

LOS ANGELES UNIFIED SCHOOL DISTRICT

SCHOOL CONSTRUCTION BOND CITIZENS' OVERSIGHT COMMITTEE

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Environmental Justice/Civil
Rights Group

Joseph P. Buchman – Legal Counsel
Burke, Williams & Sorensen, LLP

Thomas A. Rubin
Oversight Committee Consultant

Gary C. Anderson
Director
Frank Padilla
Administrator

**School Construction Bond Citizens' Oversight Committee
Special Meeting
333 South Beaudry Avenue
Los Angeles, CA 90017
Board Room
Wednesday September 30, 2009
2:30 p.m.**

	Item	Presentation/ Discussion Time	Presenter
1.	Call To Order		D. Crippens
2.	Chair's Remarks		D. Crippens
3.	FSD Organization..... Action Item	60 Minutes	T. Rubin J. Buchman
4.	Public Comment		

Bond Oversight Committee Upcoming Meeting Schedule:
→ October 21, 2009
→ November 18, 2009
→ December 16, 2009

Bond Oversight Committee meetings are aired on KLCS-TV (channel 58) on the Sunday following the meeting date. Broadcast time of the Bond Oversight Committee meetings may change due to the volume of broadcasts scheduled for the day. Please call (213) 241-4036 the Friday prior to the Sunday Broadcast to verify the time.

This agenda has been prepared and posted as required by law to inform the public and assist in the orderly administration of the Committee's meetings. The Committee may take action on any item that appears on this agenda. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Bond Oversight Committee Administrator, (213) 241-5183. Notification 48 hours prior to the meeting will enable the

LOS ANGELES UNIFIED SCHOOL DISTRICT
SCHOOL CONSTRUCTION BOND CITIZENS' OVERSIGHT COMMITTEE
Regular Meeting
Wednesday September 30, 2009
2:30 p.m., Agenda Page 2

Oversight Committee to make reasonable arrangements to ensure accessibility to this meeting. (28CFR 35.102-35.104 ADA Title II)

If you or your organization is seeking to influence purchasing, policy, site selection or any other LAUSD decision, registration may be required under the District's Lobbying Disclosure Code. Please visit www.lausd.net/ethics to determine if you need to register or call the LAUSD.

**LOS ANGELES UNIFIED
SCHOOL DISTRICT
SCHOOL CONSTRUCTION
BOND CITIZENS' OVERSIGHT
COMMITTEE**

**Special Meeting on Facilities
Services Division Organization,
Staffing, and Compensation**

September 30, 2009

Presenters and Agenda

- BOC Mission and Legal/Contractual Authority
- Tom Rubin, BOC Consultant:
 - FSD Support Functions, History and Recent Events
 - FSD Staffing and Compensation
- Joe Buchman, BOC Legal Counsel:
 - Ballot Measure and Memorandum of Understanding Requirements re FSD Organization and Compensation for LAUSD

BOC Legal/Contractual Authority

- California State Statute
- Bond Measures
- Memorandum of Understanding between LAUSD and BOC

Statutory Requirements I

EC §15264. It is the intent of the Legislature that all of the following are realized: ...

(c) The members of the oversight committees appointed pursuant to this chapter promptly alert the public to any waste or improper expenditure of school construction bond money.

Statutory Requirements II

EC §15278(b) 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. ...

(2) Ensuring that ... no funds are used for any teacher or administrative salaries or other school operating expenses.

Statutory Requirements III

EC § 15278(c) In furtherance of its purpose, the citizens' oversight committee may engage in any of the following activities: ...

(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.

Measures Y and Q

Findings (page 3):

“The District has achieved this success by reforming its management of the school-construction and modernization program. By installing a team of qualified professionals with extensive experience in managing major public-works projects, delegating responsibility to that team and holding it responsible for results, and by empowering that team with state-of-the-art administrative, financial, and accounting tools, the District has been able to execute what is one of the largest public construction programs in the nation.”

