



CHINO VALLEY UNIFIED SCHOOL DISTRICT

Facilities/Planning Department

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CITIZENS' OVERSIGHT COMMITTEE MEETING MINUTES May 17, 2004

Mr. Valdez called the meeting to order at 5:01 p.m. with Michael Calta, Stuart Holland, Maurice Ayala, Gary Larson, Roger Larkin, Al Valdez, and Paul Andersen present. Andy Anderson arrived at 5:04 p.m. and Gerald Bruce and Geoffrey Vanden Heuvel at 5:30 p.m.

1. Review/Approval of Minutes from March 15, 2004

Mr. Calta made a motion to approve the minutes from March 15, 2004, seconded by Mr. Holland. All were in favor except Mr. Larson abstained as he was not at the meeting.

2. Public Comments

No public comments.

3. Consolidation of Questions from Members and Plan to Address Questions, and
4. Orbach & Huff Report and Dr. Saul's Memos

Mr. Valdez asked if everyone had received the packet of materials containing copies of the Orbach & Huff report and Dr. Saul's memos. Mr. Calta suggested that they construct a protocol by which the committee could have their questions answered in the most efficient and dignified way possible. Mr. Anderson asked if the questions would be from the committee as a whole or as individual members. He thought the group should be familiar with what is being requested. Mr. Ayala suggested they ask the people mentioned in the report to visit the committee and clarify some things. Mr. Calta thought that written form would be a better approach. Mr. Larkin said that responses to written questions might clarify the issues and if not, they could be asked to visit. Mr. Larson said two people would probably not visit and it would not be in their interest to answer. Mr. Calta thought some people might respond. Mr. Ayala thought it might be important for the record to reflect that they didn't answer questions.

Mr. Valdez said that lawyers compiled the report and by definition lawyers are advocates for the people who pay them. In his opinion, that fact may cause some bias in the foundation of the report. Without having the opportunity to interview the subjects who were the targets of the report, it's just an opinion based on years of experience. He also said there's been some allegations of legal violations, and it's unclear whether they are civil or criminal in nature. It would be against the penal interest of the people in question to answer questions whether written or verbal. He said the committee could proceed with a protocol to ask questions but he anticipated that they might not get any answers because parties may be advised not to make any statements to protect their civil and criminal liabilities.

Mr. Calta thought the committee should ask the questions and any clarification would be helpful. Mr. Anderson asked what the committee would do if they did receive some answers. Mr. Calta thought that as an oversight committee they should formulate and publish an opinion at some point. Mr. Holland said the annual report is due and they need as much information as possible for the report.

Mr. Vanden Heuvel asked if there was a "Reader's Digest" version of the reports available. Mr. Larkin said the conclusion summarizes the report. Mr. Vanden Heuvel thought it is important to keep their eyes on the big picture. He said some issues created some problems, the school board is dealing with them, and it is certainly something the committee needs to address, but there a lot of other things going on. He said the committee needs to productively use its time, get reports on the four projects, and not totally focus on this one issue. Mr. Valdez said if the committee gets involved in fact-finding, potentially they could be witnesses in a civil or criminal lawsuit. Mr. Ayala asked if becoming a witness is a negative. Mr. Valdez said it wasn't for him but it may be for others.

Mr. Larkin questioned whether the board was aware of what had been done as far as sending the invoices to the county for

payment. He said the report talks about everybody but the board, and it appears that some board members were aware of these things at the time they happened, yet there's nothing in the report that says anything about what the board did to try to correct it and keeping it from going where it went. Mr. Larson said elected officials vote and allocate dollars but do not see or authorize individual payments. Mr. Larkin asked if the board oversees the workings of the school district. He said the memos allege that board members are making decisions and telling staff what to do and that leads him to believe they were aware of what was going on in the report. If they were, he wants to know that and make sure the public knows. He thinks the committee is obligated to let the public know what the district is doing with taxpayer money and should be able to ask the questions and get answers. If not, he doesn't think the committee is even standing. He thinks someone is dictating to the committee and as a taxpayer, he won't allow an elected body to dictate to him when they work for him.

