

2002-2003 SANTA CLARA COUNTY CIVIL GRAND JURY

**INQUIRY INTO MANAGEMENT AND OVERSIGHT OF SAN
JOSE UNIFIED SCHOOL DISTRICT
1997 MEASURE C BOND FUNDS**

Summary

In response to a citizen complaint, the 2002-2003 Santa Clara County Civil Grand Jury (Grand Jury) conducted an inquiry into the management and oversight of the San Jose Unified School District (SJUSD), 1997 Measure C bond funds. The Grand Jury concluded that the SJUSD has exercised suitable financial management and oversight, while providing appropriate reporting to the public, and found no evidence of any inappropriate use of funds. Three recommendations are made to improve financial reporting, contracting practices and independent oversight.

Background

As the eleventh largest urban school district in California, the SJUSD includes a geographic area of over fifty square miles and serves over 32,000 students in thirty-one elementary schools, seven middle schools, and seven high schools.

In June 1997, voters approved Measure C, authorizing the SJUSD to issue bonds in an amount not to exceed \$165 million for school repair and modernization, with all expenditures to be monitored by an independent oversight committee. These funds were later supplemented with grants for an additional \$68 million from the state of California. The overall scope of work was established based on a prioritization of needs identified at individual school sites, and a phased multi-year construction plan was developed for implementation. Construction began in the summer of 1998, with completion scheduled for the summer of 2004.

The SJUSD Board of Education (BOE) established an advisory Bond Oversight Committee (BOC) in January 1997, and appointed sixteen district residents as volunteer members of the committee in March/April 1997. The BOC meets quarterly to assure that bond proceeds are properly expended for their intended purpose at district schools. The BOC actively reviews expenditures, as well as the status of planning and construction activities. Since it is advisory to the BOE, BOC meetings are open and public, subject to provisions of the Ralph M. Brown

Act. Current information is also made available to the public through quarterly progress reports issued by the SJUSD.

After receiving a citizen complaint alleging improper management, oversight, and reporting of Measure C bond fund expenditures, as well as information purportedly demonstrating the inappropriate use of funds, the Grand Jury decided to conduct an inquiry into the matter.

In conducting its inquiry, members of the Grand Jury met with SJUSD administration, construction, facilities and finance personnel, attended meetings of the Measure C BOC, and reviewed numerous documents, including BOC and BOE agendas/meeting minutes, preliminary facilities assessments, the modernization management plan, quarterly progress reports, budgets, financial statements, and interim/annual financial reports. The Grand Jury tracked reported expenditures for a sample of construction activities at three schools (one elementary school, one middle school and one high school) and surveyed construction contract change orders approved by the BOE.

The Grand Jury found no valid evidence of any inappropriate use of Measure C bond funds.

One concern identified by the Grand Jury was that, while administrative and support (soft) costs are reported at quarterly BOC meetings, this information is not included in the quarterly progress reports issued by the district.

It was also discovered that Change Order No. 3 for Contract No. 7030 (in the amount of \$54,326.00) was approved without securing bids. This action was (inadvertently) taken in violation of Section 20118.4 of the California Public Contract Code, in that the change order exceeded 10% of the original contract price (\$494,233.00). SJUSD is taking corrective action regarding this specific change order, and new practices are being developed for the management of time and material contracts and the preparation and approval of change orders to prevent inadvertent violations in the future.

In addition, it was determined that only four of the sixteen BOC members were still active at the beginning of the 2002-2003 school year. Since then, the SJUSD has revitalized the BOC through recruitment and appointment of new members. Three new members were appointed by the BOE in October 2002 and an additional two in January 2003. More recently, the district is developing formal BOC membership guidelines.

Also during the course of its inquiry, the Grand Jury became aware that the State Controller's Office was conducting a detailed audit of Measure C. The audit report had not been issued at the time the Grand Jury inquiry was closed.

Finding I

The SJUSD has exercised suitable financial management and oversight of Measure C expenditures, while providing appropriate reporting to the public. There is no evidence of any inappropriate use of funds.

Recommendation I

None

Finding II

Although administrative and support (soft) costs are reported at quarterly BOC meetings, this information is not included in quarterly progress reports issued by the district.

Recommendation II

Information on administrative and support costs for the Measure C construction program should be added to the quarterly progress reports.

