

Report Card

Pajaro Valley Unified School District

Synopsis

The 2006-2007 Grand Jury conducted an investigation into the performance of the Pajaro Valley Unified School District. The jury investigated how well the district's board of trustees has managed its fiscal oversight responsibilities and looked into allegations of an appearance of conflict of interest on the part of the superintendent. The jury found that the district, in particular its board of trustees, has in many respects failed in the performance of those duties. The board did not provide effective oversight of fiscal matters nor did it take corrective action for failed management tools and practices. The results of the investigation of the appearance of a conflict of interest are inconclusive.

Background

The Pajaro Valley Unified School District (PVUSD) Board of Trustees is charged with providing the children in the district with the best possible education. It is the board's responsibility to assure the taxpayers that school funds are spent legitimately and efficiently and that the students are getting the highest quality teachers, curriculum, and school facilities possible. It is also the board's responsibility to hire and give direction to a superintendent who is responsible for managing school funds and instructional programs.

Not only has the PVUSD board failed to meet its responsibilities, but according to local papers, the school district continues to be in a state of chaos.¹ The board continues to be criticized by local newspapers and community members for years of failure to bring its students up to grade level and meet state and federal requirements.

The district has argued that political interference, unfair measurement tactics, lack of funds, impoverished families, the prevalence of speakers of English as a second language, cultural imperatives, and micromanagement have hindered the district's progress. However, the question remains — has the Pajaro Valley Unified School District provided its students with the education they deserve?

The Grand Jury investigated reported problems with the PVUSD and its superintendent of schools, as well as concerns that large sums of money and resources have been wasted. The Grand Jury discovered that the district not only paid more than \$1,300,000 for an educational program and related materials that were inadequate and inappropriate, but the materials were purchased from the new superintendent's recent employer and she did not exempt herself from the purchasing process. Did her position as superintendent have a direct or indirect influence over those purchases? That is one of the questions the Grand Jury set out to investigate. The Grand Jury also looked into how the Pajaro Valley Unified School District Board of Trustees handled its fiscal oversight responsibilities.

¹ *Santa Cruz Sentinel*, "County school boards OKs office move, Pajaro Valley educators, trustees blast deal to buy Harvey West space," April 21, 2007.

Scope

The Grand Jury investigated:

- The allegation of conflict of interest by the PVUSD Superintendent of Schools
- The PVUSD Board of Trustee's oversight of the district budget, expenditures and construction projects
- Possible Brown Act violations
- Teaching standards and related expenditures
- The viability of the "Zone System" — the geographically determined management structure by which the district is organized

The Grand Jury conducted 45 interviews of:

- Voters
- Parents
- Students
- Board members (past and present)
- Administrators
- Community Activists
- District and School Staff, Site Council Committee Members
- Teachers

The Grand Jury reviewed:

- Board minutes from the internet archives for the years 2000 – 2007
- Prior years' board reports
- Documentation
- Contracts
- Press releases
- Promotional materials from America's Choice and the National Center for Education and the Economy

Terms and Definitions

America's Choice

A for-profit company selling educational strategies, training, materials and texts. Was an integral part of National Center for Education and the Economy, an educational strategies developer and promoter.

Board

Pajaro Valley Unified School District Board of Trustees.

COP

Certificate of Participation — a type of financing where an investor purchases a share of the lease revenues of a program rather than the bond being secured by those revenues.

County Office of Education

Santa Cruz County Office of Education (COE) has responsibility to oversee all school districts within the county for good governance, fiscal integrity and to supply centralized services.

DAG Report

A report by the District Alternative Governance Committee on the failure of seven district schools to meet educational standards.

District

Pajaro Valley Unified School District.

FCMAT

Fiscal Crisis and Management Assistance Team — a State of California organization mandated by AB1200 to help California's local educational agencies fulfill their financial and management responsibilities.

FPPC

Fair Political Practices Commission — a California State body charged to ensure fair, impartial interpretation of political campaign, lobbying and conflict of interest laws.

Gold Study

English Learner Programs Evaluation, February 2007, Norm Gold Associates. A study which determined many of the problems of the districts' delivery of education to the English language learners population of the school district – approximately 45 percent of the schools' population.

Management Audit Study

Organizational and Efficiency Study, October 12, 2004, School Services of California. A study commissioned by PVUSD Board of Trustees and prepared for the board's Management and Audit Committee. Its scope included interviewing more than 130 employees and community members and reviewing the organizational and functional practices of the PVUSD administration.

Nine Essential Program Components

Nine teaching and administrative strategies to ensure quality education and grade level attainment for all students in English, reading, language arts and mathematics, as designated by the California Department of Education, September 2006.

NCEE

The National Center for Education and the Economy — a developer and promoter of America’s Choice Strategy training, materials and texts.

SAIT

California State Department of Education’s School Assistance and Intervention Team. The SAIT process is a state intervention currently charged with bringing the two district schools into compliance with state educational standards.

Findings

A. The Purchase of Educational Materials Influenced by the PVUSD Superintendent of Schools

1. In early 2003, within months of leaving a position with the for-profit company America’s Choice, the superintendent asked a subordinate to purchase the America’s Choice Million Words Campaign. This request was followed up in 2003, 2004, and 2005 when she encouraged subordinates to purchase a multi-year educational program from America’s Choice — including licenses, texts, materials and training — for three schools. Amounts paid over the three-year initial period (2003-2004, 2004-2005, 2005-2006) amounted to more than \$1,300,000, according to a review of the documentation

Response: The Pajaro Valley Unified School District (PVUSD)

DISAGREES.

In 2003, and during Dr. Mary Anne Mays’ employment at National Center on Education and the Economy (NCEE), America’s Choice was a program of a “not for profit” organization.

The Million Word Campaign is an idea, not a thing and therefore cannot be purchased. No funds were expended by the district “to purchase the America’s Choice Million Words Campaign.”

Information about the America’s Choice comprehensive school design had been presented to a number of PVUSD schools prior to Dr. Mays’ arrival. The district was introduced to the program as early as 2000 when America’s Choice information was obtained at a seminar and shared with Pajaro Valley Unified School District staff.

Each school had a team that reviewed different state-approved program options. These teams consisted of parents, teachers and administration, and each decision required a vote by either staff or a subset of staff (Watsonville High School). Three PVUSD schools selected America’s Choice as their partner by using a thorough process of review and site-based decision making involving a team approach.

The district did not spend \$1.3 million on America's Choice. The expenditures from 2003 through 2006 were under \$950,000, or approximately \$300,000 per year. It is common for purchase orders to be cancelled or only partially filled prior to payment, which may account in part for the misinformation in the Grand Jury report. All requests for continued involvement came directly from sites.

2. The superintendent was intimately familiar with the America's Choice program. According to her resume, when she was employed by the National Center for Education and the Economy (NCEE), she "assisted in the development and refinement of the comprehensive school design America's Choice." America's Choice is a subsidiary of NCEE.

Response: The PVUSD AGREES.

This is an accurate statement. The America's Choice Design is based on extensive research. It was one of the comprehensive school reform models specifically identified in the Obey-Porter Comprehensive School Reform Act. Dr. Mays is proud to have been a part of its development.

3. The superintendent, as a former employee of America's Choice, was reportedly offered a stock purchase option.

Response: The PVUSD DISAGREES.

This is a statement of rumor in complete contradiction of facts. The Grand Jury was provided a letter dated April 26, 2007 from America's Choice indicating that it was not a "for profit" organization at the time of Dr. Mays' employment. The letter states that when it did become "for profit" in October 2004, Dr. Mays was not an employee and was not offered any stock option. The Grand Jury had this letter prior to the release of the report, but chose to disregard this information. It should also be noted that the letter from America's Choice submitted by Dr. Mays to the Grand Jury was among several items not listed as source documents in the Grand Jury's report. Additionally, a letter has been submitted from Jason S. Dougal, General Counsel, The National Center on Education and the Economy, America's Choice, Inc. to The Honorable Judge Paul Mariganda, Presiding Judge of the Superior Court, further clarifying this issue.

4. The superintendent's did not clearly indicate her connection to America's Choice when she encouraged its purchase by her subordinates.

Response: The PVUSD DISAGREES.

Dr. Mays did not encourage the purchase of America's Choice by her subordinates, therefore the remainder of this statement is inconsequential.

As stated in #1 above, the process of choosing a program was in motion prior to Dr. Mays' hiring as superintendent. In any discussion with staff, Dr. Mays was open about her prior affiliation with the education curriculum development, a key qualification for her role as an instructional leader.

5. The district's ethics policy includes conflict of interest guidelines which may apply in this type of situation, but because this policy is not dated, it is not clear when it went into effect.

Response: The PVUSD DISAGREES.

The district's ethics policy does not apply as there was no conflict of interest or coercion on the part of the superintendent. The superintendent has not had any ownership or other financial interest in America's Choice. School staffs selected the design as part of site-based decision making on the expenditure of categorical funding. It should be noted that any duly diligent inquiry by the Grand Jury would have yielded the fact that the district's ethics policy in effect on the date of Dr. Mays' employment was clearly dated as having been adopted October 8, 1997, with related Board Policy Exhibit 9270 dated September 24, 1997.

B. PVUSD Board of Trustees' Fiscal and Management Oversight

6. Several concerns with the budget review process were investigated.
 - 6.1 The PVUSD's annual budget and amended budgets are often delivered to the board without adequate time for the trustees to study and understand their contents.

Response: The PVUSD DISAGREES.

This statement regarding adequate notice of proposed budgets is one of opinion rather than fact, and depends upon any given trustee's interest in the budget and willingness to meet with district staff outside of a board meeting during the budget preparation period.

Trustees have had, and continue to have, the opportunity to meet with either the Associate Superintendent of Business and/or the Director of Finance at any time. Some trustees have taken advantage of this opportunity and others have made the personal choice to not meet with district finance personnel. In addition, as is the case with all California school districts, final budget numbers are contingent upon the State Legislature and the state budget, which often is not approved prior to the district's budget adoption, meaning some of the information is subject to change up to the date of the budget adoption.

- 6.2 According to some board members (past and present), they are discouraged from asking questions because asking questions makes the meetings last too long.

Response: The PVUSD DISAGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury's report on the comments of some trustees.

It is the responsibility of each trustee to come fully prepared to a board meeting. This may mean a willingness to meet with district personnel prior to a meeting to review questions and concerns a trustee may have. This is especially true in the case of budget adoption, where a trustee is

responsible for a budget of over one quarter billion dollars (\$268 million: \$178 million General Fund including unrestricted and restricted funds (categorical); \$90 million of miscellaneous funds such as charters, construction, food services, self insurance and other similar funds.)

Each trustee takes the personal responsibility to ask questions and understand the budget so that he or she is well prepared at a board meeting. The Business Department encourages trustees to ask questions prior to a board meeting, as questions raised during a meeting may require research and thus cannot always be adequately answered at the meeting.

Each board president runs meetings according to his or her professional standards and expectations, with some adhering to a tighter schedule for trustee questions and comments than others. Trustees are knowledgeable about how each president runs meetings, and it is a trustee's responsibility to prepare appropriately. During her time on the board, from 1994 – 2006, one trustee left each meeting promptly at 11:00 pm, citing the Americans with Disabilities Act. If a budget discussion occurred during that time, the discussion was generally ended at her request so a vote could be taken. The aforementioned trustee was board president twice during the time in question, and meetings ended at or before 11:00 pm under her presidency, which naturally limited discussion on all topics.

In PVUSD, a board president's conduct of meetings generally allows for a broad discussion, encouraging trustees to discuss topics and ask questions at length. This has led to many meetings lasting well past midnight.

- 6.3 Some board members reported that they do not understand the budget and that the budget and amendments are not an area of their individual interest.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury's report on the comments of some trustees.

PVUSD cannot control what areas interest a trustee. Trustees have ample opportunities to take advantage of budget trainings, workshops and one-on-one meetings with representatives from the Business Department. Budget workshops are held at least twice per year at either regular or special board meetings, and the Business Department is available to answer questions and help trustees understand the budget on an individual basis.

California School Boards Association (CSBA) offers a number of classes and seminars on school district budget for trustees throughout California. School Services of California, a private organization, also runs budget seminars for trustees to attend. PVUSD trustees are encouraged to attend these seminars, some of which are local (within a 30-mile radius) and/or on weekends.

