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The Honorable Elia Ortiz
Presiding Judge
Superior Court of the State of California, County of Napa
825 Brown Street
Napa, CA 94559

June 29, 2018

Dear Judge Ortiz:

The purpose of this letter is to respond to the Napa County Grand Jury report "The Measure H Watchdog Isn't Barking," dated May 29, 2018. The Report requested responses from the NVUSD Board of Education (BOE) and invited responses from the Citizens' Bond Oversight Committee (CBOC). While the CBOC thanks the 2017-18 Napa County Grand Jury for its report, the NVUSD Measure H Independent Citizens' Bond Oversight Committee Bylaws, drafted and approved by the NVUSD Board, does not provide the leeway for the CBOC to engage in any activities not specifically enumerated in Sections 3.1 (Inform the Public), 3.2 (Review Expenditures) and/or 3.3 (Annual Report) of the bylaws, to wit:

"Section 2. Duties. To carry out its stated purposes, the [CBOC] Committee shall perform only the duties set forth in Sections 3.1, 3.1, and 3.3 hereof..."

The CBOC therefore declines the grand jury's invitation and defers any response to NVUSD.

The NVUSD BOE understands the importance of the work that the Grand Jury does for the Napa County community. However, the BOE and CBOC take issue to a degree with the tone and assumptions made in parts of this report. Reflected in the CBOC Annual Report submitted to the Board of Education on June 21st, one quickly sees the thoroughness and diligence of the work being done by the CBOC.

At its meeting of June 28, 2018, the Board of Education approved the following responses to the Grand Jury findings and recommendations.

(Finding)F1: *The \$505 million Facilities Master Plan and budget, which were created in 2014, are outdated and underfunded, and do not reflect 2018 (or later) construction costs.*

Response: **The BOE agrees with this finding.**

F2: *Construction costs for many projects in the NVUSD Facilities Master Plan are running 30-500% higher than the District originally estimated.*

Response: **The BOE disagrees partially with the finding.** It is accurate that since the Facilities Master Plan was approved in 2016 to date, construction costs are increasing, for public and private projects statewide. The factors include costs of material and labor, and more stringent State requirements. However, the percentages presented by the GJ report in no way reflect our actual experiences. In the CBOC Annual Report presented June 21, costs of up to 82% above the original estimate were noted on one component of one project.

F3: The District's ability to fund all the projects in the Facilities Master Plan is at further risk because the State of California has not disbursed District-anticipated funds and has not guaranteed it will do so.

Response: The BOE agrees with this finding.

F4: The new \$346 million "Implementation Plan" introduced by staff in May 2018, does not clearly identify which items from the original FMP are being reprioritized.

Response: The BOE disagrees with this finding. The updated Implementation Plan, which is a living document, is by design an update of the projects that were on the Measure H project list, not an update of the entire Facilities Master Plan. The FMP was designed to show all the critical needs of the District as we knew them, based on the facts as we knew them back in 2014. It is important to remember that the 2014 West Napa Fault Earthquake occurred during development of the FMP, necessitating an almost complete rewrite of the plan. As District needs change, under the umbrella of the Measure H bond language, projects will be modified and re-prioritized.

F5: The Bylaws of the Bond Oversight Committee have not been followed as written with regard to the creation of subcommittees, the creation of staggered terms, and the frequency of meetings.

Response: The BOE agrees with the finding in regards to the creation of staggered terms and the creation of subcommittees. The BOE disagrees with the finding in regards to the frequency of meetings.

As documented in the voice recordings of the initial in-person meeting of the CBOC with the bond counsel who drafted the CBOC bylaws, the limit on regular (quarterly) meetings is intended to reduce the burden on staff.

The Bylaws are silent on supplementary (special) meetings. The CBOC discussed supplementary meetings with the bond counsel during the initial formation meeting. It was determined at that time that supplementary meetings would be necessary so that the CBOC could accomplish oversight duties in a timely and professional manner. The CBOC met four (4) times in its seven month existence for 2016/2017, and seven (7) times in the full year 2017/2018.

F6: Neither the NVUSD nor the Citizen's Bond Oversight Committee are fully informing Napa County taxpayers on a timely basis of the status of Measure H bond expenditures or cost escalations.

Response: The BOE disagrees with this finding. The CBOC since inception has communicated with the public in a virtually real-time basis. The CBOC agendas, minutes (recorded) and bond project progress and financials are available via the NVUSD website (www.nvUSD.org/boc). NVUSD staff present a facilities update at each regularly scheduled Board of Education meeting. NVUSD staff also meet regularly with parent and community groups to discuss Measure H projects. Additionally, in Spring 2018, staff hosted four public Board study sessions on topics related to Measure H, including construction methods, funding sources, the updated implementation plan and technology projects. All CBOC meetings, as is true with NVUSD Board meetings, are agendaized, publicized and open to all members of the public.

