



2009-2010 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

MANAGEMENT MISSTEPS AT THE SANTA CLARA UNIFIED SCHOOL DISTRICT

Issues

- 1- Is the Santa Clara Unified School District (District) properly administering and managing the Measure J school bond funds approved by District voters?
- 2- Has the District managed its Teacher Mortgage Assistance Program (TMAP) in an effective and ethical manner?

Summary

- 1- The Measure J bond program, approved by voters in 2004, has progressed too slowly because of the bond program's poor planning and execution. The Grand Jury believes that this can be remedied by the District taking immediate and specific actions.
- 2- The District established the Teacher Mortgage Assistance Program (TMAP) to provide financial assistance to teachers to help them buy homes in the area. However, program administrators have provided a TMAP loan to a non-teacher, in violation of the program's charter, and loan delinquencies are excessive. The District should exercise improved and proper oversight of the program.

Investigative Purpose and Methodology

The 2009-2010 Santa Clara County Civil Grand Jury (Grand Jury) received a complaint regarding Measure J Bond funds. The Grand Jury initiated an investigation which included:

- 1- Interviews with District administrators and support personnel.
- 2- Attendance at TMAP, School Board (Board), and Citizens' Bond Oversight Committee (CBOC) meetings.
- 3- Reviews of library archives, external audit reports, District meeting agendas and minutes, and District websites.
- 4- Reviews of data and documents that were promptly provided by the District.

The Grand Jury expanded the investigation's focus to include delays in the bond program's planning and execution and the TMAP.

PART 1 – Measure J Bond Program Management

Background

The District covers an area bound by Alviso to the northeast to Great America Park to the northwest to Pruneridge Avenue to the south. Sixteen elementary schools (K-5), three middle schools (6-8), and two high schools, service the 14,000 students within the District. In addition, approximately 15,000 additional education optional students are supported by one K-8 school, two continuation high schools, and one adult education school. As of August 2009, the District employed 710 teachers and 520 support staff. The District obtains most of its funding from local property taxes and a minimum per pupil amount from the State. For new school construction and school modernization and upgrades, the District places a measure on general election ballots for voter approval to issue bonds that will fund costs for those projects.

Discussion

In 2004, the District's voters approved Measure J which authorized the issuance of \$315 million in bonds to rehabilitate middle schools and high schools, improve student safety, make seismic upgrades, add facilities to relieve overcrowding, and repair deteriorated plumbing, sewers, bathrooms, leaky roofs, aging boilers, inadequate heating, electrical and building systems. The Bond Director is responsible for Measure J plan execution and day-to-day project management.

Three years after voter approval of Measure J, the District developed a master plan for the projects' completion. This initial master plan covered modernization and not new construction. In 2008, the District hired an architectural firm and a construction management company to revise the master plan, making it more comprehensive and including new construction. This plan revision cost \$787,148. In October 2009, after the Grand Jury began its inquiries, the District staff revised the master plan again to add projects and update construction timelines.

The three-year delay in developing the initial master plan resulted in the District utilizing only 25% of the total authorized bond program funding from 2004 through mid 2009. In accordance with the May 2008 and October 2009 revised plans, which did include new construction, the remaining 75% of the funds are scheduled to be spent during the next four years to complete the planned projects.

CBOC Oversight

The District established the CBOC in accordance with Section 15278 of the California Education Code (Code) to:

- Inform the public about the District's expenditure of bond proceeds.
- Review quarterly District expenditures to ensure bond proceeds were expended only for the purposes noted in the bond measure.
- Present to the Board an annual report which includes a summary of the CBOC's proceedings and activities for the preceding year.

The CBOC may, but is not required to, receive and review independent performance and financial audits; inspect the school grounds to ensure that bond revenues are spent in compliance with the purpose of the bond; review deferred maintenance proposals; and review efforts by the District to maximize bond revenues by implementing cost-saving measures.

The CBOC's bylaws specify that the CBOC has no jurisdiction over the following activities, which are specifically reserved to the Board or Superintendent:

- Approve all construction contracts and change orders.
- Appropriate construction funds.
- Handle all legal matters.
- Approve construction plans and schedules.
- Approve the sale of bonds.

It is the CBOC's responsibility to inform the public about proper bond expenditures. The Code does not require, nor does the CBOC provide reviews of performance versus plan results.