Trustees are elected for a variety of reasons and there are no job requirements for this elected position, nor any requirements that once on

the school board a trustee learn about budgets. It is a trustee's personal decision if he or she wishes to take advantage of the wealth of training and individual meetings with finance personnel. Some trustees have chosen to take advantage of this opportunity and others have not. It is possible that some trustees are simply not interested in the budget, but rather choose to focus on areas such as student achievement or employee accountability.

It is, therefore, the personal choice of an individual trustee to take advantage of the many opportunities to become more comfortable with the budget of a school district.

7. There are differences of opinion within the board as to what constitutes appropriate fiscal oversight.

- 7.1 A number of trustees (past and present) stated they prefer to trust that the budget is an accurate and efficient document not needing their input or oversight.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury's report on the comments of some trustees.

An opinion is not a fact, and PVUSD cannot disagree with opinions. Some trustees, both past and present, could have this opinion.

Trustees are not generally elected based on the ability to manage a one quarter billion dollar budget. However, budget oversight is one of the many responsibilities of a trustee. Board Policy 9000(b), revised and adopted July 26, 2006, deals specifically with the role of the board and the budget. This replaces Policy 9000 adopted on May 27, 1998. Trustees are not involved in the day-to-day operations of a district, and therefore, like all boards overseeing large business entities, rely on the expertise of business and financial professionals.

- 7.2 None of the board members interviewed (past and present) knew the dollar amount or types of purchases that should go to the board for approval.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury's report on the comments of some trustees.

This item deals with a trustee's personal knowledge and responsibility for learning and retaining information, something that PVUSD cannot control.

It may be true that the past and present trustees interviewed and asked this question have not reviewed the board policies provided to them, or in the case of past trustees, have not retained this information as it is no longer pertinent to him or her.

Board Policy 3156, provided to all past and present trustees, states, "The Superintendent shall submit purchase orders that are in excess of \$500 to

the Governing Board...” Purchase order reports are available for review prior to each board meeting. Each board agenda states, “The PO’s [purchase orders] will be available in the Superintendent’s Office.” For at least 12 years, from 1994 to 2006, one trustee was informally designated by the board to review warrants, and one community member asks for this information on a regular basis.

Thus, to the extent that an individual trustee does not know the dollar amount of types of purchases subject to board approval, this is not due to district policy or practice.

- 7.3 Some board members and district staff reported that they did not know that there were policies and procedures concerning board oversight.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury’s report on the comments of some (unstated number of) trustees.

This item also deals with personal knowledge and responsibility for learning and retaining information, something that the district cannot control.

To the extent that the findings imply some deficiency on the part of the district, every trustee is provided with a Board Policy Manual upon joining the board, and is given updated changes as they occur. These policies are also available at the district office for any member of the staff to review. Staff members are represented by bargaining units, and unit leadership is aware of the district’s policies and procedures and is familiar with how to obtain specific information. Board Policies have been regularly updated. In 2005 the Board of Trustees initiated a major policy revision and update. This process is not yet completed, as the work is extensive and policies can only be approved at board meetings along with other district business. It is up to each trustee to read the policy manual regarding the board’s role and to participate in the discussion at the board meeting when the policy is being reviewed.

8. Difficulties overseeing expenditures were reported.

- 8.1 At regular board meetings, the consent packet includes a listing of some payments and some purchase orders. The listings of disbursements and purchase orders are not all-inclusive and are not reported in a format that allows board members to oversee expenditures effectively.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury’s report on comments of “reported difficulties”.

Any trustee can review warrant or purchase information, and all trustees have been informed where this information is located. Additionally, each board meeting agenda states, “The PO’s will be available in the Superintendent’s Office” under the Consent Agenda section. The purchase order reports are cumbersome, include a variety of codes as required by

law, and as is the case with most public governing bodies, are set forth in a condensed form in board reports for public meetings. During the 12-year period that warrants were routinely reviewed by a trustee, any noted irregularities would have been immediately corrected.

The very nature of governance is that governing bodies cannot micromanage the myriad operations of a public agency and must rely on staff qualified to carry out the daily operations.

- 8.2 Board members reported they did not review purchases made from categorical or grant funds and some reported they thought of these funds as “free money” that didn’t require oversight.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury’s report on trustee comments.

This is a judgment statement. This item deals with personal knowledge and responsibility for learning and retaining information, matters outside the district’s ability to control other than by providing information and training opportunities.

Trustees are offered an array of trainings on budgets and finance, including the process of obtaining grants and spending categorical funds, as referenced in Response to 6.3, above. It is the responsibility of each trustee to seek out additional information if he or she does not understand the process following an information/training session.

- 8.3 Purchases were made from a new vendor (NCEE-America’s Choice) of a multi-year program and materials amounting to over \$1,300,000 without specific board approval. These purchases were paid from various funding sources including categorical funds (state, federal and private funds with specific purposes and requirements).

Response: The PVUSD PARTIALLY AGREES.

The finding is unspecific as to time. Expenditures for materials from this vendor were under \$950,000, as referenced in Response to 1.C above. Purchases were made on the basis of individual school site decisions.

9. The district has a recent history of being governed by interim superintendents.

Response: The PVUSD AGREES.

While it is the Board of Education that governs the district, the district has been administered by interim superintendents since July 1, 2006. Both individuals who have served in the interim superintendent position are highly qualified.

- 9.1 The district applied for “interim” superintendent status with an emergency waiver while having another interim superintendent under contract.

Response: The PVUSD PARTIALLY AGREES.

The district did not apply to obtain any outside approval for the hire of an interim superintendent. The district did apply pursuant to Education Code section 24216 to the California State Teachers Retirement System (STRS)

to obtain a waiver allowing the hire of Dr. Mary Anne Mays as the new superintendent without adversely affecting her retirement benefits from STRS. While another administrator was serving as interim superintendent at the time of filing, the application was filed with knowledge that the position would soon become vacant. It should be noted that STRS approved the application as having met STRS criteria.

- 9.2 At the time of the writing of this report, the district is being served by a part-time (60 percent) interim superintendent.

Response: The PVUSD PARTIALLY AGREES.

The current interim superintendent works in the district office three days per week and is being compensated accordingly. Dr. Mays is available the other two days per week by both email and telephone, and often conducts district business during this time. There is no compensation for this additional work.

The prior interim superintendent held two full-time interim positions, that of Interim Superintendent and Interim Associate Superintendent of Business, as well as a part-time position as Construction Manager.

- 9.3 It takes time for a district to set its priorities, establish a search committee and begin the process of filling the position of superintendent. However, to date, the board has not begun the process of filling the position of full-time superintendent. Instead, the board is considering creating the position of deputy superintendent.

Response: The PVUSD DISAGREES.

The PVUSD Board of Trustees has begun the process of hiring a permanent superintendent. The first step in that process was accomplished on the target schedule of August 8th with a general discussion of the timeline. The next step, on September 26, 2007, is a board discussion and possible action to approve the superintendent search process.

The board determined that the best strategy for developing a strong administrative team was to hire a deputy under the current leadership, as Dr. Mays' strength is in curriculum development. The curriculum plan can then be completed and put into action under Dr. Mays' leadership. This position is in agreement with the recommendations of the Grand Jury that PVUSD should hire a curriculum specialist. The decision to hire a deputy superintendent was independent of, not instead of, the hire of a superintendent.

The district now has a deputy superintendent who will focus on curriculum and instruction. The decision to develop the position was made by the board based on a deliberative process and in accordance with board policy.

- 9.4 A letter signed by approximately 500 teachers was presented to the board requesting a full-time superintendent.

Response: The PVUSD DISAGREES.

A petition was delivered to the Board of Trustees requesting that the “PVUSD School Board begin the process of searching for and hiring a full-time superintendent of schools for the 2007 – 2008 school year”. There is no date on this petition.

Some signatures on the petition are by teachers, but the majority of the signatures are not. The majority of signatures on the petition appear to be those of students and parents. Some signatories identify themselves as attending schools outside the PVUSD, including Cabrillo College.

As stated above, the board has begun the process for hiring a permanent superintendent.

C. Allegations of Brown Act Violations

10. There is evidence that the Pajaro Valley Unified School District Board of Trustees may have not complied with the state’s open meeting laws referred to as the Ralph M. Brown Act.

Response: The PVUSD DISAGREES.

The district has at all times complied with the Brown Act, California’s public meeting law. (Gov. Code section 54950, et seq.) The district is aware of a complaint from two community members contending that a violation of the Brown Act occurred at a board meeting on January 17, 2007 with respect to the posting of an agenda item regarding the interim superintendent position.

The item in question was posted in total compliance with Brown Act provisions that prescribe specific “safe harbor” language for the posting of items to be considered in closed session (see Govt. Code section 54954.5). The Grand Jury report fails to note that this complaint was reviewed by the County of Santa Cruz District Attorney’s Office, which not only found that a criminal violation of the Brown Act had not occurred but advised the complainants that they could choose to pursue relief in the civil courts, an option that was not exercised. The District Attorney’s letter is dated April 3, 2007, well before any investigation by the Grand Jury was finalized.

- 10.1 The Brown Act requires that in advance of meetings, closed and open session topics be clearly identified with a description of the subject matter to be considered.

Response: The PVUSD PARTIALLY DISAGREES.

While the district generally agrees that agenda items should be clearly identified, the actual language (requirement) of the Brown Act is slightly different. Government Code section 54954.2(a)(1) requires that a local agency public meeting agenda, which must be posted at least 72 hours before a regular meeting, contain, “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.”

10.2 The following are two examples of agenda items with questionable descriptions:

- In a closed meeting session on January 17, 2007, the board discussed terminating the current interim superintendent and rehiring the former superintendent in the interim role. However, the agenda item simply stated, “2.1a Title of Position, Interim Superintendent.”

The board approved the termination and appointment with a majority vote.

- In open session of the same January 17, 2007 meeting, agenda item 12.5 stated, “Report, discussion and possible action to approve Amended contract for Interim Superintendent.” The backup information for this agenda item stated, “The current contract for the Interim covers the responsibilities for both the Interim Superintendent and the Interim Associate Superintendent.” As reported to the Grand Jury, several of those in attendance assumed this item referred to the responsibilities of the current Interim Superintendent, but, in fact, it referred to the previous closed meeting discussion of two superintendents — the person who was currently filling a dual role as Interim and Associate Superintendent and the former superintendent who was being rehired. At best, this description was vague and confusing. Even if it were legal under the Brown Act, it does not provide the detailed level of transparency required to maintain public confidence.

Response: The PVUSD DISAGREES.

Both of the referenced agenda items were in complete compliance with provisions of the Brown Act. (See discussion at paragraph 10, above.) The Grand Jury has inaccurately quoted the closed session item as posted. The item in fact was posted as follows:

2.1 Public Employee Appointment: Certificated, Classified.

2.1a Title of Position: Interim Superintendent

This posting was fully compliant with “safe harbor” language of the Brown Act that appears at Govt. Code section 54954.5.

The agenda item posted for the open session on January 17, 2007 (item 12.5) referenced possible action to approve an amended contract for interim superintendent. In fact, the board approved a contract extension for the sitting interim superintendent consistent with the agenda item, the issue of the hire of a new interim superintendent having been addressed during the closed session that addressed the previously referenced agenda item.

D. Board's Oversight of Construction Funds

11. Because of the way it was funded, the public had little opportunity to weigh in on a multi-million dollar school construction project. In 1997, the board approved \$10 million Certificate of Participation (COP) through Paine Webber to cover construction costs of schools. California Financial Services was chosen to administer the fund. Initial costs for the note came out of the COP itself before any money was available to PVUSD. This is a method of obtaining funds without public notice beyond that provided by the normal board agenda. This lack of publicity deprived parents and citizens of a reasonable opportunity to express an opinion.

Response: The PVUSD PARTIALLY AGREES.

The Board of Trustees did approve a \$10 million COP in 1997. California Financial Services (CFS) was chosen as the district's financial consultant in relation to the COP with Paine Webber Incorporated as the underwriter. It is also correct that the initial costs for the COP came out of the COP itself, as is ordinarily the case with this type of financing. Simultaneously, approximately \$9.4 million of funds became available to PVUSD.

