

Academically Speaking

March 8, 2011

Colleagues,

You must be feeling a swirl of emotions after reading the series in The Times. If you're like me, anger, embarrassment, and sadness are all mixed in there together.

You're probably also perplexed as to how to evaluate many of their charges, since you're not likely to be familiar with some of the issues. While lots of you now have a detailed knowledge of college facilities planning, there are really only a few of us (speaking only of faculty) who have a deep knowledge of district bond oversight. Oddly enough, it pretty much comes down to Valley Senate President Don Gauthier and me. We've both served on Bond Steering for the last several years (joined last year by Guild leaders Joanne Waddell and Armida Ornelas), and we're the only faculty members on the Energy Oversight Committee. As you know, I'm also at all Board meetings.

In an effort to help, I've written an assessment of two key areas of the bond program, oversight and energy, both of which are featured in The Times's series. I then make some additional comments. I won't discuss the articles about Valley or City, given that I have no first-hand knowledge about the problems there, but maybe Don and City Senate President Ken Sherwood can weigh in on those at a later date.

My comments are a bit long, but there's a lot to say. (There's a summary conclusion, if you want to just read that.) I hope you find them useful.

Bond Oversight

I attended my first Bond Steering Committee (BSC) meeting in 2007 with a very high degree of interest: I'd been deeply involved in bond issues at East since the start in 2001; I'd heard complaints for years about the district project manager, DMJM; and I knew that the faculty were not represented, something I was eager to rectify. I also brought a passionate interest in sustainability, and was eager to initiate a district-wide initiative with Larry Eisenberg and others.

What I found surprised me. The committee met with no advance agenda. No minutes were taken. Some key members had dropped out and not been replaced. Topics were usually of a technical nature, and a few months in, when I suggested that we should spend more time looking at policy issues, a senior staff member told me that that wasn't the role of the committee. Don joined after about six months, followed by Guild representatives some time later. Over the course of the next two years, a number of changes have been instituted, and it has now become a true steering committee (you can find the minutes at www.laccdbuildsgreen.org/about/oversight). There's no doubt, however, that for a number of years it was not functioning at anywhere near the level it should have been.

Nor was the District Citizens Oversight Committee. Everyone I've asked, including senior

staff, say that it's never been an effective committee. It has never done aggressive investigations, largely due to their meager budget. A member of LAUSD's very successful oversight committee told me recently that, without a strong budget, oversight committees can't do their job. Word is that the DCOC has become more assertive recently, though I haven't seen any sign of that.

Finally, there are the audits. In rebuttal to The Times, the district has claimed that we have been intensely audited. That's a misleading statement. Moss Adams, our performance auditor for the last several years, only investigates Prop. 39 compliance issues. (Prop. 39 was the 2000 law allowing school districts to pass bonds with 55% of the vote.) It wasn't asked to look into other areas. In fact, just to nail this down, I made a point at the February BSC meeting to ask them whether they had looked into the district energy plan and compensation levels for consultants. They hadn't. Nor had they audited the West project overrun. Nor had they looked at the Inici contract (an \$11 million whole-building commissioning contract that was awarded without competitive bidding). Yes, their audit did show a high degree of compliance with Prop. 39, but no greater claim can be made for it. Unfortunately, the district continues to make one. When pressed for an example of a non-Moss Adams performance audit, our publicist could only refer to the one ordered after the Valley Allied Science Building's disastrous opening. But that hardly supports the argument that the bond program had been audited appropriately throughout the years.

In summary, I believe the Times's accusation that the program has been poorly overseen is accurate. I don't think any objective observer could say otherwise. Responsibility falls primarily on the Board. It was their job to ensure adequate oversight. Instead they allowed Larry Eisenberg far too much leeway. (In the last year, some trustees have taken a much more aggressive tone, Miguel Santiago in particular.) Others are also responsible, however. Chancellors before Tyree Wieder should have insisted on greater say. College presidents shouldn't have left the BSC in frustration. DAS and Guild leaders should have served on the committee. Ignoring it was a major error. Unless we candidly acknowledge these mistakes, we're not going to get the oversight we need.

Fortunately, some important steps have now been taken to improve the situation, with the appointment of an Inspector General, the implementation of a whistle-blower policy, and the reform of the BSC the most significant.

Energy Program

In December, 2008, Mark Drummond asked me to join Ernie Moreno and a few others on an ad hoc committee to review the energy plan that Eisenberg was proposing. (I hesitated initially, but he assured me that we could get our work done in a month or so. It didn't quite work out that way!)

It seems to me that The Times has this one exactly right, and the three members of the committee that I've talked to agree with me. They're correct about the basic problem--a wildly unrealistic energy vision--and they're correct with the numbers. The chronology is accurate. To look at just one example of this overreaching, Eisenberg promised the Board that the \$120 million set aside for energy in Measure J could be leveraged to give us over \$600 million worth of projects, a payback of some 500%. This would be

accomplished by taking advantage of private/public financing arrangements, tax credits, and other means. We were naturally suspicious from the start. When we brought in disinterested experts--First Southwest, the firm mentioned in the article--as opposed to financiers trying to sell us something, our doubts were confirmed. The payoff would be nowhere near his projections.

I would just add that one person has been crucial in bringing sanity back into our bond energy program: Tony Fairclough, an engineer and energy expert who has worked for the district for the past ten years. It was his detailed warning to Mark Drummond that led to the formation of our committee and his level-headed analysis that allowed us to set reasonable parameters.

Contributions/Markups/Compensation

A few comments on other articles:

Offhand, it seems a bit unfair to fault the trustees for taking money from contractors. Wise or not, it's common practice at all levels of government for developers to donate to campaigns. I'd like to hear more as to how their behavior was different from other officials.

I don't think the reporters were clear enough with their "Markups by 'body shops'" article. The title and opening paragraphs leave you with the sharp impression that the district was engaged in an unusual practice. The Board spent a lot of time looking at this last year and was assured by BuildLACCD director Lloyd Silberstein that it was actually routine. While I never understood how it added up financially, I was at least persuaded that it was common practice. The reporters don't make that clear, certainly not in the first half of the article. They do go on, however, to make some pretty troubling allegations. Still, until I have a better basic understanding of this practice, I'm going to withhold judgment here.

Markups aside, there's no question that a number of bond staff members were highly overpaid and/or doing work for which they had no expertise. I first learned of this in the context of the energy program. The director of the district's energy team was very handsomely paid to do essentially nothing (and had no academic training in energy). This went on for about a year. I'd heard of the "wind expert" and others mentioned in the first article and know of other such cases. In one, the district paid roughly \$700,000 over two years for someone to do the work of an executive assistant. I warned one trustee about some of these cases two years ago, but to no effect.

Summary

While I'm uncertain and skeptical about some of the allegations, I do think that the reporters are right on the mark in three areas: 1) bond program oversight has been very inadequate over the years, 2) the energy plan was dangerously out of control up until early 2009, 3) numerous consultants were significantly overpaid.

Things have improved considerably: Oversight is better, with the Inspector General in place and a more vigorous Bond Steering Committee. BuildLACCD seems to be much better run. Dubious consultant arrangements have been terminated. Clearly, however, the future of the bond program remains very unsettled.

Sadly, in spite of all we've accomplished--wonderful new buildings and renovations on every campus--we now face an angry public, and they have cause. What a shame.

I welcome your comments.

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