Mr. Ayala agreed and also harbored a degree of embarrassment that all this was going on and the committee wasn't able to take the lead to catch it. He hoped the questions might lead to a mechanism to get the committee further upstream in the information process in hopes of preventing this type of thing happening again. Mr. Larkin agreed and felt the committee was left totally out of the loop and he feels it was intentional. Mr. Calta said as far as the agenda item they could agree on a procedure and timeline to submit questions, get answers, form opinions, and make statements or findings. Mr. Larkin wants to be able to let the public know the facts the committee found dealing with the allegations. Mr. Calta said they couldn't ignore it. Mr. Ayala asked if they want to make the fact-finding a part of the annual report or separate. Mr. Calta said it would be part of the report.

Mr. Vanden Heuvel made a motion that any members with questions on the reports, submit the questions by email in the next seven days, those questions be forwarded to the appropriate parties and schedule another meeting in four weeks to review the questions and whatever answers received. Mr. Calta seconded the motion. Mr. Anderson asked if there are any Brown Act issues with emailing among the members. Mr. Larson said it could be construed as a violation unless everyone submits questions directly to staff. There was discussion regarding to whom the questions should be emailed. Dr. Andersen said he would receive the questions, there might be duplicates, and questions may not get answered. Mr. Vanden Heuvel said the relevant point is that the committee does need to receive the reports and ask questions and attempt to get information and make comments. If a consensus emerges they can report it.

Dr. Andersen asked the members to be as specific as possible making reference to the page or paragraph in question so he won't have to interpret any of the questions. He said if he had the questions by Friday, he could give an answer in a week on the consensus and another few weeks to get any answers back.

Mr. Valdez asked for a vote on the motion. All were in favor.

5. PCM3, Neff and Vanir Update

Dr. Andersen gave an update on the various consultants retained by the District.

- PCM3, the program manager, is involved in a three-phase program: 1) closeout of older projects, 2) Ongoing construction program, Woodcrest Junior High and modernization of Don Lugo, Walnut, and new school construction at Bird Farm, and 3) Develop an implementation plan for future Measure M projects.
- Mr. Steve Bachor, the program director, was at the meeting.
- There was a major meeting the prior week with construction managers, consultants, architects where PCM3 outlined the needs to standardize on a number of issues.
- Mr. Bachor explained there are no standardized communication systems in place with the district, i.e., forms, pay applications, RFI's, submittal registries, etc. He said it appeared each site had a different method of doing things and the first goal is to standardize communications. The next goal is to standardize the contracting mechanism, curriculum standard needs, and scope of work in order to control budgets and schedules, and provide the information the committee would like to see.
- Dr. Andersen said the bids for Bird Farm had been received and recommendations are being prepared to take to the board at the next meeting. They had been prepared for higher than usual bids costs as the construction managers had warned that construction costs had recently increased significantly. However, the impact wasn't as great as expected and stayed under 10%, depending on a few recommendations to the board to accept some bids. He said there were a minimum of two bidders and generally 3-5 bidders for most categories.
- Vanir Construction Management Company is working on the Walnut project with the bids due later in May. They have been giving feedback to the architects regarding constructability reviews and value engineering, and have made an excellent start with a professional attitude. They didn't want to waste any time understanding the situation as quickly as possible so they could provide the best service.