PVUSD does not, however, agree that there was a lack of opportunity for public input or that a COP is a "method of obtaining funds without public notice." The development and implementation process for PVUSD's 1997 COP involved several publicly noticed board meetings, including meetings on January 15 and March 3, 1997. The district took all actions required by the Brown Act to notify the public. For example, the March 3, 1997, board agenda contained a detailed agenda item for "Final Authorizing Resolution for School Facility Bridge Funding Program." The agenda item expressly indicated that the program would involve certificates of participation.

Copies of the district's agendas are broadly distributed to the local press, to all parties who request notice and through posting at the district office. Public comment on the agenda items was allowed at each of the board's meetings. As a result, the public had notice and an opportunity to comment, and PVUSD complied with all applicable legal requirements. Additionally, PVUSD's financing team made several presentations to the board, staff and the general public during the development and implementation phases of the interim funding program.

12. Individual trustees were not aware of the disadvantages of Certificate of Participation funding.

Response: The PVUSD DISAGREES.

The board was extensively briefed at the board meetings and presentations described above regarding the COP. All trustees had the opportunity to ask questions or raise issues to the district's staff and financing team. The primary forms of the COP financing documents were available for review by the trustees in advance of the March 3, 1997 board meeting at which the COP final implementation resolution was approved. Additionally, there is no significant

disadvantage to a COP as long as there is a repayment plan, as there was in PVUSD's case.

12.1 The financing cost for COPs is higher than for general obligation bonds.

Response: The PVUSD DISAGREES.

The district's COP weekly interest rates were actually considerably lower than the financing cost of a general obligation bond. The average fixed interest rate applicable to a general obligation bond was 5.07 percent. By contrast, the average COP weekly interest rate actually paid by PVUSD was only 1.99 percent.

12.2 Certificate of Participations require a debt-service reserve fund, typically 10 percent of the principal. Using this method usually increases the principal amount borrowed. In this case, according to CFS Financial reports, \$2.4 million in fees were paid to obtain the Certificate of Participation, leaving only \$7.6 million for school projects.

Response: The PVUSD PARTIALLY AGREES.

COPs do require a debt-service reserve fund, but the nature of the reserve fund is based on a three part test set out in the Federal Tax Code. Under the Code, the reserve may be 10 percent of the principal, but it also may be based on either 125 percent of the average annual debt service, or the maximum annual debt service, whichever of the three methods are lowest. As a result, PVUSD's actual reserve was \$698,610, which was substantially less than 10 percent.

Additionally, PVUSD did not pay \$2.4 million in fees. In fact, the total cost of issuance was much lower: \$618,364. Almost \$9.27 million remained to use as interim funding for PVUSD's extensive construction program. These interim funds enabled PVUSD to take the initial steps of facility planning, allowing designs to be completed, and facilitating the acquisition of school sites. These steps, in turn, allowed PVUSD to secure close to \$69 million (\$68,845,000) in state funding. Eight different priority school projects resulted from the 1997 COP, including: acquiring the Franich site, constructing the new Ann Soldo School, Pajaro Valley High School and the new Landmark Elementary School, and the modernizing, improvement and upgrade of 15 of PVUSD's existing schools.

13. The board faced numerous problems and cost overruns for construction projects.

Response: The PVUSD DISAGREES.

PVUSD has undertaken an extensive and complex facilities program over the past decade to address growth in its population and the need to update and upgrade PVUSD's schools. With any construction program of over \$100 million on approximately two-dozen different facilities, there will inevitably be some delays, construction disputes and cost increases over the preliminary budget estimates.

Over the past decade, there has been significant inflation in construction costs that is unrelated to PVUSD's management of its construction program. This has

increased the cost of construction. The Office of Public School Construction's construction cost index for schools shows that the cost of constructing wood framed buildings increased approximately 44 percent in the decade from 1997 to the present, and 28 percent in the past five years alone.

Most of the district's construction projects have been brought in within budget and without significant problems. Unlike many school construction projects around the state, PVUSD has been involved in relatively little litigation.

As a result, it is inaccurate to state that the board has faced "numerous" problems and cost overruns. Further, it is inaccurate to suggest that problems that have occurred are out of the ordinary for the type of extensive facilities program that the district has undertaken.

- 13.1 The board faced public controversy when the site for the new high school was under review. After architectural plans were drawn for a site that had been secured and approved, many members of the Watsonville community insisted the school be built elsewhere. The board agreed and approved the Harkins Slough Wetlands as the new site. Changing the site cost the district many millions of dollars in the following areas:

Response: The PVUSD PARTIALLY AGREES.

The board did face controversy when it reviewed site options for a new high school. It is fairly typical statewide for new comprehensive high school projects to encounter at least some opposition and controversy because of the significant acreage needed.

PVUSD began looking for a building site for a third high school as early as 1986, 21 years ago. As with any large development, particularly in Santa Cruz County, building a school on any undeveloped site would have been controversial, just as a large building supply retailer, retail warehouse, chain bookstore or discount department store all have faced similar controversy. There were a number of site requirement considerations that the district faced, including future access restrictions, road improvement capabilities, future development plans by the City of Watsonville, state acreage guidelines for a public school, setback regulations, environmental concerns, and loss of agricultural lands.

The original site selected by the district was the Pinto Lake site. That site, however, had the potential for significant impacts on wildlife, as well as other restrictions. As a result, and when faced with the threat of protracted litigation, the sitting PVUSD board elected not to continue with any plans for the Pinto Lake location. No architectural design plans were ever prepared for the Pinto Lake site. It is therefore not correct that changing the planned school site cost millions of dollars.

After the district's decision not to pursue the Pinto Lake site, the current Harkins Slough site was identified in the early 1990's as the preferred location for a new high school by a site selection committee comprised of representatives of the Santa Cruz County Local Agency Formation Commission (LAFCO), the Santa Cruz County Planning Department, City

of Watsonville Planning Department, Santa Cruz County Farm Bureau, PVUSD Site and Facility Commission, Watsonville Wetlands Watch, Green Valley Action Committee and the PVUSD Board of Trustees. The site was identified following an exhaustive search of potential sites that lasted several years. This site was supported by The Watsonville City Council, Watsonville Wetlands Watch, the Farm Bureau, the Pajaro Valley Chamber of Commerce, the Migrant Parent Advisory Council, the Santa Cruz County Labor Council, the Latino Strategic Planning Collaborative, the Association of Mexican American Educators, and the majority of the residents of the Pajaro Valley. Over 10,000 signatures were presented to the Coastal Commission urging the approval of the project on the present site.

- The original architectural plans were not designed for the multilevel terrain of the wetlands. The new school would also be located in the airport flight path turning zone. As a result, the school had to be redesigned. (Estimated loss of \$1.9 million just for the new architectural plans.)

Response: The PVUSD DISAGREES.

Plans drawn for the current site did take into account the specific terrain of the site. Submitting those plans to the Division of State Architect enabled the district to secure hardship funding (funding similar to a grant) for the construction of the new high school from the State.

The Harkins Slough site and the architectural plans were approved by the district, the California Department of Education, the Division of State Architect, and, acting as the local Coastal Commission, the City of Watsonville. Thereafter, however, the Santa Cruz County staff of the Coastal Commission raised concerns about the high school project. The Coastal Commission defined environmentally sensitive habitat areas broadly, forcing reconfiguration of the site to allow for setbacks, and thus, requiring the district to redesign the plans for the school buildings to fit within the new footprint. It was for this reason that the plans for the current site were completely revised, at a cost of approximately \$1.9 million, inclusive of all engineering and other design costs. This amount was paid for entirely out of the grant of state funds and did not require expenditure of any additional local bond or other funds.

Pajaro Valley High School is not in the flight path turning zone, nor did proximity to the Watsonville Airport required any “redesign” of the high school. The current Watsonville City Manager and airport manager were consulted throughout consideration of the project site, and both concurred that there are no significant safety concerns relating to the distance from the airport.

The school facilities are actually outside of the turning zone, as confirmed by the Division of Aeronautics and approved by the

California Department of Education. Caltrans' Division of Aeronautics repeatedly found that the high school site was within an acceptable distance from the Watsonville Airport. The California Department of Education's approval of the school site was a prerequisite to PVUSD building the school. Such approval would have been prohibited had the site been within an inappropriate distance from the airport and the turning zone. The fact that the Department of Education approved the site confirms the appropriateness and safety of the site.

When the Coastal Commission staff demanded yet a further approval from the Division of Aeronautics, the district undertook a precise survey of the location of the runway and the school site. Based on this survey, and applying the then applicable 1993 Caltrans standards, a very small portion of property located on the northeast corner of the school site was found to be within the inner turning radius from the airport. This impacted only a small area generally planned for parking and did not impact plans for the actual school facilities. Additionally, this small sliver of land to the northeast, as well as an approximately nine-acre expansion site to the north, would both fall outside the turning zone and would become usable when a planned extension to the Watsonville Airport runway occurred.

Furthermore, Caltrans' aeronautics regulations were revised in 2003. Under those revisions, the entire high school site, inclusive of the northeastern sliver and the entire nine-acre expansion area, is outside of the established turning zone. The school site is within what the newer regulations establish as a "traffic pattern zone," but the regulations do not prohibit schools in such a zone. (Cal. Code Regs., tit. 21, § 3570(d)(1)&(2).)

- Extensive environmental studies were required. To get approval to build on the new site, the board had to give up a portion of the land and build the Wetlands Educational Resource Center as required by the Watsonville Municipal Code. (Estimated cost of center: \$690,000.) Because there was less buildable space, the high school on the new site was 41,000 sq. ft. smaller than the one designed for the original site.

Response: The PVUSD PARTIALLY AGREES.

Environmental studies were required for the school site, and a comprehensive environmental impact report was prepared, as it also would have been for any other comprehensive high school site in a populated or environmentally sensitive region. One mitigation measure identified in the environmental impact report was creation and maintenance of a natural sciences study center. (Mitigation Measure B-18, p. 4-38, Draft Supplemental Environmental Impact Report). This requirement was also included as Condition No. 97 of the City's Conditions of Approval for Coastal Development/Special Use Permit for the high school.

Approximately 4,000 square feet of land were set aside to comply with the foregoing conditions. No school facilities were planned for that specific area, and no buildings had to be eliminated because of its inclusion. PVUSD still owns the land in question. Ultimately, the Wetlands Educational Resource Center, a building of 2,300 square feet, was built on the 4,000 square foot area, at no cost to PVUSD. The cost of the Center was funded entirely by the state and matching funds from the City of Watsonville and Watsonville Wetlands Watch. While the overall square footage of the high school facilities was reduced as a result of the redesign required by the Coastal Commission staff's broad definition of environmentally sensitive habitat areas, there was no significant loss of needed classrooms, and additional space was later added. Thus, for example, while Coastal Commission staff comments led to deletion of buildings containing four classrooms for shop and three for purposes such as music and drama, the district was able to reconfigure a significantly oversized staff room resulting in the addition of eight classrooms.

- The change in architectural plans required that an additional 60,000 cubic yards of soil had to be trucked away. (Cost: approximately \$161,000.)

Response: The PVUSD PARTIALLY AGREES.

The Coastal Commission required, as a condition for the project, that the center tier of the campus, where the buildings are located, be lowered by five feet. This was largely intended to reduce visibility from the freeway and to meet the Commission's preferred height restrictions. As a result, soil had to be exported from the site. However, this was not a change in the architectural plans resulting from the change from the Pinto Lake site to the Harkins Slough site.

- A cafeteria was built which can seat only 328 students, yet the school will have approximately 2200 students. The kitchen facilities are also inadequate. Therefore, the food will have to be prepared in a kitchen that was remodeled at the district offices. This cafeteria was part of the original plan, and when money was not available, district administration made it a separate project paid for through a bond measure.

Response: The PVUSD PARTIALLY AGREES.

The capacity of the school, per the limitations imposed by the Coastal Commission, is 2,200 students. However, the cafeteria at Pajaro Valley High School has a total capacity of 608 students. Signage in the cafeteria verifies this capacity. High school cafeterias are generally not designed to hold the entire student body at one time. The district's other two traditional high school cafeteria capacities are also well less than half of the school capacities (801 (total) at Watsonville High School and 250 (seated) at Aptos High School).

The kitchen facility for Pajaro Valley High School is adequate; in fact, it is one of the largest kitchen facilities of any school in the district. It is not correct that the kitchen at the district office will be used for high school meals; the district office kitchen is used for the preparation of certain elementary school meals and other schools when necessary.

