



The Sonoma County Grand Jury
SANTA ROSA CITY SCHOOLS
CITIZENS BOND OVERSIGHT COMMITTEE:
SLOW PROGRESS
July 1, 2004

Summary

The 2003-2004 Sonoma County grand jury reviewed the operation of the Santa Rosa City Schools' Citizens Bond Oversight Committee (the Committee). The Committee is appointed by the Santa Rosa Board of Education (the Board), and is charged with oversight of expenditures of Proposition 39 bond funds issued expressly for construction and renovation of school facilities.

A citizen complaint objected to a Board regulation that the members and Chairperson of the Committee "serves at the pleasure of the Board, and could be removed at the sole discretion of the Board." While this language is legal, it is restrictive for a committee that must freely exercise independent judgment. The grand jury recommends that it be replaced by wording that any removal of a Committee member be with exercise of due discretion and not arbitrary, capricious or discriminatory.

The grand jury found that the Board had been slow to recruit the required minimum of seven members for the Committee. As a result, the Committee published the minutes of its first meeting 19 months after the Proposition 39 bond election of March 2002. The grand jury also recommends that the Committee maintain an active program of expenditure oversight, including site visits and whatever is necessary to inform the public as to whether the bond funds are being spent correctly and efficiently, and that the Committee use its website to keep the public well-informed about the proposed and actual expenditures of Proposition 39 funds.

Reason for Investigation

The grand jury received a citizen complaint with two allegations: First, that the Board had adopted a regulation that the members and chairperson of the Committee serve at the pleasure of the Board and may be removed at the sole discretion of the Board. The complainant felt that this violated legal requirements for an oversight mission. Second, it was alleged that the Board had been approving expenditures as much as 20% over budgeted amounts.

Background

Assembly Bill 1908 formalizes Proposition 39, which was approved in the state-wide election of November 2000, and allows school districts to issue bonds by winning a 55% majority of voters within the issuing district but only for school renovation and construction. In return for reducing the usual required majority of 67% to 55%, the issuing Board of Education was required to

Sonoma County Grand Jury

Santa Rosa City Schools Citizens Bond Oversight Committee – Slow Progress (continued)

appoint a Citizens Bond Oversight Committee to monitor expenditures and to report to the general public. Among other specifications, the Committee was to have a minimum membership of seven to include at least one citizen from each of five different specified demographic classifications. The Committee was to start within two months after certification of the bond election. AB 1908 explicitly granted the Committee powers to engage in the following activities:

- To review annual audits of Proposition 39 spending that are provided by the Board
- To inspect school facilities
- To review deferred maintenance proposals
- To review cost-saving proposals

These activities are also in Administrative Regulation 1172.4 of the Board. The California Legislative Analyst wrote that these activities are “illustrative and do not serve as limitations on the powers afforded to the committee.”

On March 5, 2002, a total of \$96,355,000 in Proposition 39 bonds was authorized by the voters in the Santa Rosa School District. As of the June 2003 audit, actual bonds issued totaled \$32,120,000, of which \$17,173,454 was spent in the fiscal years 2002 and 2003. The remaining approximately \$79,000,000 of authorized bonds is budgeted to be spent by July 2008.

Investigative Procedures

The grand jury interviewed the following persons:

- Current Chairperson, Bond Oversight Committee
- Legal Counsel for the Santa Rosa Board of Education
- Member, Santa Rosa Board of Education and Chairperson of the Facilities Advisory Subcommittee

The grand jury reviewed the following documents:

- *California Assembly Bill AB 1908* formalizing Proposition 39 regulations
- *Santa Rosa City Schools Administrative Regulation 1172.4*
- “Forming and Managing a Citizens’ Oversight Committee, School Finance Bulletin of 11/6/2001”, by Orrick, Herrington and Sutcliffe
- Minutes of its January 2004 meeting published by the Bond Oversight Committee
- Representative meeting minutes from other Bond Oversight Committees in California and elsewhere via the internet
- Performance and financial audits for years ending 6/30/2002 and 6/30/2003 for Proposition 39 expenditures
- “Secondary District New Bond Projects”, dated 11/22/2003, from the Santa Rosa Board of Education giving projected spending up to July 2008
- Report, *Proposition 39: School Facilities 55% Local Vote*, by Jason Ackerman, University of the Pacific McGeorge School of Law, November 2000
- Citizens Bond Oversight Committee, Santa Rosa City Schools meeting minutes Available: <http://www.srcs.k12.ca.us/bond/default.asp>