- The Don Lugo bid was awarded for five of the categories, and Categories 6 and 7 were delayed. Rossetti Construction has started work. They had already gutted a whole building. Don Lugo will still be able to hold summer school at the campus this summer.
- Mr. Anderson asked about the discussion regarding the major electrical changeover and the importance of getting that bid out by the end of March, if that would be accomplished this year. Dr. Andersen said it had not been decided when to move forward on the Blue phase, which includes the electrical changeover. The district is looking at options and it is possible to do the Blue phase later than anticipated, but a final decision hadn't been made. He said the entire Blue phase could not be done now because it is dependent upon moving classrooms from one area of the campus to another. He said some portions of this phase could be done, primarily trenching for the electrical upgrade. The campus is full bore into the Red Phase modernization, which is a lot of work.
- Mr. Anderson asked who would be involved in making the decisions about the phases. Dr. Andersen said it was an ongoing topic in the construction meetings, and everyone is involved, PCM3, the CM, the architect, the principal and staff.
- Mr. Valdez asked who the CM was for the Red phase, and Dr. Andersen said B.E. McMurray. Mr. Valdez asked who would be the CM for the Blue phase, and Dr. Andersen said there is no contract on the Blue phase yet. Mr. Valdez asked who the contact person is with B.E. McMurray; Dr. Andersen said Richard Negley.
- Mr. Calta asked if anyone was being considered for the Blue phase. Dr. Andersen it was privileged discussion at this time.
- Mr. Holland asked Mr. Bachor about the reference made at an earlier meeting about a website. Mr. Bachor explained that PCM3 staff had talked with someone in information technology at Don Lugo about putting a link to their website, www.pcm3.com. There are plans to link the other projects with the website also to provide photographs of the ongoing work.
- Mr. Ayala asked if the Chino High School stadium was being painted yet. Mr. Bachor said the last time he was there it was still wrapped up for abatement. Dr. Andersen said the painting was a 10-day job. The abatement had taken three, close to four weeks.

6. New Construction/Modernization Status

The status report prepared for the previous Board meeting was handed out to the members. Staff and PCM3 are working on current challenges mentioned in a letter referred to by Mr. Calta. Mr. Holland asked about the project to move portable classrooms from Woodcrest Junior High to Wickman Elementary. Dr. Andersen explained that the project had its DSA review earlier in the week, the bid package will be put together this month and the goal is to complete the project in July. He said there would need to be alternate strategies for accommodating students when school starts in July. He also said that Woodcrest will be able to free up the portables and will no longer need them to house students. Mr. Holland asked about the Construction Zone link on the district's website and that it had up-to-date information. Dr. Andersen said that Julie Gobin, the district's public information officer, is the author of the Construction Zone. Ms. Gobin was present at the meeting and explained that she's preparing a link to Don Lugo so students, teachers, parents and other community members can keep updated on what's happening at Don Lugo. Dr. Andersen said they were also working on getting maps out that clearly depict which buildings will be done and when to keep the community informed. Mr. Holland read that the estimated occupancy date for Woodcrest Junior High is March 2005 and asked if it had been pushed back six months. Dr. Andersen confirmed that that was true.

7. Review of Current Change Orders/Past Expenditures

Dr. Andersen said that the goal is to bring to the member's attention all of the change orders that were processed since the last meeting. Mr. Calta said it was helpful to have the total number of change orders for Wickman as well as the revised project total. He commented that Liberty change orders were relatively low. Dr. Andersen agreed but said that all of the change orders are not processed yet. Mr. Bruce noticed that there was a discrepancy between the change order numbers. Dr. Andersen said if he would bring in the contractor and the amount, he could research the information for him. Mr. Calta asked if it was anticipated that there would be fewer change orders with Neff Construction. Dr. Andersen said he didn't want to speculate.

Mr. Larkin asked about Change Order No. 27 (2,5-15), Item D, for Rhodes, regarding the deletion of planter material, irrigation and kindergarten area inside curbed wall and add concrete flatwork at deleted areas with a \$14,000 cost and no credit for the deletion. He asked about Change Order No. 29 for Rhodes, Item B, for replacing 19 broken laminated glass panels. He asked how they were broken and why is the district paying to replace them. Mr. Ayala asked about Change Order No. 30 for Rhodes street improvement to pressure wash the exterior stucco surface with water, the reason was that it was necessary before applying waterproofing. He thought that would be normal procedure in the course of applying

waterproofing and questioned why it would be a change order. Mr. Bruce said there are numerous items that said the justification was "not in original plans." He asked if with the new firms there would be a more concerted effort to be sure that the district would be getting everything needed in the first set of specifications. Dr. Andersen said he couldn't promise that some items wouldn't be left out.