It is correct that the cafeteria, though part of the original plan, was made a separate project. However, it was paid for by a combination of bond funds and state funding, not with bond funds alone.

- 13.2 Mold was found in the new school buildings. Cleaning up the mold cost the district \$2.5 million. A lawsuit is still pending and legal fees are still being incurred. To date, they are estimated to be approximately \$2.7 million.

Response: The PVUSD PARTIALLY AGREES.

Mold was discovered in the high school buildings before they were completed. The discovery of the mold at that relatively early time period allowed the district to remedy the mold problem before the buildings were all entirely completed or enclosed. The cost of cleaning the mold was approximately \$700,000, not \$2.5 million.

It is correct that the district is currently engaged in litigation with the contractor, architect and insurer for the project to recoup that cost and other damages. The district's legal fees incurred to date in that complex, multi-party litigation has totaled \$947,266.52 as of the end of July 2007, not \$2.7 million. A significant portion of this legal expense has included the costs for experts to examine the buildings and testify on behalf of the district.

14. When applying for funding, the board acted against the advice of financial counsel.

Response: The PVUSD DISAGREES.

The district did not have any "financial counsel" per se in relation to the funding in question. The district did receive advice from its financing team, including CFS, but generally acted consistent with the financing team's recommendations throughout the financing development and implementation processes. No other consultant or legal counsel retained by PVUSD advised against the funding plan, including the law firm of Orrick Herrington, which served as both the COP and general obligation bond counsel to the district.

- 14.1 The board asked for an additional Certificate of Participation for \$12.5 million in May 2000 to pay off the previous Certificate of Participation and had \$2.5 million left to use as needed.

Response: The PVUSD PARTIALLY AGREES.

The correct amount of the COP issued in August 2000 was \$13 million. Of this amount, \$9.38 million was reimbursed to PVUSD for prior school project costs. After all closing costs, PVUSD was left with \$2.995 million for the interim funding of additional PVUSD priority school facilities projects. PVUSD then prepaid the 1997 COP's in their entirety.

The district was able to obtain these additional funds at a lower interest rate (an average of 1.99 percent), and also obtained a more favorable prepayment term than under the prior COP. In 2002, PVUSD paid off \$11.37 million of the 2000 COPs, leaving only \$1.63 million of principal remaining.

- 14.2 The district owed \$12.5 million in a Certificate of Participation with almost \$750,000 in fees. Financial counsel advised the board not to take out the loan. The board, however, voted to take out the loan, with one trustee opposing.

Response: The PVUSD PARTIALLY AGREES.

It is accurate that the board voted for the COP, however there were no trustees who voted against the 2000 COP. Additionally, the total amount of the COP was \$13 million, and the combined closing expenses were actually \$625,000.

As discussed above, the district did not have “financial counsel” outside of its assembled financing team members. The district’s financial team developed and recommended the COP plan in order to meet its priority school facilities needs, and no other legal or financial advisor to the district advised against the COP.

15. The district continued to make poor management decisions related to construction projects and other financial issues.

Response: The PVUSD DISAGREES.

PVUSD did not make poor management decisions related to construction projects or other financial issues, evidenced in part by the more than \$100 million in state funding that PVUSD has received, the \$11.37 million of its interim COPs that were replaced with permanent funding, the construction of three new schools, and the modernization and expansion of 19 existing school campuses, all of which resulted from PVUSD’s extensive financing and facilities planning efforts. Those efforts were driven by the district’s goal to provide adequate, safe and clean facilities for all of our children, and remove all schools from the year-round schedule. The effects of providing adequate facilities has been huge upon school morale and ultimately, academic achievement.

- 15.1 The board approved an air pressurized fabric structure as a temporary gym for Aptos High School without respect to state regulations for that type of structure which require that it meet permanent rather than temporary use standards. The district lost over \$130,000 in costs incurred in the purchase, move and set up of a structure that was not approved by the state.

Response: The PVUSD PARTIALLY AGREES.

PVUSD did place a temporary gym facility at Aptos High School, though this was not done without respect to state regulations. Additionally, the structure had been previously purchased and used at a district middle

school, and was made of fabric over an aluminum frame (not air pressurized).

In 1999 there was a fire at E.A. Hall Middle School that damaged the gymnasium. PVUSD worked with its insurer to repair the gymnasium, but when the process began to take too long PVUSD negotiated with the insurer to fund a temporary gymnasium structure. The district consulted with the Watsonville Fire Marshall, who approved the selected structure for fire safety. Ultimately PVUSD purchased the structure rather than leasing it, as a cost saving measure.

When repairs to the E.A. Hall gymnasium were complete in 2001, PVUSD elected to move the temporary facility to Aptos High School, due to a shortfall of space for athletic facilities. There was never an intent to keep the temporary facility in use on a long term basis, and the space shortfall is now being addressed through the district's bond program, which provides for a new gymnasium and wrestling room. The Aptos Fire Marshall asked that a pathway and a doorway be added to the temporary structure, both of which PVUSD promptly accomplished. However, the Fire Marshall then expressed concerns that had to do not with fire safety, but rather with structural issues. The Aptos Fire Marshall requested that PVUSD ask the Division of State Architect (DSA) for review. Despite the fact that structural safety is outside of the jurisdiction of the Fire Marshall, PVUSD nevertheless sought DSA review in an attempt to be cooperative.

DSA then suggested that PVUSD add additional tie downs to the structure, which the district promptly did. Thereafter, however, DSA indicated that it wanted additional testing, as well as other measures. Faced with relatively high costs and significant delay associated with such testing and with complying with ongoing DSA suggestions, PVUSD elected to take down the temporary facility. The approximately \$130,000 total cost to PVUSD included the cost of the move from E.A. Hall to Aptos High School and installation at Aptos High; however a significant portion of that cost came from the attempts to comply with the suggestions of the Fire Marshall and then DSA. When those costs began to increase, PVUSD acted prudently to cease further expenditures on the temporary structure.

- 15.2 The district had the opportunity to receive federal funds for needed high-speed internet access for the entire district. However, the administration filed the application late and the Federal Communications Commission denied the funds, resulting in a loss to the district of \$900,000.

Response: The PVUSD PARTIALLY AGREES.

While PVUSD did miss the deadline for funding in the first year of the program in question, it corrected the error and ultimately received its requested funding.

In the first year of the E-rate program, under which federal funds were available for the district's technology program, the district intended to

apply for funding. The district's Director of Technology was diagnosed with a life-threatening illness and the application for funding was submitted after the deadline.

However, PVUSD timely applied for funding in the second and third years of the E-rate program. The district's application for these later years included funding for the first year as well. The district's application was approved, and PVUSD received full funding for all three years. As a result, the district did not lose \$900,000, nor any other amount of money.

16. As of the writing of this report, the California Department of State Architects has not given final approval to the Pajaro Valley High School construction project.

Response: The PVUSD AGREES.

The Inspector of Record certified the Pajaro Valley High School buildings for occupancy.

PVUSD is currently in litigation with its architect of record for the project relating to design defects, including those that may have contributed to the occurrence of mold. The architect has not completed paperwork necessary to achieve project close out with DSA.

Final DSA close out cannot be achieved without the filing of certain paperwork by the architect of record. The district's legal counsel has made written demands on the architect to take all final steps necessary to assist PVUSD in closing out the project, and the district is taking as many steps as it can without the architect to achieve close out. Despite this delay, PVUSD built the school per DSA-approved plans, and no problems with close out are expected once the architect completes all necessary paperwork.

E. Teaching Standards and Expenditures

17. Schools in the district are not meeting teaching standards.

Response: The PVUSD PARTIALLY AGREES.

The implementation of standards-based teaching strategies at PVUSD is an ongoing activity. This is true in any district, not exclusive to Pajaro Valley Unified School District. Each year there are modifications in both the content standards curriculum materials and the teaching strategies as the needs arise. The district has been in partnership with the Pajaro Valley Federation of Teachers (PVFT) to build Professional Learning Communities around the American Federation of Teachers reform strategies, called Restructuring School to Raise Achievement (RSRA). The four components of the RSRA are Data Analysis, Team Building, Communication and Professional Development. We now have a district team of trainers referred to as "TOTS", (Trainer of TrainerS.) The district is also in a partnership with the New Teacher Project based at UC Santa Cruz, which mentors new teachers as they take their own education into a classroom of students.

- 17.1 The California State Department of Education's School Assistance and Intervention Team (SAIT) took over Pajaro Middle School and H.A. Hyde Elementary School. The SAIT process is a state intervention currently charged with bringing the two persistently lowest achieving district schools into compliance with standards that will improve their achievement scores. The SAIT team has set benchmarks and goals for these schools to teach state-approved consistent strategies and texts.

Response: The PVUSD PARTIALLY AGREES.

Pajaro Middle School and H.A. Hyde Elementary have not been "taken over" by the California State Department of Education. The State Assistance and Intervention teams (SAIT) at Pajaro Middle School and Hyde Elementary School are support teams to help the schools. SAIT teams visit on a regular schedule but do not run the school. The school staff, which includes the principal, is still responsible for the overall operation of the school, and the PVUSD Board of Trustees is still the overseeing body.

Many schools throughout California with similar demographics are working with SAIT teams. The SAIT recommendations and benchmarks are consistent with the overall direction of program improvement strategies being implemented through district efforts at the other program improvement schools. The SAIT teams have provided insights into additional strategies and interventions that are being incorporated into other schools in the district.

- 17.2 SAIT required re-training of teachers and principals in implementing consistent instructional methods that teach to state standards and use state compliant texts.

Response: The PVUSD PARTIALLY AGREES.

SAIT accelerated the timeline for state intervention and added emphasis to the professional development that was ongoing in the district. Prior to SAIT involvement in the schools, teachers were using state standards as the basis for instruction and state approved texts were in use. At Pajaro Middle School there were materials being used within a comprehensive school reform model (America's Choice) that were a segment of the approved state model. SAIT recommended that the school discontinue with the comprehensive model and materials and the school chose to comply immediately. (See Response to Finding 1, above.)

- 17.3 In 2006, a District Alternative Governance (DAG) committee was formed and charged with investigating reasons for failure at seven of the lowest performing schools. The seven schools selected were Freedom, Hall District, Mintie White, Ohlone, Starlight, E.A. Hall, and Rolling Hills. In those seven schools, the DAG committee found instructional methods, texts and materials being used that were inconsistent and did not meet state standards. (See SAIT findings above.) Actions were implemented to institute the Nine Essential Program Components required by the state to remedy the inconsistencies and failure to meet state standards in those

seven schools. In 2006, the SAIT team established a timeline for implementation and made assignments for accomplishment beginning in early 2007.

Response: The PVUSD PARTIALLY DISAGREES.

The charge of the DAG committee is to establish a review system that would simulate what would happen if the state were to intervene, with the idea that the district would support each school to make any necessary changes to support improvement in academic achievement. The findings at each of the seven schools in Year 5 of Program Improvement were specific to the site. Many strengths were noted for each site, although the DAG committee found that implementation of state standards and approved instructional materials was inconsistent both within and across schools. The DAG committee's recommendations for the schools were based on the same Nine Essential Program Components that SAIT utilized in its visitations to the two "SAIT schools."

18. Some of the training efforts prescribed by the DAG have met with difficulty. Some of the teachers and principals report they have been unable to go to trainings because there are not enough substitutes to teach their classes. Those who have not been trained cannot use the state-compliant strategies and texts in their classrooms.

Response: The PVUSD AGREES.

Lack of available substitutes is a problem that plagues many public school districts, including PVUSD. The district has recently hired a teacher to work at the district office to support the implementation of professional development that includes seeking solutions to the issue of sufficient substitutes. The district has been refining its approach to professional development for the last four years and continues to do so as problems arise, as in done with any good management practice.

The most successful professional development is usually found to be a blend of instruction with coached application. Through the use of effective modeling and coaching, teachers who have not been able to attend in-seat training can and do learn new strategies. PVUSD will continue to address this concern with innovative programs to assist teachers with training and strategies.

19. In all the low achieving schools, there is a large population of students for whom English is a second language. According to an extensive review of the district's bilingual programs called the Gold Study, adequate quality instruction and consistent goals and implementation of a language learning system were not in place as of February 2007.

Response: The PVUSD AGREES.