Findings

F1. There is no legal prohibition against an elected board such as the Board of Education having in their regulations or bylaws a stipulation that members of an appointed committee such as the Citizens Bond Oversight Committee “serve at the pleasure of the board.” However, the jury heard testimony that should wording such as “removal for cause” be used instead, it could be “extremely hard” to remove members. Even so, according to an 11/16/2001 Bulletin issued by Orrick, Herrington & Sutcliffe, a law firm specializing in school finance, it is recommend that to establish independence for a bond oversight

Sonoma County Grand Jury

Santa Rosa City Schools Citizens Bond Oversight Committee – Slow Progress (continued)

committee it would be preferable that removal of committee members be for specified causes such as malfeasance or repeated absence.

- F2. The first Committee meeting for which there are minutes on their website was held 10/3/2003, 19 months after the bond election. It took an additional 5 months for the Committee membership to reach the legal minimum of seven. By February 2004, the Committee had eight members, but was still short a member from one of the five designated demographic classifications. A Board member stated that it was difficult to recruit and maintain members despite heavy advertising.
- F3. The grand jury reviewed the line item performance and financial audits for the fiscal years ending June 2002 and June 2003 as compiled by an independent outside audit firm hired by the Board. Total expenditures for the two years were under budget as of June 2003, and the individual line items were generally under budget as well, contrary to one of the allegations of the complainant. Further, no exceptions to Proposition 39 rules were noted by the auditor in the performance audits. The Committee reviewed these audits also, and concluded that they were thorough and felt no need to duplicate the audits or investigate more deeply.
- F4. The grand jury heard testimony that the Board changes audit firms every two or three years to maintain independence.
- F5. The Committee must meet at least two times per year as required by Administrative Regulation 1172.4. At present, the Committee contemplates three meetings per year. The Committee must communicate with the public by internet and by an annual report. The grand jury reviewed the meeting minutes of other bond oversight committees in California and other states on the internet and found a wide variation in the quality and depth of their activities. For example, Eureka City Schools Committee meets almost every month, makes site visits and reviews Requests for Proposals.
- F6. The grand jury heard testimony that the Committee had only enough time to review the audit reports. It had not engaged in other activities such as reviewing proposals or conducting on-site visits.

Conclusions

The grand jury finds that by having a “serving at the pleasure of the board” regulation, the Board is sending an unnecessary and unwise signal to the members of the Committee to maintain a low profile. This regulation may compromise the independence of the Committee that is intended by law to have oversight of Proposition 39 bond expenditures by the Board.

The Committee is just now beginning its mission nearly two years after passage of Proposition 39. As a result of the long delay, there was minimal Committee activity from which the jury could evaluate its effectiveness.

The Committee is planning a minimal program of oversight. According to its latest meeting minutes, it will meet three times per year, for about two hours each time. It will review the budget line items in the independent audit as provided by the Board. Considering the large amount of Proposition 39 money still to be expended, and the need for public confidence that this money is spent wisely, there is great opportunity for the Committee to actively exercise oversight and report fully to the public in a timely manner. The tentative Committee decision not

Sonoma County Grand Jury

Santa Rosa City Schools Citizens Bond Oversight Committee – Slow Progress (continued)

to duplicate the independent audit is reasonable. However, on-site inspections and review of proposals and plans prior to expenditure should also be part of its oversight.

Recommendations

- R1. The Board should remove the wording specifying that “members serve at the pleasure of the board” from its regulations. Substitute language should be used to the effect that members and Chairpersons of the Committee may be removed by the Board with due discretion, but that it cannot be arbitrary, capricious or discriminatory.
- R2. The Board should devote more attention to staffing and supporting its Committee. All five specified demographic slots must be filled in accordance with law.
- R3. The Committee should develop an oversight plan that encompasses the complete expenditure process for Proposition 39 construction funds. Review of the activities of other Committees may provide examples to emulate. Beyond the review of audits, the Committee could add value by active review of proposals and plans prior to expenditure and on-site visits. These activities are authorized by Proposition 39.
- R4. The Committee should use its website to keep the public well-informed about the proposed and actual expenditures of Proposition 39 funds.

Required Responses to Findings

None.

Required Responses to Recommendations

Santa Rosa City Schools Board of Education – R1, R2
Citizens Bond Oversight Committee – R3, R4