Finding III

Change Order No. 3 for Contract No. 7030 (in the amount of \$54,326.00) was approved without securing bids, in violation of Section 20118.4 of the California Public Contract Code, in that it exceeded 10% of the original contract price (\$494,233.00). Corrective action is being taken as a result of the Grand Jury inquiry and new contracting practices are being developed to prevent inadvertent violations in the future.

Recommendation III

Standard forms and procedures should be revised and training provided to appropriate personnel for implementation of new contracting practices developed to assure that change orders are processed in accordance with Section 20118.4 of the California Public Contract Code.

Finding IV

Participation in the Measure C BOC had declined to the point where only four of the original sixteen members remained active before the BOE took action to appoint new members. In addition, no formal membership process existed to acknowledge resignations from the Measure C BOC or to remove members who had become inactive. Five new members have been appointed to the BOC since October 2002, and the district is developing formal BOC membership guidelines.

Recommendation IV

Continuing efforts should be made to revitalize the Measure C BOC by implementing guidelines to remove and replace members who become inactive or resign.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 15th day of May, 2003.

Fred de Funiak
Foreperson

Ron R. Layman
Foreperson Pro Tem

Patricia L. Cunningham
Secretary

REFERENCES

SJUSD Documents

1998-1999 Financial Statements and 1999-2000 Revised Budget, September 16, 1999.

1999-2000 Budget, June 17, 1999.

1999-2000 Financial Statements and 2000-2001 Revised Budget, September 18, 2000.

1999-2000 First Interim Financial Report, December 16, 1999.

1999-2000 Second Interim Financial Report, March 2, 2000.

2000-2001 Budget, June 22, 2000.

2000-2001 First Interim Financial Report, December 14, 2000.

2000-2001 Second Interim Financial Report, March 22, 2001.

2001-2002 Second Interim Financial Report, March 21, 2002.

Annual Financial Report, June 30, 1999.

Annual Financial Report, June 30, 2000.

Ballot Statement – Final, June 1997.

Board of Education Meeting Minutes: January 30, 1997; March 13, 1997; April 10, 1997; August 22, 2002; September 5, 2002; October 3, 2002; October 17, 2002; January 23, 2003.

Letter, Director, Facilities and Construction, to Grand Jury, *Measure C Bond Oversight Committee—Membership and Process*, March 28, 2003.

Letter, Internal Auditor to Grand Jury, *San Jose Unified School District Inquiry*, October 17, 2002.

Letter, Manager, Facilities and Construction, to Grand Jury, *Bevans Electric, Contract 7030, Change Order No. 3, Lowell Elementary School Modernization*, April 25, 2003.

Letter, Manager, Facilities and Construction, to Grand Jury, *Lowell Elementary School Modernization, Bevans Electric Contract No. 7030, Change Order No. 3 Detailed Description*, March 24, 2003.

Measure C Bond Oversight Committee Meeting Agendas: September 10, 1997; January 7, 1998; March 4, 1998; June 3, 1998; December 2, 1998; February 16, 1999; June 2, 1999; September 22, 1999; January 25, 2000; May 2, 2000; July 24, 2000; October 24, 2000; May 22, 2001; September 25, 2001; January 22, 2002; April 29, 2002.

Measure C Bond Oversight Committee Meeting Minutes: April 29, 2002; August 19, 2002; October 22, 2002; January 21, 2003.

Measure C Quarterly Progress Reports: January 2000 through March 2000; April 2000 through June 2000; July 2000 through September 2000; October 2000 through December 2000; January 2001 through March 2001; April 2001 through August 2001; September 2001 through December 2001; January 2002 through March 2002; April 2002 through June 2002; July 2002 through September 2002.

Modernization Management Plan, June 12, 1998.

Preliminary Facilities Assessments, Bond Measure – June 1997, June 10, 1997.

Other Documents

California Public Contract Code, Section 20110-20118.4

Interviews

SJUSD Associate Superintendent, Administrative Services and other personnel, September 13, 2002.

SJUSD Construction Manager, March 13, 2003.

SJUSD Superintendent and Associate Superintendent, Administrative Services, August 14, 2002.

Meetings Attended

San Jose Unified School District Measure C Bond Oversight Committee, August 19, 2002.

San Jose Unified School District Measure C Bond Oversight Committee, October 22, 2002.