The district commissioned the Gold Study in order to review all programs for English Language Learners, (ELL) not just bilingual programs. The reason the study was commissioned was precisely because the ELL students were not progressing as rapidly as district staff believed they could. The district has commissioned Dr. Norm Gold and a colleague, Chris Lopez-Chatfield, to

support PVUSD in the creation of an English Learner Master Plan. This work was initiated in April 2006 and is currently in the process of being finalized.

20. Expensive educational materials from America's Choice are not being used or have been deemed inappropriate. There are boxes of expensive texts — some not even opened — in school storerooms, which the teachers choose not to use in their classrooms.

Response: The PVUSD PARTIALLY AGREES.

There have been unused America's Choice materials stored at one school, Watsonville High School, as the program was abandoned after the second year. The storage room has since been moved, and most of the materials have been either donated or passed out to teachers who have expressed an interest in keeping the material.

F. The Zone System

21. The Pajaro Valley Unified School District is divided into three geographical zones, each of which is managed by a Zone Assistant Superintendent. A lack of support and communication between district personnel and zone management has been reported.

Response: The PVUSD PARTIALLY AGREES.

The Pajaro Valley Unified School District is divided into three zones with an assistant superintendent overseeing each zone. Traditional schools in these zones are divided geographically as well as for K-12 articulation. However, additional schools are overseen by zones and distributed between administrators without regard to geography, but with common goals, as in the case of charter schools.

Current Zone Configurations:

South Zone:

Elementary:

Ann Soldo, Hall District, Mintie White, MacQuiddy, Ohlone, Radcliff

Secondary:

E.A. Hall Middle, Pajaro Middle, Watsonville High School

Additional Programs:

AVCI, Children's Center, Migrant Head Start

Central Zone:

Elementary:

Amesti, Calabasas, Freedom, H.A. Hyde, Landmark, Starlight

Secondary:

Cesar E. Chavez Middle, Lakeview Middle, Rolling Hills Middle, Pajaro Valley High School

Additional Programs:

New School

North Zone:

Elementary:

Bradley, Mar Vista, Rio del Mar, Valencia

Secondary:

Aptos Jr. High, Aptos High School, Renaissance High

Additional Programs:

Alianza Charter, Linscott, Pacific Coast Charter, Solano Summit Academy, Watsonville Charter School of the Arts

Contrary to what has been “reported” to the Grand Jury, there has been very positive articulation between district and zone administrators. The zone system has been a positive way for feeder schools and the high school they feed into to work together. This benefits students, teachers and administrators as common school community concerns can be addressed, goals set and a sense of pride developed within each zone. In instances where a portion of a school may feed into two different zones, communication occurs at principal meetings or through a school representative attending each zone meeting.

It is the opinion of the district and Board of Trustees that this system has been a key factor in streamlining K-12 articulation, improving student achievement and improving parent participation.

If the zone system were dismantled as some have suggested, the 35 schools and programs would still need to be supervised by three administrators, as an administrator cannot effectively oversee more than 10-12 schools. When the zone system was initially approved by the board, PVUSD had eleven fewer schools than it has today. Therefore, dismantling the zones would result in no change of administration and would only serve to weaken communication and articulation between schools.

The three zone assistant superintendents, along with the Assistant Superintendent of Human Resources, meet weekly to share information, align programs, plan weekly principal meetings and work through staff issues. Additionally, the zone assistant superintendents meet with the Superintendent’s Cabinet on a weekly basis.

The role of the cabinet is to: bring issues forward from the weekly principals meeting; seek resolutions to outstanding issues and concerns; disseminate feedback from all meetings held the prior week; align decisions for consistency across the district; develop timelines, guidelines, processes and level of decision-making; and establish and maintain positive interdependence.

The cabinet serves as a communication link between the superintendent, assistant superintendents and district level directors, called the expanded cabinet. The expanded cabinet meets on a bi-weekly basis.

The role of the expanded cabinet is to: share information from across the district and across departments so each department is knowledgeable about the work being done throughout the district; solve problems that arise over the

course of the week; identify potential problems and discuss possible solutions and support of colleagues during difficult projects and stressful situations.

- 21.1 Teachers, principals and support staff expressed a lack of support from their Zone Assistant Superintendent. However, the North Zone interviewees expressed less concern than the South and Central Zone interviewees.

Response: The PVUSD DISAGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury's report on comments made by those interviewed. PVUSD has no information on how many teachers, principals or support staff from the three zones were part of the 45 interviewees for the Grand Jury's wide-ranging report.

A zone assistant superintendent's responsibilities include supporting schools by observing the instructional program and school operation through regular visits. Weekly meetings are held with principals, as well as additional regular meetings with administration, certificated and classified staff. In addition, zone assistant superintendents attend back to school nights, plays, special school events, fundraising events, sporting events, open houses, science fairs, spelling bees, and a variety of other meetings and activities during the school year.

Zone assistant superintendents work with district level departments to facilitate and coordinate information and services for school sites. They work with sites to resolve problems and manage situations with administration, parents, staff and students when help and assistance is requested or required.

- 21.2 Interviewees from all three zones indicated they had never received a clear explanation of the functions of the Zone Assistant Superintendent.

Response: The PVUSD DISAGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury's report on comments made by those interviewed.

A formal job description is available through the district office for zone assistant superintendents. As with all job descriptions, it would not be shared with all staff but is available upon request through the Human Resources Department. When asked about his or her role and job duties by any personnel, zone assistant superintendents have given clear and direct answers.

More important than whether anecdotal information suggests that interviewees have not received explanations as to functions of zone assistant superintendents is whether the efforts of zone assistant superintendents have been successful. Results suggest that those efforts have been, and continue to be, successful.

- 21.3 Teacher and support staff interviewees reported they have spoken with their Zone Assistant Superintendent primarily when dignitaries or evaluators from outside the district were visiting the school.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no information or belief as to the accuracy of the Grand Jury's report on comments made by those interviewed.

The district has over 3,000 employees and PVUSD has no way of knowing what criteria were used to determine who was interviewed by the Grand Jury.

Zone assistant superintendents visit schools on a regular basis but they do not necessarily speak with each staff member at visits. Staff and leadership meetings, administrative meetings, parent meetings and special events are all part of regular school visitation by zone assistant superintendents. As a practical matter, visits by dignitaries and evaluators are special occasions when staff at various levels may interact more than usual and be more aware of the presence of the assistant superintendents at the site.

- 21.4 Interviewees said that the lack of communication and support from the district contributed to low morale and an opinion that the district did not know and had little concern for the challenges in the classrooms.

Response: The PVUSD PARTIALLY AGREES.

This is a judgment statement on the part of interviewees. Again, PVUSD has no knowledge of how those being interviewed were chosen by the Grand Jury. Low morale in PVUSD is a subjective matter.

While morale is always an important issue in the workplace, empirical data suggests that any issues of morale in PVUSD are less than those affecting other school districts. Over the past three years PVUSD was under the state average of 11 percent teacher turnover:

2004 – 2005: 79 resignations out of 1,275 teachers or approximately 6.2%

2005 – 2006: 93 resignations out of 1,331 teachers or approximately 6.9%

2006 – 2007: 94 resignations out of 1,415 teachers or approximately 6.6%

PVUSD also hired only one principal for the 2007 – 2008 school year, far below the normal turnover rate for a school district of close to 20,000 students and 35 schools.

Each certificated member of the cabinet can directly relate to the classroom as each has been in the classroom as a teacher, including the superintendent. Certificated directors also came through either PVUSD or another district by starting as a teacher. This practice is generally consistent throughout the public school practices.

During site visits, district administrators interact with students and teachers. During the 2006 – 2007 school year, the DAG committee participated in over 200 classroom visits. (There are 181 school days in

the year.) Zone assistant superintendents are members of the DAG committee and attend many of the classroom visits.

Teachers and administrators are provided with professional development training, materials and opportunities for support in the classroom. In addition to zone administrators, district personnel work with site administrators on various trainings related to various programs and grants.

- 21.5 The Gold Study and the 2004 Management Audit Study found that the Zone Assistant Superintendents make their own decisions with little or no board oversight. In effect, the zones act as small school districts without a board of trustees.

Response: The PVUSD DISAGREES.

The Grand Jury appears to be inaccurately representing information in the reports. The zone assistant superintendents work at the direction of the superintendent, who in turn works at the direction of the Board of Trustees. Communication with the superintendent is at a very minimum twice per week, however, most often communication with the superintendent is on a daily basis, either in person or on the telephone.

Trustees do not oversee assistant superintendents; that is the role of the superintendent as chief administrator, therefore direct oversight by trustees would be inappropriate. Communication with individual trustees varies depending upon needs and issues, and occurs in written form each Friday through weekly updates. Communication also occurs at board and zone meetings as well as through regular, less formal interactions. As stated previously, the majority of trustees regularly attend zone meetings. In emergency or crisis situations such as a walkout, fire or death/injury of a student, trustees are informed immediately either through fax, email, phone call or in person, as appropriate.

- 21.6 Zone meetings are poorly publicized, resulting in parts of the community not knowing or being able to express concerns affecting their schools. No minutes or agendas are kept or published of these meetings.

Response: The PVUSD DISAGREES.

Zone meetings are generally publicized following the requirements of the Brown Act (Govt. Code § 54950, et seq.) in the following ways: annual and monthly notices are sent to two major Santa Cruz County newspapers and are posted at the location of the meeting 72 hours prior to the meeting. At the beginning of each school year, the schedule for the entire year is posted in each zone section on the district website.

Principals, trustees, site council representatives, staff and other zone representatives receive mailed notices. Notices are also sent to school sites. Notices are sent in Spanish when applicable.

Reminder phone calls are used as needed. Minutes are taken at each zone meeting. There are minutes and agendas of zone meetings at the district office and are supplied to anyone upon request. The minutes and agendas

are translated into Spanish when necessary. Minutes are placed on the agenda at the subsequent zone meeting for formal approval by membership.

- 21.7 Although school board members occasionally attend zone meetings, they are not required to, nor do the Zone Assistant Superintendents who preside over the meetings thoroughly report back to the board the concerns raised or the issues discussed in the meetings.

Response: The PVUSD PARTIALLY AGREES.

PVUSD has no legal authority to require any trustee to attend a zone meeting; therefore the statement that trustees are not required to attend zone meetings is correct.

Trustees in PVUSD are elected by Trustee Areas, not "at large" as in other Santa Cruz County school districts. There is some crossover of trustee areas in most zones, although in all but one zone the crossover is very small. Trustees are therefore traditionally associated with one zone with the exception of Trustee Area 2, which is almost equally divided between South and Central Zones.

The claim that trustees "occasionally" attend zone meetings is false. There are currently seven meetings in each zone per year and two all-zone meetings. All meetings but a handful over the past seven years have had a minimum of one trustee in attendance, with the majority having two or three trustees in attendance. Most trustees on the board during the seven year period since zones were established, including DeHart, DeRose, Hankemeier, Keegan, Osmundson, Turley, Volpa, Wilson and Yahiro, have attended nearly every zone meeting in their trustee area during their tenure on the board. These trustees have regularly attended zone meetings to interact with parents, teachers and principals in their zone.

Zones are advisory bodies and have no authority. Zone assistant superintendents discuss the zone meetings during their weekly cabinet meeting with the superintendent. If necessary, the superintendent or assistant superintendent will discuss the concerns with the board either at the board meeting, through "Friday Updates" or individually with trustees. Since trustees are very active participants in zone meetings, those trustees in attendance are well informed. The zone minutes are available and distributed to trustees for the zone(s) covering his or her trustee area, and for other zones if requested. Some trustees have requested to be provided with minutes from all zones. The minutes serve as a formal report from the zone.

- 21.8 The Zone Assistant Superintendents may have discussed zone meetings with the superintendent. However, no record is kept of these discussions. Therefore, there is no way to determine if issues are being adequately addressed or resolved, and no way for the board to participate or provide oversight.

Response: The PVUSD PARTIALLY DISAGREES.

Some trustees choose to be involved at the zone level, and others do not; however, as stated above, there has been at least one trustee in attendance at all but a few zone meetings since zones were established. Trustees who are involved at the zone level by attending meetings routinely follow up with either the zone assistant superintendent or the superintendent on issues brought up at a zone meeting. Zone assistant superintendents are part of the weekly cabinet meetings, where zone meeting discussions occur monthly. Information is therefore shared not only with the superintendent but with the other assistant superintendents.