Mr. Vanden Heuvel it is important to remember that the district was in a big hurry after the bond passed to get started. The construction manager was under pressure to move the projects forward and may not have caught everything. He felt that it's okay to ask the questions but the district is hiring a lot of expertise now and we have more time. Mr. Valdez agreed that it should be avoided in the future because the classroom needs will be standardized.

Mr. Larson asked if it was the architect's responsibility to verify the necessary items are in the plans and, if he doesn't, does the district have any recourse back to the architect, and asked if the district was following up on those things that were blatantly overlooked. Dr. Andersen said the district would have recourse if it can be proven that it was an architect's omission. Some changes will enhance the projects and may be feasible right away or may need to be put off. Some changes incorporated into the Bird Farm plans are results of things found while building Wickman and Rhodes. So hopefully there won't be as many change orders on Bird Farm as on Wickman and Rhodes. This wouldn't necessarily mean that one construction manager is doing a better job than another. But he said there also are situations where the district gave the architects direction and they haven't followed through and the district is following up on those situations.

Mr. Ayala said that Change Order No. 34 for Wickman referred to light fixture clearances that appears to be an architect omission. He questioned whether this was in fact a cost for which the architect is liable. Dr. Andersen said he would investigate all of the change orders mentioned and get back to the committee.

8. Application Process for New Members

There was discussion about soliciting new members. Julie Gobin explained that she sent out a press release the prior week explaining the criteria and the deadline, requesting a letter of interest and, if possible, a resume from interested parties applying for the two openings, a parent of a student in the district, and community member at large. The cities and the Chamber of Commerce hadn't been notified yet. Mr. Larkin asked that a list of those members whose terms would be expiring be sent to the board president so the board would be aware that these positions were opening. Mr. Holland asked if the same procedure of using an independent agency would be followed this time around, or if the board would be reviewing the applications. The terms will end June 30th. Mr. Larkin asked if new members aren't on board subsequent to that date, would the number required to vote change. Dr. Andersen said if the appointments could be made in the first board meeting in July and then the new members would be present at the oversight committee meeting in July. Mr. Calta said that State law says there only needs to be seven members, and they added the extra members. Dr. Andersen said it was still an 11-member committee and there needs to be six to have a quorum, so as long as there are six members present to vote, they'd be okay.

9. Follow-up on Changes to Bylaws
a. Upcoming Election of Officers

Dr. Andersen said the two requested bylaw changes are scheduled for approval at the May 20th board meeting. Mr. Calta suggested that there be a nomination period for electing officers and an opportunity for each nominee to present their view of why they would like to be chairman or vice-chairman and then take a vote.

10. Annual Report – Due after July 2004

Mr. Holland distributed a draft of the annual report for review and asked if everyone would review it and get back to him with recommendations. They could review and finalize the report during the June meeting that was discussed. It is due in July.

11. Financial Expenditure Summary for 7/1/03 – 6/30/04

Mr. Calta said this summary is not helpful for him and other members agreed. Dr. Andersen said he knew it was difficult to understand but it is the official record of expenditures and he thinks it is appropriate that they have the record. Mr. Valdez asked if the information could be summarized in one-page. It was suggested maybe a member could devise a format.

12. Financial Audit Questions

Mr. Calta had previously submitted some questions to Dr. Andersen for the financial audit auditors. Dr. Andersen explained that he forwarded the questions to Cynna Hinkle, the Director of Business Services, and asked her for a response if these questions would be appropriate to ask of the auditors. He hadn't gotten a response back from her. Mr. Calta said the audit was going on now and said any questions would be timely now.