F7: By not issuing the required annual report nor communicating with the public in any way during its first 18 months, the Bond Oversight Committee has not lived up to its obligations to the taxpayers of Napa County.

Response: The BOE disagrees with this finding. As explained previously to the Grand Jury in a written communication dated Feb. 9, 2018, the CBOC issued its annual report as soon as the independent financial and performance audits were completed, in order to be compliant with the requirements of both the Education Code and the CBOC bylaws.

The CBOC since inception has communicated with the public in a virtually real-time basis. The CBOC agendas, minutes (recorded) and bond project progress and financials are available via the NVUSD website (www.nvUSD.org/boc). NVUSD staff present a facilities update at each regularly scheduled Board of Education meeting. NVUSD staff also meet regularly with parent and community groups to discuss Measure H projects. Additionally, in Spring 2018, staff hosted four public Board study sessions on topics related to Measure H, including construction methods, funding sources, the updated implementation plan and technology projects. All CBOC meetings, as is true with NVUSD Board meetings, are agenzized, publicized and open to all members of the public.

F8. There is a high likelihood that Napa County taxpayers will be asked to fund yet another bond measure in order to complete the many FMP projects that will not be completed under the Measure H bond issuance.

Response: The BOE disagrees with this finding. The BOE has made no indication that another bond measure is being considered. The finding is speculative.

(Recommendation)R1. *The Bond Oversight Committee fulfill its duty to inform the public about the expenditure of Measure H bond funds by communicating to the public at least twice annually about Measure H project status and costs.*

Response: This recommendation has been implemented.

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If the Grand Jury is asking for a bi-annual formal report, the cost of additional staff time and the costs of additional performance and financial audits are prohibitive and do not enhance in any meaningful way the communication to the public at large.

R2. *The Board of Education strengthen the independence of the Bond Oversight Committee by revising the BOC bylaws no later than Aug. 31, 2018 in order to allow the creation of subcommittees by the BOC, and also to establish a set meeting frequency.*

Response: The recommendation will be partially implemented. BOE supports the recommendation to amend the CBOC bylaws in order to create subcommittees of the CBOC. The meeting schedule will not allow that change to happen by Aug. 31. The change will be made by Oct. 31. Staff will work with bond counsel to draft a revision for the current CBOC bylaws to create subcommittees for review and action.

Regarding meeting frequency, see the response to F5.

R3. The NVUSD staff revise the original \$505 million Facilities Master Plan to reflect which projects will be executed through the new Implementation Plan, and which projects will be deferred until new funds become available. The revised FMP should be posted to the NVUSD website no later than October 31, 2018, and kept current.

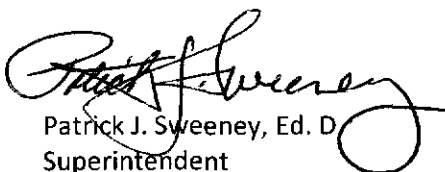
Response: This recommendation requires further analysis. The CBOC has responsibility only for projects funded by Measure H. The Facilities Master Plan (FMP) is the BOE's over-arching vision for potential facility's needs.

The District's current Implementation Plan, approved June 14, clearly identifies projects from the 2016 FMP that are expected to be completed with Measure H funds, and which projects must wait until additional funding is identified and secured. Staff will examine the feasibility of bringing an updated Implementation Plan bi-annually to the BOE.

R4. The NVUSD Board of Education provide training to the BOC from organizations such as the 21st Century School Fund or the California League of Bond Oversight Committees so that the BOC has access to best practices for citizen oversight of public school construction programs. This access to training should take place commensurate with the seating of the next committee in the fall of 2018.

Response: This recommendation requires further analysis. It is important to the BOE that CBOC members understand their duties and responsibilities. As such, District staff have had bond counsel, inspectors of records, construction managers and technology consultants attend CBOC meetings to provide training. Further, staff will research other relevant training opportunities that are demonstrably fact- and law-based, as opposed to advocacy-based in content.

As always, Napa Valley Unified School District Board of Education values the work of the volunteer Grand Jury in safeguarding the interests of the community, and appreciate the opportunity to respond to this report.



Patrick J. Sweeney, Ed. D.
Superintendent

cc: Joe Schunk, Board President
Wade Roach, Assistant Superintendent of Business Services

Board of Education

2425 Jefferson Street
Napa, CA 94558
707.253.3511
www.nvusd.org

Joe Schunk, *President*
Thomas Kensok, *Vice President*
Icela Martin, *Clerk*

Robb Felder
José Hurtado
Robin Jankiewicz

Patrick J. Sweeney, Ed.D.
Superintendent