Records are not kept during cabinet meetings, although notes are taken for the purpose of follow-up. Items that require immediate attention are addressed. As in all organizations, communication and decision-making processes are always being reviewed to determine ways to improve, keeping in mind the strict budgetary and confidentiality restraints a school district faces. Trustees provide oversight through meetings and communications with the superintendent. Trustees do not supervise nor manage assistant superintendents, and do not participate in the daily operations of a school district.

22. Several demographic differences exist between and within zones.

Response: The PVUSD AGREES.

The demographic makeup of the district reflects the nature of the communities served. The district has no control over where its residents live. The district is composed of neighborhood schools (except for charter and alternative schools) and therefore the composition of the zones reflects the natural composition of our communities.

The demographics for the South and Central Zones are similar, with a high percentage of Latino students. About half of the students attending schools in these zones are English Learners. The North Zone is composed of mostly native English speakers, although the percentage of ELL students has increased due to boundary changes.

22.1 The current North Zone system has significantly different socio-economic demographics than the other two zones. Under-achieving students have become the norm in the schools of the South and Central Zones. They have been achieving scores averaging at least two years below grade level for all of the years examined. However, the grade level and achievement scores of most of the schools in the North Zone have been significantly higher and appear to be climbing every year.

Response: The PVUSD PARTIALLY AGREES.

The PVUSD attendance boundaries determine where a student will attend school. These boundaries have been adjusted as enrollment changes and new schools are built. The demographics of the City of Watsonville are different from other areas of Santa Cruz County, including Aptos, which more closely matches the overall demographics of the county.

The South and Central Zones have the highest percentage of ELL students in Santa Cruz County. Nationwide, discussions are occurring regarding the rationale for testing students in English who are just learning the language and holding schools and districts accountable. This concern was recently discussed with U.S. Rep. Sam Farr at a well-attended community meeting related to the No Child Left Behind legislation, which is due to be renewed.

The district expects all students from all zones to perform at or above the same state educational standards. Schools across the district are working hard to meet or exceed yearly goals set by both the state and federal governments. Rates for transitioning students from Spanish to fluent English is increasing each year. State adopted curriculum is being used consistently throughout all schools in PVUSD.

- 22.2 There is a significant difference in the available per-student categorical funds and enhancement money available to South and Central zones to the exclusion of the North Zone. Because of the disparity of categorical funds to North Zone schools, those students who need English learner assistance in the North Zone — a small population of students — get far less assistance than students of the same language acquisition status who live in South or Central Zones.

Response: The PVUSD PARTIALLY AGREES.

As is the case with a number of its assertions, the Grand Jury's "finding" is inconsistent with the facts. All categorical funding district-wide is based on a per-student formula. Schools in the North Zone do not qualify for Title I federal funding. There is no difference in the available per-student categorical funding for ELL students. Categorical funding for English Learners is based on a per student allocation. Schools in the North Zone naturally receive less funding due to a lower ELL population. Students and staff at these schools receive additional support from centralized district services. For the 2007 – 2008 school year, the district established a district-wide formula for English Learner Specialists to better support the ELL population at all sites.

- 22.3 According to the audit study, the North Zone “does its own thing,” and the stakeholders interviewed believe that the district has agreed not to interfere.

Response: The PVUSD DISAGREES.

To the extent that the district is able to ascertain the meaning of this finding, the district disagrees that the North Zone “does its own thing.”

The same academic and staff performance standards exist across all three zones. Implementation may differ or may be adapted or modified in order to meet the needs of the students served. Adapting curriculum to best meet the needs of students in order to achieve success and meet standards should in no way be mistaken for lack of management or district oversight.

There are instances where staff from the North Zone may not participate in training provided to South and Central Zone staff, due to the fact that no North Zone schools are in Program Improvement status. Additionally, certain restrictions are in place with some categorical grants due to the specialized criteria or assurances that exist, and the North Zone schools may not fall within the required guidelines for training.

- 22.4 Those interviewed from the North Zone were aware of the fact that South and Central Zones receive substantially more money per student due to state and federal funding for the impoverished and under-performing schools.

Response: The PVUSD PARTIALLY AGREES.

Those who were interviewed from the North Zone must be referring to federal funding under Title I of the Elementary and Secondary Education Act. As stated earlier, schools receive the same funding per student from the district's General Fund. Eligible schools also receive per pupil state and federal funding for categorical programs. North Zone schools are not typically eligible for these funds.

- 22.5 According to the management audit, zone meetings are evaluated by the parents as more important than board-level meetings because the board does not know the concerns from any one particular zone.

Response: The PVUSD DISAGREES.

No official evaluation of parent views regarding zone or board meetings has been done. Each year parents are surveyed as to their views and opinions regarding the effectiveness of zone and school level issues and concerns. This information is shared with the trustees and the superintendent.

Parents may find zones to be more relevant to their particular needs because of the familiarity of the schools in the zones. The elementary schools feed into the middle schools/junior high, which then feed into the high school. Parents know each other from participating at the site level on various projects, meetings and special events, back to school nights and open houses. Just as a school site council or home and school club meeting is more pertinent to a parent than a zone meeting, it is understandable that a zone meeting would be considered more relevant than a board meeting, where all 35 PVUSD schools are represented and issues may be discussed that are of no interest to a particular parent.

Trustees share concerns from zones with other trustees at board meetings or other less formal discussions, and are also kept informed by the superintendent and assistant superintendents regarding issues concerning a zone. Two all-zone meetings are held each year, and trustees attend these meetings as well.

Conclusions

A. The Appearance of a Conflict of Interest on the Part of the Superintendent

1. The superintendent's actions in the purchase of America's Choice materials appear to have violated the district's ethics policy concerning conflict of interest. However, since the district's ethics policy is undated, it cannot be determined if it was in place at the time these actions were undertaken.

Response (not required): The PVUSD DISAGREES.

As stated previously, the superintendent did not participate in the decision making process to purchase America's Choice. The process involved site-based decisions of school community stakeholders, therefore there was no violation of the ethics policy. As also state previously, the ethics policy in place when Dr. Mays was hired was clearly dated.

B. The Board's Fiscal and Management Oversight Responsibilities

2. The board failed to perform proper oversight of the district budget.

Response (not required): The PVUSD DISAGREES.

The board has not failed to perform proper budget oversight. PVUSD has had a positively certified budget approved by the county superintendent pursuant to Education Code section 42127 since its struggles in the early 1990's. Board Policy 9000 clearly defines the board's role in the budget, and the board has acted in accordance to this policy. The policy was obtained through CSBA.

- 2.1 Various board members did not know or understand the budgets and amendments well enough to make informed opinions of their accuracy or justifications.

Response from the PVUSD (not required):

The conclusion may be accurate since it is a generic statement without reference to specific names or numbers of board members. Certain trustees may not have the interest nor expertise to fully understand or know a budget totaling over \$230 million. That is, in part, the reason why qualified staff are hired to handle the specifics of budget development. Opportunities are provided to each trustee to take advantage of the many trainings and workshops that are provided through the district, CSBA, School Services of California, Inc. and the County Office of Education. In addition, any trustee can take advantage of the open-door policy of the Business Department. The district cannot mandate that a trustee become conversant on the budget; it can only provide the opportunities to learn.

- 2.2 The board's lack of oversight in reviewing the budgets and amendments may have resulted in unnecessary expenditures of large sums of money.

Response (not required): The PVUSD DISAGREES.

The board has the opportunity to review and question any and all expenditures prior to approval. There certainly can be differences of

opinion about budget priorities, but there have not been “unnecessary expenditures”.

3. The board failed to perform proper oversight of district expenditures. The packet information the board receives is too loosely organized to assure the board they are reviewing all of the purchases or disbursements for a given period.

Response (not required): The PVUSD DISAGREES.

The board has the opportunity to review and question any and all expenditures prior to approval. Please refer to the responses to Findings 6, 7 and 8.

4. The board’s inadequate oversight may have resulted in undiscovered inappropriate or imprudent spending over the past five years.

Response from the PVUSD (not required):

PVUSD disagrees with the conclusion of inadequate oversight. Further, it is impossible to agree or disagree with abstract and/or subjective characterizations such as undiscovered inappropriate or imprudent spending. Refer to the response to Conclusion 2.2.

5. A reasonable explanation has not been offered for why the process of hiring a full-time superintendent has been slow.

Response (not required): The PVUSD DISAGREES.

The board has clearly explained the timeline for hiring a permanent superintendent, and publicly discussed the factors affecting the timeline. PVUSD is adhering to that timeline.

C. Allegation of Brown Act Violations

6. The actions of the board on January 17, 2007 in closed and open sessions did not comply with the spirit — if not the letter — of the Brown Act because the two intended actions were not clearly described on the agenda.

Response (not required): The PVUSD DISAGREES.

The January 17, 2007 board meeting and its related posted agenda were fully compliant with the Brown Act. The criticism that, “the two intended actions were not clearly described on the agenda,” belies the very purpose of the Brown Act, that agenda items reflect subject matter but not “intended actions” since the respective “intentions” of elected officials are supposed to be discussed at a public meeting. As previously mentioned, a complaint was reviewed by the District Attorney and letter sent in early April to the complaining parties indicating there was no Brown Act violation.

D. The Board’s Oversight of School Construction Projects

7. The PVUSD Board did not provide sufficient oversight of construction expenses.

Response (not required): The PVUSD DISAGREES.

The district has numerous systems in place to ensure sufficient oversight of construction expenses and those systems are consistent with accepted standards in public sector construction. This has included use of a professional construction management firm and auditing through various channels, from PVUSD's own annual independent process, to citizen's bond oversight committee audits, to audits of state funded programs by the Office of Public School Construction.

- 7.1 The PVUSD Board signed off on two Certificates of Participation (COP) totaling \$12.5 million at the cost of several million dollars over six years. Using Certificates of Participation is not cost effective. Other districts in California have gotten into trouble using COPs because they could not pay them back.

Response from the PVUSD (not required):

The district agrees in part with the conclusion. As discussed above, beginning at Finding 11, PVUSD did authorize two COPs. The first, in 1997, was for \$10 million. The second, in 2000, was for \$13 million.

*PVUSD denies, however, that using COPs is not cost effective. When properly developed, COPs offer school districts the opportunity to obtain interim financing in order to leverage their future long-term permanent funding sources. As explained in a leading publication, COPs are "simply a mechanism for capitalizing a portion of revenues expected over the future term of the lease to create a lump sum that may be used for projects today." (Greg Harrington, et al., *The XYZs of California School District Debt Financing* (3rd Ed. 2005), p. 46 (see discussion at pages 42-46).)*

The 1997 and 2000 COPs served as an interim financing vehicle to enable PVUSD to proceed with its priority school projects in advance of the future availability of long term financing in the form of developer fee revenue, state funding for modernization and new construction grants, and local general obligation bond proceeds. The COPs enabled the district to have architectural plans and engineering prepared and to pursue site acquisition, which in turn resulted in PVUSD receiving \$68,845,000 (close to \$69 million) in state funding from 1997 to 2000 for numerous different school projects. While total state funding to PVUSD for these projects now exceeds over \$100 million, the initial almost \$69 million received could only have been achieved through the interim funds provided by the COPs. COPs are the only available form of advance funding available to school districts to allow such leveraging, and their use is therefore fairly common across the state.

Furthermore, the COPs were obtained at a much lower average weekly interest rate than was available for general obligation bonds, as described earlier.

As for other school districts that have had problems repaying COPs, the vast majority of school districts that take out COPs have effective repayment plans, and therefore have had no problems. PVUSD had a

comprehensive, multi-layered repayment plan for its COPs, comprised of expected developer fee revenue, state funding for modernization and new construction grants and local general obligation bond proceeds.

These multiple layers provided additional protection to PVUSD in its ability to ensure repayment of the COPs. In 2002, a major step in PVUSD's plans was realized when the community approved a \$58 million general obligation bond. PVUSD then paid off over \$11.3 million of its remaining \$13 million in COPs, leaving a principal of only \$1.6 million. The resulting \$112,000 average payment per year is a relatively low investment compared to the almost \$69 million in state funding that was initially secured as a result of the interim COPs. Furthermore, this average payment is relatively small compared to the district's approximately \$178 million General Fund budget, equaling only a small fraction of one percent of the annual budget.

- 7.2 The board should have consulted with the City of Watsonville and conducted an in-depth feasibility study on the impact to the community of building the high school in the current location. The new site not only incurred cost over runs due to unanticipated problems, but it does not provide adequate sports and cafeteria facilities for the students. Nor is there room for a facility that was planned for the safe storage of materials for chemistry classes.

