
- If Board were to accept new bylaws, how would the “input” function coordinate with existing committees and planning process?

Proposed Bylaws

- Largely unacceptable rewrite based on an incorrect view of what CBOCs are for.
- Not supported by other district's bylaws - to the contrary, they mirror the District's:
 - District appoints/removes CBOC members;
 - Board establishes and amends bylaws;
 - District retains the duty to manage projects and to direct staff.
- The CBOC's requested changes would require legislation to change the CBOC statute.



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