



MT. DIABLO UNIFIED SCHOOL DISTRICT
JAMES W. DENT EDUCATION CENTER
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OFFICE OF
GENERAL COUNSEL

May 25, 2011

Linda L. Chew
Grand Jury Foreperson
725 Court Street
Martinez, CA 94553

Re: Report 1102 -Financial Challenges Persist at MDUSD

Dear Ms. Chew:

Please consider this to be the formal response of the Mt. Diablo Unified School District (hereinafter "District") to Grand Jury Report no. 1102, "Financial Challenges Persist at MDUSD."

I. FINDINGS

Pursuant to Government Code section 933.5 (a) the District hereby responds as follows:

1. *No discussion of the 2010 Bond's possible financial ramifications took place at the open Board meetings before the Board passed the resolution to proceed with a ballot measure.*

Response:

The respondent disagrees with the finding and is unclear as to the factual basis there for. The Board had an extensive conversation on March 9, 2010, concerning the possible financial ramifications of the bond. The Board discussed the tax rate extension, tax rate estimates, the par amount of the bond, and a possible bond proceeds schedule. There has been no allegation that the Board neither was provided, nor failed to consider all legally required information. Furthermore, the Board prudently fulfilled its fiduciary responsibilities in selling \$109,996,475 of bonds in 2010 at a TIC of 4.392%. The ratio of debt service to principal is 1.94, which means that for every dollar of principal there is .94 cents of interest. The term and interest rates compare very favorably to the District's original bond sales in 2002, 2005, and 2006 as well as other bonds sold throughout the state.

2. *Some of the capital projects, such as solar panels installation and window replacement, to be financed with a 2010 Bond should generate energy's cost savings for the Districts (sic).*

Response:

The respondent agrees with the finding.

3. The organization (sic) restructuring of the General Counsel's responsibilities has not resulted in anticipated operational effectiveness and may not have fulfilled the cost savings originally projected.

Response:

The respondent disagrees with the finding. Due to severely decreased state funding and declining enrollment, the District has been forced to make deep budget cuts and to combine positions and responsibilities. Accordingly, the District eliminated the Assistant Superintendent for Administrative Services position. The responsibilities of that position were reallocated to the General Counsel and Chief Financial Officer. This was a financial exigency with no reasonable expectation of enhanced organizational efficiency. The cost savings originally projected were only the elimination of the Assistant Superintendent for Administrative Services position. Accordingly, all the savings originally projected have been realized. The increased responsibility of the General Counsel position has not diverted legal resources. The District's legal budget was consolidated and reduced 50% during the 2009-10 fiscal year. The District's current legal expenditures are quite similar to what they were immediately before the reorganization.

4. In addition to the anticipated relief to the general fund from specific 2010 Bond projects, further savings could be achieved through further salary and benefit expenses (sic) reductions.

Response:

The respondent agrees with the finding as it is intuitively obvious from an economic and budgetary perspective.

II. RECOMMENDATIONS

Pursuant to Government Code section 933.5 (b) the District hereby responds as follows:

1. When contemplating future taxing (sic) measures, the Board shall allow sufficient time for full disclosure to the public of financial information including legal fees, underwriting costs and repayment obligations. The Board should develop a written process addressing the discussion of financial consequences of taxing measures in a public forum and share their proposal with the public in the next 180 days.

Response:

This recommendation requires further analysis. The Board will continue to responsibly exercise its fiduciary responsibilities and make all disclosures required by law. The

Board dutifully adheres to many written processes regarding public disclosure, reporting and deliberative processes including, but not limited to, those set forth in the California Education Code, the California Government Code (Brown Act), the California Elections Code, Roberts Rules of Order and Board Policy. Development of additional written processes, specific to discussions of tax measures appears duplicative and extraneous.

2. To verify the estimated energy savings from specific planned capital projects, there should be an annual audit of energy expenditures. The audit should focus on and reflect any costs reduced by the use of solar panels funded by the Bond. This audit should be done within 180 days after the initial solar panels were installed and continue on an annual basis for three years.

Response:

This recommendation has been implemented at multiple levels:

- 1) System performance will be monitored perpetually throughout the term of the agreement (20 years). The "Performance Guarantee" provision stipulates that SunPower guarantee 95% of stated system production throughout contract term (20 years) and any production shortfalls must be paid annually to the District at the then current rate;
- 2) the District's participation in the California Solar Initiative program requires rigorous annual reporting for the first five (5) years of operation in order to calculate and capture rebates; and
- 3) summary billings from PG&E will be reviewed monthly and compared to pre-system invoices to establish actual consumption and billing reductions. Consequently, the District's established internal controls will far exceed the Grand Jury's recommendation.

3. The Board should review the effectiveness of combining the General Counsel's responsibility for legal work and services with transportation, maintenance and food services. They should also analyze the impact of combining these responsibilities on actual costs.

Response:

This recommendation has been implemented. The General Counsel is regularly evaluated. The District is consistently engaged in an internal review of its operational effectiveness, budgeting and expenditures.

4. The Board should continue reducing salaries and benefits to address the District's 2011-2012 budget shortfalls.

Response

This recommendation has been implemented. The District will provide the recently negotiated employee agreements upon request. Unfortunately, further reductions will be necessary if the cycle of state budget shortfalls and declining enrollment continues. (See response to Finding No. 4)

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Rolen", with a long horizontal flourish extending to the right.

Greg Rolen
General Counsel