Response (not required): The PVUSD DISAGREES.

The district consulted extensively with the City of Watsonville and numerous other organizations before choosing to build Pajaro Valley High School in its current location. As noted earlier, the project site was identified in the 1990's as the preferred site for a new high school by a site selection committee that included the City of Watsonville. The site was identified following an exhaustive search of potential sites that lasted several years.

The City of Watsonville supported the selection of the present site as a benefit to the community. PVUSD's in-depth study included both the site selection process and the extensive environmental review. The environmental impact reports for the site expressly considered the impact on the community from building on the Harkins Slough site.

City of Watsonville representatives attended numerous coordinated meetings with staff of the California Coastal Commission along with district staff in order to complete the required approval process for the project on the site, and was required to and did approve a Local Coastal Plan amendment in order to permit a high school to be built on the site. (The site was previously zoned for various commercial and residential uses as well as for a private school, but not for a public school.) The Project site also required and received approval from the California Department of Education.

Furthermore, the project at this site was supported by numerous other groups, such as Watsonville Wetlands Watch, the Farm Bureau, the

Pajaro Valley Chamber of Commerce, the Migrant Parent Advisory Council, the Santa Cruz County Labor Council, the Latino Strategic Planning Collaborative, the Association of Mexican American Educators and the majority of the residents of the Pajaro Valley. As noted previously, 10,000 signatures were presented to the Coastal Commission urging the approval of the project on the present site.

Regarding cost overruns due to unanticipated problems at the site, it is correct that both the planning for the school and the actual construction of the high school encountered unforeseen circumstances that increased costs. PVUSD did not anticipate the local staff of the Coastal Commission requiring extensive changes to the school plans. This was in part because PVUSD had consulted with a member of the local staff during the site selection process who had supported selection of the site. The occurrence of mold was also an occurrence that the district could not have anticipated; there is no evidence that the site location itself contributed to the problem. PVUSD seeks to recover those cost overruns in its current litigation.

Concerning adequacy of the high school facilities, the sport facilities at the high school comply with all Education Code and state requirements, and are in fact adequate. While it would be preferable to have additional sport facilities, high schools across the state vary widely in what facilities they offer, depending on site constraints and other conditions. The high school's facilities in fact exceed many others in California, and the district plans to add additional track and field facilities on the PVUSD-owned nine acre expansion area immediately to the north of the school site. The cafeteria facilities are also adequate, as discussed earlier. The cafeteria is similar or larger in capacity to other PVUSD high school facilities.

While it is correct that PVUSD did not build the facilities originally planned for safe storage of chemicals for chemistry classes, that was not because of a lack of room. Such materials must be stored in locked closets that have ventilation. PVUSD's original plans were to place the materials in vented cabinets outside of the classrooms. When teachers indicated that they did not want to go that far for the chemicals when needed, the district elected for the convenience of staff and added a ventilated closet in the staff room, which had ample room available for the closet. The resulting storage area meets all safety requirements.

8. The cost of the architect is probably justified because the plans were changed so many times. The architectural firm, however, may have some responsibility for the mold situation if their design did not provide adequate ventilation for a building so close to the wetlands.

Response from the PVUSD (not required):

PVUSD agrees in part with the conclusion. The cost of the plans was directly attributable to the need to redesign the school in order to meet the Coastal Commission staff's demands. The district agrees that its architect of record may have responsibility for the mold that occurred on the not-yet-completed high

school due to design flaws, including but not limited to the lack of adequate ventilation. Because of the architect's apparent design errors, the district has included the architect as a defendant in its currently pending lawsuit regarding the mold and construction issues.

E. The District's Management of Instructional Programs

9. The Pajaro Valley Unified School District superintendent and assistant superintendents have failed to provide leadership, rigorous standards, and management of instructional programs.

Response (not required): The PVUSD DISAGREES.

Standards implementation has been the thrust and focus of instructional planning in the district for the past five years. The standards movement began in the mid 1990's. Dr. John Casey, superintendent prior to Dr. Mays, began using the Pulliam program and began standards implementation during his tenure. This focus was expanded by Dr. Mays, as superintendent and subsequently as interim superintendent, to include school scans and increased management of instructional programs. The assistant superintendents lead the effort to establish consistent use of standards-based instruction in the classrooms.

- 9.1 The intervention of the state's School Assistance and Intervention Team (SAIT) at H.A. Hyde Elementary and Pajaro Middle schools reflects on the district's mismanagement of these schools.

Response (not required): The PVUSD DISAGREES.

This conclusion reflects the Grand Jury's misunderstanding of the role of SAITs under the Public Schools Accountability Act of 1999 (California Education Code §52050, et seq.) which provides a variety of resources for California public schools that do not meet student testing growth targets. A variety of factors affect student test results and there is no more reason to conclude that such results are a reflection on district management as there would be to conclude results are a reflection on parenting skills, environment or any other factors.

Hyde accepted High Priority Schools Grant (HPSG) program funds and thus accelerated the intervention timeline. The initial result of SAIT interventions and subsequent implementations at Hyde was a drop in scores.

By comparison, Pajaro Middle School had long been focused on students and student work, which led it to adopt America's Choice. Pajaro Middle School also chose to accept interventions on an accelerated timeline and focused on SAIT findings and the nine essential elements. Student scores jumped. Arguably, three years of a foundation built with America's Choice allowed the jump in scores from the implementation of SAIT findings at Pajaro Middle School.

In either case it is unreasonable to assume that there is a relationship between any district mismanagement and SAIT program at individual school sites.

- 9.2 The texts previously used in the classrooms, before the SAIT intervention, were inappropriate, and the money was misspent. Those texts were found to be inconsistent with quality instructional delivery.

Response from the PVUSD (not required):

Teachers were using state standards and state approved texts prior to SAIT involvement. America's Choice design, and thus materials, were state-approved. The DAG Committee did find inconsistencies of implementation and material use at a number of schools, but that finding was not specific to only SAIT schools.

- 9.3 The District Alternative Governance committee has had to assume district management's role of managing the seven schools in jeopardy of needing state intervention.

Response (not required): The PVUSD DISAGREES.

The concept of DAG was brought to the district by Ylda Nogueta, Assistant Superintendent of the South Zone. Under the leadership of Dr. Mays as superintendent, the cabinet discussed at length and agreed to move forward with the concept. Dr. Mays began the design and formation of the DAG Committee while superintendent with the assistance of an outside provider, Chatfield and Associates (SAIT providers). It was determined that Dr. Mays would be co-chair with Chris Lopez-Chatfield. She has continued in the role as co-chair since the DAG Committee was established. Two assistant superintendents, Ylda Nogueta and Catherine Hatch, are also members of the DAG Committee.

It is impossible for the DAG Committee to assume district management's role of managing the seven schools because DAG is district management.

- 9.4 There are approximately 10 other schools in the district with many of the same inconsistencies and non-compliance problems as those addressed by the District Alternative Governance committee and SAIT.

Response from the PVUSD (not required):

The district agrees that there have been inconsistencies and non-compliance problems, and these continue to be addressed. At the same time, state mandates continue to increase, making the task more cumbersome. School districts across the state are facing the same dilemmas as PVUSD. It takes three to five years to fully implement program change, and the district has been working hard to comply.

- 9.5 Every day that quality English language learner instruction is not being delivered in PVUSD classrooms means these students are falling further behind. The Gold Study of 2007 clearly indicates the failed management of this vital area of instruction for PVUSD students.

Response (not required): The PVUSD PARTIALLY AGREES.

While not an issue of failed management, and while some progress has occurred, the district's own reports covering at least the past ten years have shown lack of consistent progress among the ELL population. The definition of a quality ELL program has been a heated debate among educators for decades.

Dr. Mays and the cabinet brought Dr. Norm Gold, a language development specialist, to the district to help identify specific areas that could be addressed. Dr. Gold and Chris Lopez-Chatfield, an outside provider, are now leading a PVUSD taskforce to develop a comprehensive plan for ELL. This is not failed management.

- 9.6 The current district leadership has demonstrated poor management of the schools in the following areas:
- Lack of consistent and effective teaching strategies.
 - Lack of achievement benchmarks and failure to rigorously pursue attainment of those benchmarks.
 - Failure to empower and support good teachers and provide quality, state-approved texts.

Response (not required): The PVUSD DISAGREES.

To the knowledge of administration, the Grand Jury did not visit classrooms, and may have limited information regarding the district's teaching strategies. The district has initiated the following programs or purchases over the last four years: I Can Do Standards; standards-based classroom materials; training in teaching strategies; partnership with the PVFT in Restructuring Schools to Raise Achievement; school scans; creation of the DAG Committee; and establishing the school plan review process. Each school plan has specific educational benchmarks. The district has also reconvened its curriculum council and has established pacing guides for classroom teachers.

- 9.7 The results of poor school management are reflected in the fact that students are failing to achieve grade level goals.

Response (not required): The PVUSD DISAGREES.

Numerous districts across California face similar challenges as PVUSD, with a high number of students living in poverty, large migrant population and many ELL students. Each district is working to address student achievement that is below grade level. If there were a quick and easy answer, such as finding "better management" it would be headline news and rapidly implemented across all districts.

Academic Performance Index (API) scores in most of PVUSD schools continue to climb, as witnessed by the latest release of test scores from the California Department of Education. The number of high school graduates meeting University of California "A-G" subject area requirements and/or CSU requirements also continue to be on the rise.

The 2005 – 2006 School Accountability Report Card (SARC) for Aptos High School indicates that 85 percent of the students had passed all of the courses required for admission to the UC or CSU systems. At Watsonville High School that number is 77 percent. (Pajaro Valley High School did not yet have ample data as it was a new school.) These percentages, compared to the county average of 55 percent and the state average of 38 percent indicate that PVUSD students are showing tremendous academic improvement.

The district has many students who are at or above grade level. Advance courses at all three high schools are growing. Elementary schools are differentiating instruction so students can achieve both success as well as move ahead to work on more challenging coursework. These students have the same district management team as students who are below grade level, therefore the district disagrees that failure to achieve grade level goals is caused by poor school management.

F. The Effectiveness of the Zone System

10. The Zone System is failing as an effective management organizational structure.

Response from the PVUSD (not required):

PVUSD disagrees with the conclusion for the reasons set forth below, and as mentioned previously in the district's response to Grand Jury recommendation 22.5.

- 10.1 The current zone system promotes de facto cultural and racial segregation. If it is desirable to keep the Zone System, efforts must be made to encourage cross zone collaboration of students.

Response (not required): The PVUSD DISAGREES.

The district encompasses several geographically separated areas. With or without zones, every PVUSD school would have the same cultural and racial population, as schools have boundaries and zones generally follow those boundaries. The district has determined that it will have neighborhood schools so families can easily participate in school-related activities. It is widely recognized that parents who have easy access to their children's schools are more likely to become involved in their children's education and in school functions. This builds a school community.

- 10.2 The practice of not documenting zone meetings results in a lack of communication to the entire board about issues the community raises in zone meetings and a lack of total community awareness of problems and solutions that all zones are encountering.

Response (not required): The PVUSD DISAGREES.

Zone meetings are documented, advertised and communicated to the board. If a trustee is unable to attend a zone meeting, he or she can easily consult the meeting minutes or ask another trustee or administrator what

transpired. Zones have no authority to create policy and are simply administrative/advisory bodies.

- 10.3 The two-level governing process (district and zone) contributes to inconsistencies in practices, poor communication, a lack of accountability, and a lack of awareness of the total district by the board. Board failure to provide oversight is the result.

Response (not required): The PVUSD DISAGREES.

The PVUSD chose the zone system in order to provide K-12 articulation throughout the district, as well as due to geographic difficulties for an administrator to drive from one end of the district to the other to manage schools. The board has not failed to provide oversight.

Recommendations

1. Since it is unknown when the district's ethics policy was enacted, the board must determine if the superintendent's actions concerning the purchase of materials from a former employer were in violation of policy. Addressing this issue will contribute to the credibility of the board and engender confidence from the community.

Response from the PVUSD:

The PVUSD Board of Trustees will take no action to implement the recommendation, as the Grand Jury's original findings (and innuendo) on this issue are unsupported by facts, and no wrongdoing was found. (See response to Findings 1-5.)