Memorandum of Understanding I

§ 2.2. The mission of a strong and independent Committee is to oversee the expenditure of money for the construction, repair and modernization of schools by the District in accordance with California law and as required by Proposition BB, Measure K, Measure R, and Measure Y. The Committee is charged with the responsibility of communicating its findings and recommendations to the District and the public so that the school bond funds authorized by the District's voters through Proposition BB, Measure K, Measure R, Measure Y, and any future District bond measures which require an oversight committee, are expended.

Memorandum of Understanding II

§7.6. The District agrees to present information concerning major projects to the Committee before the District commits itself to a course of action. If a project or any component thereof will result in an impermissible expenditure of bond funds, all parties agree that it should be discovered at an early stage. The Committee has the responsibility and authority to recommend against the expenditure of bond funds when LAUSD does not provide adequate information for effective oversight, or when a project or family of projects appears to be impermissible or imprudent.

Tom Rubin, BOC Consultant

- FSD Support Functions, History and Recent Events
- FSD Staffing and Compensation

FSD Organization History I

- When Proposition BB, the first modern LAUSD Facilities bond issue, passed in 1997, the District was in no way ready to undertake the bond-funded construction program.
- It took approximately four years – and a new Board, Superintendent Roy Romer, and a lot of pushing and yelling by the BOC, among others, that led to the hiring of Jim McConnell to bring in professional management.

FSD Organization History II

- When the modern organization of FSD began to be developed in 2001, it quickly became obvious that poor performing support functions were major parts of the problems.
- After exhausting all other options, there was a mutual agreement of all parties – BOE, BOC, Superintendent, FSD – to have *internal* support functions for FSD.

FSD Organization History III

- These dedicated internal FSD support functions include:
 - Accounting: (a) financial reporting and control,
(b) invoice processing
 - Communications: (a) press,
(b) intergovernmental
 - Legal (dedicated co-located team from District General Counsel)
 - Information Technology
 - Personnel
 - Procurement

FSD Organization History IV

- FSD Legal Team has been ordered to move from FSD spaces on 23rd floor to General Counsel spaces on 20th floor
- Communications – Press has been ordered to be consolidated with District Press Relations on 24th (Executive) Floor (much of the work of this function will still have to be done by FSD personnel)

FSD Organization History V

- All of the above are paid from bond funds
- This has worked very well since 2001-2
- While there are other parts of LAUSD that do similar things – Legal, Procurement – what FSD does is unique, and requires specialized knowledge
- It is also important for these support personnel to be co-located with other FSD personnel, attend meetings, and know what is going on in a broad sense

FSD Organization History VI

- Very frankly, BOC staff is quite concerned that the elimination of these integral support functions could lead to significant declines in quality and timeliness and increases in cost.
- Basic rule to follow:

***“If it ain’t broke,
don’t fix it.”***

Conclusions

- Changes made to date have been ill-advised for FSD and the bond program
- BOC was *not* informed or consulted on these changes prior to the decision
- Reversing them would be preferable
- While the functions that have been ordered centralized are important to FSD's functioning, other functions above are *vital* – any attempt to significantly alter the current organization would likely have extreme negative consequences

FSD Staffing and Compensation I

- For many years, the BOC has been concerned that many FSD management positions were paid under market, particularly the top management positions.
- As a result of this concern, specific language was put into Measure Y in 11/05, and also in Measure Q in 11/08, requiring these positions to be paid at “market” – meaning both the public and private sectors.

FSD Staffing and Compensation II

- All major construction programs have contract professionals; some, including many California school construction bond programs, are 100% contract professionals.
- FSD utilizes a mix of employees and contract professionals; the BOC concurs this is superior for the District.
- Employees, properly compensated, provide certain attributes that contract professionals cannot – including continuity – at lower cost.

FSD Compensation I

- Measure Y required the Board of Education to adopt a finding that FSD managers are being compensated at market by 11/07.
- Although BOC worked with the District for years to attempt to gain compliance, even continuing to work for compliance after the deadline, then-Deputy Superintendent Cortines refused to consider market compensation.

FSD Compensation II

- On 7/31/08, the BOC adopted Resolution 2008/46, which found the District to be not in compliance with the FSD Compensation requirements of Measure Y.
- Personnel Commission (PC) staff has been working on the compensation survey in preparation for the second compliance deadline, 11/09. While there is no specific document I can point to, my belief is that the District does not intend to comply.