PART 2 – TMAP Management

Background

The District established the TMAP in 2000 to attract, hire, and retain qualified teachers by providing financial housing assistance to help defray the high cost of home ownership in Santa Clara County and surrounding area. When it became difficult to attract teachers to the District in 2000, establishing a program offering financial housing assistance to teachers became an urgent matter.

The District financed the program by selling a \$10 million bond to the Intel Corporation, since repaid, who agreed to receive below-market interest. The District uses the difference between what it paid Intel and what it earns on the investment (the 'float') to contribute \$500 monthly for five years toward the mortgage payment of teachers who buy homes in Santa Clara County and the surrounding area. Another company, Linear Technology, initially reimbursed teachers for closing costs. At the end of five years the teacher begins repaying the District and the repaid funds are used to help other teachers.

TMAP, a 501(c)(3) nonprofit public benefit corporation, is administered by a Board of Directors consisting of the District School Board, Superintendent, and the Program Director (now the Assistant Superintendent for Business Services).

Discussion

To be eligible for mortgage assistance, teachers must be tenured (over two year's service) in the District and be able to qualify for loans based on their personal credit rating. If the teacher leaves the District or moves from or sells the home, the teacher must repay the outstanding loan.

The loan is \$30,000 for five years, payable at the rate of \$500 per month. With standard annual salary increases, it is assumed the teacher's salary will have increased sufficiently at the end of five years to be able to afford both the mortgage and loan repayments without outside assistance.

The Grand Jury found that the program's concept was well intended and conceived. However, its implementation was lacking in both management and oversight. The Grand Jury learned that a loan was granted to a non-teacher. The Board did not formally meet during the first nine years of the program's existence. The Board did not begin meeting regularly until October 2009, after the Grand Jury began making its inquiries.

Currently, there are 48 loans outstanding, with 17 of them (35%) in arrears. After receiving hardship applications from delinquent borrowers, the Board negotiated terms with 12 of them, with property liens securing the loans.

Loan funding is currently suspended. An outside auditor will be hired shortly to determine if and when loan funding can resume.

Conclusions

1. There were serious delays in the Measure J bond program. The Grand Jury found that there was a lack of proper management to execute the program in a timely manner. There was also ineffective oversight.
2. The Grand Jury is concerned that the public may assume, as we did, that the CBOC has extensive oversight powers over the bond program on behalf of the voters. However, our investigation revealed that the CBOC has limited scope and responsibilities, as defined by the Code.
3. It is essential that all of the TMAP delinquencies be addressed as soon as possible in order to ensure that TMAP remains solvent and the program is able to provide continuous funding for teacher loans.

Findings and Recommendations

Finding 1

Only 25% of the total Measure J bond funding was spent from 2004 to 2009. The current schedule states that the remaining 75% is scheduled to be spent by early 2014. Given past performance, it seems unlikely this deadline will be met.

Recommendation 1a

The Board should periodically require performance versus plan data on Measure J to ensure schedules are on track.

Recommendation 1b

The Board should ensure that adequate resources are available to complete the remaining Measure J projects on schedule.

Finding 2

The TMAP Board of Directors failed to effectively oversee the program.

Recommendation 2

The TMAP Board of Directors should continue to meet regularly to oversee the program, in conjunction with District Board meetings.

Finding 3

In 2005, TMAP's first Program Director, who was not a teacher, awarded himself a TMAP loan, with the consent of the District Superintendent. In 2009, the new District Superintendent required repayment and removed the Program Director.

Recommendation 3

The TMAP Board should adhere to the intent of the program and limit approval of loans to qualified teachers in accordance with the charter.

Finding 4

Loan delinquencies are high and effective follow-up is lacking. Currently, 35% of the 48 outstanding loans are in arrears and 12 hardship requests asking for reduced payments have been received by the Board.

Recommendation 4

The TMAP Board should aggressively renegotiate outstanding loans with delinquent borrowers, and secure the loans with deeds of trust and secure legally binding new repayment schedules.

This report was **PASSED** and **ADOPTED** with a concurrence of at least 12 grand jurors on this 25th day of May, 2010.

Angie M. Cardoza
Foreperson

Judy B. Shaw
Foreperson pro tem