13. B.E. McMurray Management Changes

Dr. Andersen said there were some changes in personnel. Mr. Rich Negley is the lead representative. He has made changes to the team at Woodcrest. Dennis Kuykendall is the project manager. At Don Lugo, the same team is in place, Craig Hains is the project manager and Butch Redfield is the Superintendent. Mr. Ayala asked how many projects the firm is involved with at this time. Dr. Andersen said there were two, Woodcrest and Don Lugo. They have closeout on the other projects. Mr. Calta asked if there was any improvement or if it was too soon to tell. The PCM3 letter didn't seem to imply there was improvement. Dr. Andersen said PCM3 is continuing to assess the situations and bringing any issues to their attention. Mr. Calta asked if there would be any more projects being given to them, and Dr. Andersen declined to speculate. Mr. Holland asked if Wickman was considered to be a closeout, because there was additional work being done. Dr. Andersen said that was a bid separate from the original contract.

Mr. Valdez asked if there is an estimated date for closeout of Chino Hills High School. Mr. Bachor said there isn't a definite date yet. PCM3 has a closeout expert, Jeff Thrift, who is working with B.E. McMurray and the architects on all the closeouts. Dr. Andersen said the district had filed a number of Notices of Completion for several categories at Chino Hills High School but there's still a ways to go.

14. Other Topics

Mr. Anderson asked if there had been any correspondence received from the public since the last meeting. Dr. Andersen said he hadn't received letters but there had been numerous news articles and editorials regarding the district's projects. Mr. Anderson asked if the recent layoff notices would impact the need for any of the ongoing or future projects. Dr. Andersen said reducing teachers reduces the need for classrooms. However, the elementary schools for the most part are operating at or near capacity. In general most elementary schools have one or maybe two empty rooms. At the junior high level, four of the five schools are at capacity or very close. Woodcrest is not at capacity and won't be for several years. The high schools have additional capacity. The impact is an eligibility issue. If you have or need less staff, you need fewer classrooms. If you need fewer classrooms, it affects eligibility in the State program. The net result is as the need for teachers and classrooms is reduced eligibility is reduced. He doesn't believe the schools proposed under Measure M would not be needed. The only other proposed new school is the Richland project, and that one isn't planned for six to eight years. He said the district clearly needs Bird Farm Elementary School because Wickman is impacted and needs relief. He said as far as the junior high capacity is concerned, the attendance area could be adjusted to take advantage of the available space at Woodcrest. Mr. Ayala asked about the Butterfield Ranch capacity. Dr. Andersen said capacity has a fluid definition when it's year-round, but they couldn't operate on a traditional schedule with existing enrollment. Mr. Holland said that one class in each grade at Butterfield Ranch basically is filled with children overflowed from Wickman.

Mr. Valdez said he was appreciative and proud of the professional demeanor displayed by members in light of all the controversy going on with the school district. He said the members still have and enjoy a very good relationship with staff and the board.

Mr. Vanden Heuvel said the meeting in June is being arranged specifically to address questions on the reports. The next meeting was arranged for June 21, 2004 at 5:00 p.m. Mr. Valdez said he wouldn't be in attendance because he would be receiving his Ph.D. in psychology on the June 11th and would be taking a vacation the last two weeks of June.

Dr. Andersen reviewed the procedures discussed. He would receive all questions in a week, the summary of the questions would be sent back to members in another week. He commented that the Ohrbach report contained material inaccuracies. Mr. Vanden Heuvel said that he might not be at the June meeting and this would probably be his last meeting since his term was over and the Chamber would probably appoint someone else. He appreciated the way the committee didn't focus on the minutiae and kept their eyes on the bigger picture. He feels that a phenomenal amount of work has been accomplished in the last couple of years, a lot of positive things have been done, and the mistakes that have been made appear to be people trying to meet some deadlines and push harder and gotten crosswise with regulations. He felt like it had been a good experience. Mr. Valdez said Mr. Vanden Heuvel's presence and input were appreciated.

The meeting was adjourned at 6:34 p.m.

Draft