Market Survey Methodology I

- PC and BOC staffs, and the then-Superintendent's office, agreed on a survey methodology to place FSD positions at 90th percentile of public sector positions and 50th percentile of private sector positions.
- First survey was salary only.
- Current survey was to include employer pension contributions differences, including 401(k), 403(b), and 457 contributions.
- Future surveys to work in bonuses and equity compensation

Market Survey Methodology II

- This methodology was a necessary compromise to work within limitations of public sector personnel practices, where application of professional judgment in salary setting can be problematic; strict application of quantitative procedures is far easier to explain, and defend if required.
- It is generally valid for lower- and middle-level positions, less so as the top positions are approached.

Market Survey Methodology III

- As part of the FSD restructuring, several “branch manager” positions were surveyed.
- The Superintendent objected to several specifics of the compensation levels; in particular, those for the Design and Planning positions.
- These positions were not able to be filled at the mandated compensation – the preferred candidates would have had to accept reductions in pay to take the FSD jobs.

Market Survey Methodology IV

- Biggest problem is with CFE compensation
- Current compensation is \$244k, top of range, including “scarcity differential”
- Two most comparable positions are:
 - LA Co. Director of Public Works – \$205-310k, no OASDI, significantly greater employer paid post-retirement income plan contributions
 - MTA Chief Capital Management Officer – \$229-330k ('08), no OASDI, MTA pays employee PERS

Market Survey Methodology V

- While both the LA County and MTA positions are very important positions, very arguably, neither has either the scope of responsibility or the portfolio size of the FSD CFE – yet, by the methodology utilized, the CFE position is to be paid less than either.
- However, the Superintendent has refused to allow the CFE position to be paid at the “90th percentile” compensation – \$289k at top of scale.

Market Survey Methodology VI

- There are two main reasons to establish the compensation for key positions at market levels:
 - To be able to retain existing employees
 - To be to attract new employees

Market Survey Methodology VII

- Unfortunately, we are now in the exact position that the BOC has been worried about for years – needing to recruit for one of the most demanding facilities management jobs in the world with a significantly below market compensation package.
- Even more unfortunately, FSD is losing its reputation as a “big-job” employer where managers have great ability to get the job done without uninformed interference and micro-management.

A-Basis vs. B/E-Basis

- At LAUSD, an “A-Basis” job is twelve months of work and twelve months of pay – such as FSD positions.
- “B-Basis” and “E-Basis” are two-semester school term positions, approximately ten months of work and ten months of pay.
- The Superintendent has stipulated that all new positions be B/E-Basis, not A-Basis. After discussion, he now allows the CFE to request A-Basis for FSD positions.
- FSD has no ten-month positions.

**Joe Buchman,
BOC Legal Counsel**

**Ballot Measure and Memorandum
of Understanding Requirements
re FSD Organization and
Compensation for LAUSD**

Memorandum of Understanding General Organizational Requirement

- “§6.5 The Committee will work with the District so that the District has in place the necessary plans, professional staff and management systems to build schools wisely and efficiently.”
- The above requires the District to work with the BOC in making changes in FSD organization

Measure Y FSD Organizational Requirements

- “The Board shall provide the (Facilities Services Division) with dedicated procurement, accounting, legal, information-technology, personnel, and other support services sufficient for implementation of the construction and modernization program funded by the Bond proceeds.”
- Measure Q has comparable requirements.

Memorandum of Understanding FSD Organizational Requirements

- “§6.5.4 The District shall provide the Facilities Services Division with dedicated procurement, accounting, legal, information-technology, personnel, and other support services sufficient for implementation of the construction and modernization program funded by bond proceeds.”

Measure Y FSD Compensation Requirements

- “Managers of the (Facilities Services) Division shall have educational and employment experience comparable to that of persons with similar responsibility in the private sector. To ensure that the District employs managers of the Division who are so qualified, the Board shall, no less than biennially, cause a survey of compensation of managers of major construction programs and managers of major public and private facilities in comparable locations across the United States in both the public and private sector, and the Board shall make a finding that the managers of the District’s Facilities Services Division are being compensated according.”
- Measure Q and the MOU have comparable requirements.