2. The board needs to develop a comprehensive fiscal oversight policy.

Response from the PVUSD:

The board is already in the process of adopting new policies based on the California School Boards Association's recommended policy on fiscal oversight. This item will be discussed by the agenda committee, which includes three trustees, within the next three months to determine if an action item needs to be placed on the agenda.

- 2.1 The board should develop reasonable criteria for maintaining fiscal oversight responsibilities and perform oversight by diligently reviewing purchase orders and disbursements that meet designated dollar totals and/or determine other criteria for oversight.

Response from the PVUSD:

The board is in the process of adopting new policies based on CSBA's recommended policy on fiscal oversight. This item will be discussed by the agenda committee, which includes three trustees, within the next three months to determine if an action item needs to be placed on the agenda. It should be noted that review of purchase orders and disbursements already occurs and is performed by district staff. As previously mentioned, one former trustee and one community member also routinely review this information.

- 2.2 The board must be sure it is reviewing disbursements from all funds for which it is responsible; this review must include — but is not limited to — disbursements from categorical and grant funds.

Response from the PVUSD:

This recommendation represents the district standard practice and therefore is already implemented. No further action will be taken.

- 2.3 Any consultant fees from any fund should be reported to the board in the same timely manner as other disbursements.

Response from the PVUSD:

This recommendation represents the district standard practice and therefore is already implemented. No further action will be taken.

- 2.4 The annual independent audit should verify that the board has been made aware of all consultants' fees.

Response from the PVUSD:

This recommendation is already implemented. No further action will be taken. These fees are paid through warrants, which are accessible to the board. District annual independent audits are performed consistent with state mandated requirements.

- 2.5 The board should place in the Independent Audit Scope a provision that the Independent Auditor will ascertain that all expenditures and purchases requiring board oversight were, in fact, presented to the board in a clearly defined format and were timely, complete and accurate.

Response from the PVUSD:

The recommendation requires further analysis. This item will be discussed by the agenda committee, which includes three trustees, within the next three months to determine if an action item needs to be placed on the agenda.

- 2.6 A Fiscal Crisis and Management Assistance Team (FCMAT) study for the period 2002-2007 should be contracted to determine if all operational and instructional expenditures and disbursements were appropriate and prudent. The board should take any actions necessary to resolve problems uncovered by the study.

Response from the PVUSD:

This recommendation will not be implemented. The district has no information to suggest that any expenditures during the referenced five year period were other than appropriate or prudent, and, thus, cannot justify the expense of a FCMAT review. FCMAT did a thorough review in 2002. There has been no indication of a need for another review.

- 2.7 The board should examine the educational and financial value when approving large or multiple-year contracts for licenses or services, regardless of which taxpayer funds are allocated to pay for them.

Response from the PVUSD:

No action will be taken to implement the recommendation, as the Board of Trustees already reviews the value of programs through agenda setting and through review of purchases and warrants.

- 2.8 One of the highest priorities of the board should be safeguarding the taxpayer monies.

Response from the PVUSD:

No action needs to be taken to implement the recommendation, as the Board of Trustees already understands that safeguarding taxpayer monies is one of the highest priorities and duties of the board.

2.9 The board must be vigilant in the following areas:

- assuring the delivery of quality education to all the students, including knowing what educational strategies are being delivered.
- overseeing the superintendent and requiring adherence to goals and benchmarks needed to achieve district responsibilities.
- maintaining open communication with students, community and parents.

Response from the PVUSD:

No action will be taken to implement the recommendation, as the current Board of Trustees understands the need to adhere to its own policies and/or contracts regarding superintendent evaluation and will continue to do so.

3. The PVUSD Board should take appropriate steps to ensure better oversight of construction projects.

Response from the PVUSD:

The recommendation requires further analysis. PVUSD consistently strives to ensure oversight of its construction projects, and continues to seek ways to improve on its already strong oversight. This topic will be discussed by the agenda committee, which includes three trustees, within the next three months to determine if an action item needs to be placed on the agenda.

3.1 The district's list of vendors involved in the construction projects should be reviewed and their performance audited. This information about vendors should be made public.

Response from the PVUSD:

No additional action will be taken to implement the recommendation. District vendors on construction projects are identified to the board and public at the time that construction contracts are awarded. Pursuant to Public Contract Code 20111, PVUSD must publicly bid its construction projects that are over \$15,000. Similarly, PVUSD is generally legally required to award bids to the lowest responsible bidder. The district is not ordinarily entitled to reject a particular low bidding contractor or subcontractor. Thus, while it may be of interest to some to review or audit the performance of contractors, the outcome would not alter the terms of the competitive bidding laws.

3.2 A Certificate of Participation should only be used in dire financial situations. The board should first consider other methods of financing.

Response from the PVUSD:

No action will be taken to implement the recommendation, as it encroaches on the discretion of elected members of the Board of Trustees to consider the use of COPs consistent with law.

- 3.3 In future construction, the location should be secured before the district invests in a design project.

Response from the PVUSD:

No action will be taken to implement the recommendation. While it reflects a preferred sequence of events, the recommendation does not take into account unforeseen contingencies.

- 3.4 Since the Grand Jury determined that no effective oversight of construction project spending has been done, a Fiscal Crisis and Management Assistance Team study for the period 2002-2007 should be contracted to determine if all construction expenditures were appropriate and prudent. This study would provide a clean slate for the board to institute more prudent oversight of future construction projects.

Response from the PVUSD:

No action will be taken to implement the recommendation. The recommendation is unwarranted, as the district's construction projects are already subject to significant spending oversight under multiple layers of public, local and state auditing and review.

The bulk of PVUSD's locally available construction funds come from the general obligation bond passed by PVUSD voters in 2002. This was a "Proposition 39" bond measure. As a prerequisite the approval of the bonds for the authorized projects by a 55 percent vote, Proposition 39 requires that the district "conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed." (Cal. Const., art. XIII A, § (1)(b)(3)(C).) In addition, the district must "conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects." (Cal. Const., art. XIII A, § (1)(b)(3)(D).)

The Government Auditing Standards (GAS) published by the Comptroller General of the United States provides guidance regarding each type of Proposition 39 audit. A performance audit may include, among various other items, a review of the extent of project performance in relation to the expenditure of the bond proceeds. A financial audit is similar to the annual financial audits required by schools districts pursuant to Education Code sections 14503 and 41020, which require audits to be performed in accordance with General Accounting Office standards for financial and compliance audits.

The largest portion of district expenditures on facilities has come not locally, but rather from state grant funds. The district must undergo a state audit for its expenditure of state construction funds, such as the hardship funding on the Pajaro Valley High School project. The state funding program requires various forms of accountability. This includes auditing of progress towards completion of a state funded project and an audit of expenditures. (Ed. Code § 17076.10; Cal. Code Regs., tit. 2, §§ 1859.105, et seq.)

The only other significant source of funding available to PVUSD for facilities expenditure is developer fees. As with other available funds, such fees are subject to explicit accounting and reporting requirements. (Govt. Code §§ 660001 & 66006.)

Finally, the district's oversight and auditing procedures for construction projects was already the subject of study by FCMAT in a report prepared for the district, dated October 25, 2002 (2002 FCMAT Report). This report pointed to areas for improvement, many of which had to do with the recognition that the district had too few employees doing too much work.

*Significantly, the report also acknowledged what the district's business department was doing well. The district's site facilities manual -- which included identification of future facilities site maintenance needs, projected enrollments, reporting on the status of new school construction projects, and additional information -- was "an excellent presentation of information of the Pajaro district facilities, which could serve as a model for use by other California school districts." (2002 FCMAT Report, p. 15.) The report also noted that the district's use of outside consultants in relation to its construction projects "seems to be working well." (*Id.*, p. 16.)*

*Regarding the district's internal controls, the report "commended" the district "for developing improved standards and procedures," and concluded that "the business department is operating within a reasonable level of internal controls considering the extreme pressure that the employees are under to keep up with the overwhelming workload." (*Id.*, p. 20.) As stated in the report, "the overall internal controls at the Pajaro district are functioning well." (*Id.*, p. 22.)*

4. The superintendent needs to effectively manage instruction and implement a consistent plan throughout the district.

Response from the PVUSD:

No action will be taken to implement the recommendation. Effective management and planning in the district is already taking place.

- 4.1 The School Assistance and Intervention Team (SAIT) changes, the District Alternative Governance (DAG) committee recommendations, and those of the Gold Study should be implemented as soon as possible in all the under-achieving schools in the district in order to garner consistency and measurability of the learning benchmarks.

Response from the PVUSD:

This recommendation is already in the process of implementation, therefore no action is required. The superintendent and cabinet initiated the Gold Study and report, and are implementing the report's recommendations. The DAG committee is in fact made up almost entirely of the cabinet and other district staff; therefore, the implementation of recommendations was simultaneous with the DAG committee's

development of same. The SAIT changes were already being incorporated into district actions as the Grand Jury investigation was being conducted.

- 4.2 The Nine Essential Program Components as set by the California Department of Education and used by the DAG team should be instituted in all regular elementary, middle and high schools in the District. A grid plan similar to the one developed by the DAG team should be worked out for each school using the format and benchmarks set by the DAG report and setting early attainment dates. The assistant superintendents and the superintendent should be the primary persons responsible for performing this task, and the principals and the school staffs should collaborate with one another until all of those benchmarks are set and met.

Response from the PVUSD:

PVUSD will not take the specific actions recommended by the Grand Jury, as they appear to be based on a misunderstanding of the nature of the DAG committee. The superintendent and assistant superintendents along with one outside consultant and several directors make up the DAG committee. The grid mentioned was developed by the DAG committee, which is an entity of the district. Therefore the district is using the grid that it developed. The assistant superintendents are currently working with other sites to set the benchmarks.

- 4.3 Those barriers to good education that are management-related — as spelled out in four management studies, the DAG, the SAIT, the Gold Study and the Management Audit Study — should be remedied immediately with assertive, scheduled and measured action by those persons in charge – the superintendent and whatever deputies the superintendent designates. This is a primary responsibility and must not be avoided or delayed by studies and the formation of committees. All of these actions and benchmarks should be in place for the next school year to remove any inconsistencies and failures to teach to approved strategies and goals.

Response from the PVUSD:

No further action needs to be taken to implement the recommendation. This process is already under way and benchmarks are being established to ensure regular, ongoing implementation.

- 4.4 District staff should give a monthly status report of the benchmarks accomplished and the status of those in process with scheduled dates of completion.
- Those benchmarks not accomplished within the scheduled dates should be discussed and remedied and new firm dates set for accomplishment.
 - Those benchmarks achieved and verified should be met with much fanfare. This will contribute to credibility of the board and confidence from the community.

Response from the PVUSD:

This recommendation requires further analysis. The deputy superintendent will review and report back to the board his recommendations within four months. Based on that report, the Board of Trustees will then determine a course of action.

- 4.5 In concurrence with the Gold Study, the Management Audit Report and the recommendations of many of the stakeholders, an expert curriculum specialist should be hired immediately and given the responsibility and authority to review the integrity and consistency of the district-wide curricula, texts, standards and teaching strategies.

Response from the PVUSD:

No further action needs to be taken to implement this recommendation, as the Board of Trustees has recently hired a deputy superintendent who is a curriculum and instruction specialist. This was done despite protests from various groups and individuals who felt this position was not needed. (Also see the above response to the Conclusion 4, regarding the district's efforts to manage and implement a consistent instructional plan.)

- 5. The purpose and attendance requirements of zone meetings should be clearly defined. The meetings should be well publicized and accessible to all. Agendas and minutes should be readily available.

Response from the PVUSD:

No action on the recommendation will be taken. The purpose of zones is already sufficiently defined. Meetings are already publicized and are accessible to all, being held at public school sites. Agendas and minutes are and have been available upon request, as explained in the district's response to Finding 21.6, above.

- 6. Zone management should establish a uniform method of communicating their deliberations and actions to the board.

Response from the PVUSD:

The recommendation requires further analysis. The newly hired deputy superintendent will review and determine if any change in practice regarding communication between the Board of Trustees and zone management are warranted, and will advise the board within six months if he believes action by the board needs to be taken.

Responses Required

Entity	Findings	Recommendations	Respond Within
Pajaro Valley Unified School District Board of Trustees	1, 2, 4, 5, 6-9, 10-22	1-6	90 Days October 1, 2007

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