

WCCUSD Subcommittee on Clay Investigation
Alvarado Adult Education Campus

November 30, 2015
Minutes (as amended)

A. OPENING PROCEDURES

A.1 Call to Order

The meeting was called to order at 6:34 AM by Chairperson Liz Block.

A.2 Roll Call

Committee Members Present: Liz Block, Ivette Ricco, Valerie Cuevas (arrived 7:20 PM)

Staff Attendees: Lisa LeBlanc, Associate Superintendent for Operations; James K. Kawahara, Special Counsel; Phyllis Rosen, Clerical Staff.

A.3 Approval of Agenda

MOTION: Ms. Ricco moved to approve the Agenda. Ms. Block seconded. Ms. Block and Ms. Ricco voted yes, with no abstentions and Ms. Cuevas absent. Motion carried 2-0-0-1.

A.4 Approval of Minutes: September 23, 2015

Ms. Ricco corrected an error in Section B.2, second paragraph, changing “less conclusive” to “less inclusive.”

MOTION: Ms. Block moved to approve the minutes, as amended. Ms. Ricco seconded. Ms. Block and Ms. Ricco voted yes, with no abstentions and Ms. Cuevas absent. Motion carried 2-0-0-1.

B. DISCUSSION / APPROVAL ITEMS

B.1 Discuss approach and methodology for Phase I forensic accounting risk assessment

Ernie Cooper and Ana Rodriguez of Vicenti Lloyd Stutzman LLP “VLS” presented their approach and methodology for Phase I of the forensic accounting risk assessment. They provided handouts of two documents: 1) *Clay Investigation Subcommittee, Status Report* and 2) *Bond Program – Risk Score*, dated November 30, 2015.

Mr. Cooper discussed the work that has been performed and provided insight regarding the scoring process and interpreting the results. He clarified that the records request list was a living document that will be continually updated, and added that all records had been provided by the district in a timely manner. He said that an anonymous hotline was initiated on the district website on November 2, 2015.

Mr. Cooper clarified that the Risk Score document was a “draft” of the final risk score product, which summarizes the ten major categories. He added that the “risk score” column represented what the risk of waste, abuse or potential financial irregularity was at the time this concern was applicable.

Ms. Rodriguez spoke about the methodology used in determining the scoring and explained how more detailed information would be verified and displayed in the final report.

Mr. Kawahara asked Mr. Cooper for more detail regarding historical transactions. Mr. Cooper responded and commented on specific transactions within the conflict of interest category.

Mr. Cooper explained that there was only one limitation to the investigation which involved a former employee not being interviewed. Mr. Kawahara and Ms. LeBlanc provided clarification. Mr. Kawahara recommended that this issue be discussed in either a closed session of the Subcommittee or closed session of the full Board. Ms. Block commented that the Subcommittee should have been alerted to the entire issue beforehand and permitted an opportunity to be involved in any decisions that were made in communicating with the employee. Ms. LeBlanc recommended continuing the conversation under Item B.3.

Public Comment:

Tom Panas commented on the costs of interviewing the former employee and suggested asking members of the public if they would be interested in donating money towards legal fees.

Anton Jungherr expressed appreciation for the work done by VLS which he thought was comprehensive. He spoke in favor of having an anonymous hotline on the district website and having the district agreeing to the requests made by the former employee in order to obtain the interview.

Jack Weir, President of the Contra Costa Taxpayers Association, spoke on behalf of the voters and taxpayers. He said it was important to get to the bottom of the problems of the bond program and find out what happened so those responsible are fully exposed to the public and held accountable. He questioned the decision to discuss the matter of the former employee in closed session.

B.2 Discuss draft Executive Summary and draft Phase I risk assessment and potential scope for Phase II forensic accounting

Mr. Cooper explained that the field work has been completed and the rating provided is a template for Phase II. He offered recommendations for testing and validating the results in each of the ten risk categories, and provided examples of how the VLS team will work from a specific hypothesis to verify the veracity of the evidence.

He added that the risk score document he provided did not include the numerous controls that have been put into place today, and that part of Phase II will be to test those controls. Ms. Rodriguez explained the additional factors that will be included in the Phase II final report.

B.3 Discuss / Approve next steps including finalizing Phase I risk assessment and communicating updates to the Board

Mr. Cooper said that the final deliverable for Phase I will show the scope, hours and projected costs for Phase II. The document will consist of a risk matrix and document of steps proposed for Phase II. It will include current controls, work to validate the controls, and testing recommended for Phase II. He anticipated providing a draft of the final risk assessment document within two weeks. He said after that, the work in Phase II will be performed and based on that result, they will come up with a new risk score.

Ms. Cuevas asked what steps will be in place to ensure the district is doing its due diligence so that the results will not be questioned. Mr. Cooper said that they will be thorough and will ensure vigorous testing of controls to make sure they are adequate.

Ms. Block questioned whether future weekly updates could be made public. Ms. Cuevas moved to make future weekly updates available to the public, saying however that she did not want anything to interfere with the investigation. Mr. Cooper and Mr. Kawahara provided counsel and discussion followed regarding procedural requirements and potential difficulties. Ms. Cuevas withdrew the motion.

Mr. Kawahara asked the Subcommittee members for a formal recommendation on whether to provide the weekly updates to members of the Board of Education.

MOTION: Ms. Block moved to make the weekly updates available to the Board of Education. Ms. Cuevas seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0-0.

Public Comment:

Mr. Jungherr spoke about Brown Act requirements before and after a closed session to include public comment and reporting out immediately after. He spoke about the timeline for obtaining Board of Education approval for Phase II, and he spoke in favor of making weekly updates available to the public. Mr. Jungherr asked Mr. Cooper if the District would have the opportunity for a rebuttal once the draft report is available. Mr. Cooper responded that is not standard practice.

Fatima Alleyne said she came to commend the Subcommittee on their work although the level of high risk reported was disconcerting. She spoke about having difficulty obtaining a response to a public records request she made to the district and how she would also like to have transparency regarding the use of parcel tax funds.

C. FUTURE MEETINGS

Ms. Block asked Mr. Cooper whether the former employee's interview needs to be sought for Phase I. Mr. Cooper said it would be ideal to be comprehensive for Phase I and that it could have an impact on issues to be tested. Mr. Kawahara recommended that the Subcommittee discuss at either a closed session of the Subcommittee or closed session of the full Board what steps to take regarding the former employee's interview, and discussion followed.

MOTION: Ms. Block moved to hold a Closed Session meeting of the Subcommittee on December 8, 2015, to discuss facilitating the participation of the former employee that VLS is recommending to include in Phase I interviews. Ms. Ricco seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0.

MOTION: Ms. Block moved that staff request the Board President to place any recommendation regarding the former employee on the agenda for the Closed Session of the Board scheduled for December 9, 2015. Ms. Cuevas seconded. Ms. Block, Ms. Cuevas and Ms. Ricco voted yes, with no abstentions and no absences. Motion carried 3-0-0.

Discussion followed as to the best date to present to the Board with a target date of January 20, 2016, and scheduling the next Subcommittee meeting either January 7 at 6:30 PM or January 8 at 9:00 AM, depending on VLS availability.

D. ADJOURNMENT

Chairperson Block adjourned the meeting at 9:15 PM.