

Soquel Union Elementary School District Report

Synopsis

The Grand Jury was asked to investigate several complaints against the Soquel Union Elementary School District Board of Trustees and the Superintendent. While some of the complaints were outside the Grand Jury's jurisdiction, others were considered worth pursuing. The Grand Jury was unable to find any evidence supporting the complaints. Due to the importance of the issues involved, the Grand Jury hopes to clarify them by publishing its findings.

Background

Soquel Union Elementary School District includes five schools: four elementary schools and one middle school. In all, the district serves approximately 2,000 students in the Capitola/Soquel area. All four of the elementary schools are very small, with kindergarten through sixth grade enrollments under 400 students each. Capitola Elementary is the smallest, with an enrollment of approximately 200 students. District officials said the middle school, which shares a campus with Capitola Elementary, is overcrowded.

In 1999, the district decided to address the overcrowding at the middle school by attempting to pass a bond, Measure Q. Measure Q would have closed Capitola Elementary School, expanded the middle school into its vacated classrooms and built a new elementary school on property the school district owned at Jade Street Park.¹ In March 2000, Measure Q was not approved.

Public forums following the defeat of Measure Q showed that modernization and reconstruction of existing schools were priorities for most people and that parents did not want Capitola Elementary School to be closed. They did not want a new school at Jade Street Park.

A new measure, Measure A, was put on the ballot.² Measure A included a list of specific improvements for the district's five schools. It noted that the money would be used only for the existing schools and that none of the money would be used to construct a new school at Jade Street Park. The measure passed in March 2002.

¹ Appendix A, Measure Q.

² Appendix B, Measure A.

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The school district made news with its lawsuit against the City of Capitola in September 2001. The lawsuit involved land at Jade Street Park. The school district bought the land in 1952 in order to build a school when needed. In the 1960s, the district leased the land to the City of Capitola, which used it for a park, built tennis courts and constructed a community center. The school district's enrollment is cyclical. At the time of the lawsuit, it was in a high period. The district wanted the land back to use for a school, but the city wanted to keep the land for a park and offered to buy it. The district sued the City of Capitola to defend its property rights.

Opponents of a school at Jade Street Park and those who opposed closing Capitola Elementary School viewed the lawsuit as another step toward building a school at the park and closing Capitola Elementary.

The Soquel School District's claim to the property was upheld in court. The City of Capitola was allowed to continue to use the site until needed by the school district.

In March 2003, the closure of Capitola Elementary for the 2003-2004 school year appeared on the school board's agenda, as part of a solution to the district's budget shortfall. The City of Capitola donated \$160,000 to keep the school open that year.

Like many other districts in the state, Soquel is facing a budget shortfall again this next fiscal year (2004-2005). This year's shortfall is \$290,000, and the City of Capitola has made no donation. School trustees decided to close Capitola Elementary School to save money and to transfer its students to other campuses. The overcrowded middle school will expand into the old elementary school classrooms. Capitola Elementary parents opposed this move.

The school board voted in March 2004 to move forward with plans to close Capitola Elementary School, a process that must go through California Environmental Quality Act review. If the project is successful, students from Capitola Elementary School will attend new schools as soon as Fall 2004. Students from the school have already been notified which new schools they will be attending, should the plan be approved.

A group of parents from Capitola Elementary School have announced plans to form a charter school.

District officials say there is a need for a pre-kindergarten and pre-school, which could be located at Jade Street Park.

Scope

This investigation focused on five areas:

1. Did the Soquel Union Elementary School District Board of Trustees and Superintendent violate any local, state or federal laws?
2. Did the Soquel Union Elementary School District Board of Trustees or Superintendent violate the Ralph M. Brown Act (Government Code Section 54950 – 54963)?
3. Did the Soquel Union Elementary School District Board of Trustees violate the terms of the 2002 Measure A General Obligation Bond?
4. Did the Soquel Union Elementary School District Board of Trustees illegally spend the proceeds of the Measure A General Obligation Bond?
5. How was the Soquel Union Elementary School District's lawsuit against the City of Capitola funded? Did the money come from Measure A General Obligation bond funds?

Sources

Interviewed:

Santa Cruz County Office of Education officials.
Soquel Union Elementary School District officials.
Complainants.

Reviewed:

California Education Code Section 17455-17584.
Complaint made to the Santa Cruz Grand Jury signed by 28 people.
E-mails from Soquel Union Elementary School District residents.
Government Code Section 54950-54963, also known as the Ralph M. Brown Act.
Santa Cruz Sentinel.
Soquel Union Elementary School District Board minutes.
Soquel Union Elementary School District, County of Santa Cruz, Capitola, California
Audit Report, June 30, 2003. Goodell, Porter & Fredericks, L.L.P., Certified Public
Accountants.
Soquel Union Elementary School District documents, letters, financial records and
e-mails.
Soquel Union Elementary School District Web site, www.soqueldo.santacruz.k12.ca.us.
Update on the General Obligation Bond Issuance and Construction Funding,
February 18, 2004.
Voter Information Pamphlet, Measure Q, March 2000.
Voter Information Pamphlet, Measure A, November 2001.

Findings

1. The December 3, 2003 minutes of the Soquel Union Elementary School District's Board of Trustees meeting gave notice that the district's next meeting would be December 17, 2003.

Response: Soquel Union Elementary School District DISAGREES.

The minutes of the December 3, 2003 meeting state that "the next Board of Trustees regular meeting is scheduled December 17, 2003. . ." (underlined for emphasis). It is important to note that minutes are not used as communication regarding meetings. The minutes for the December 3, 2003, meeting were not available to the public until the meeting of December 17th, 2003 at which they were approved.

2. A special meeting to set goals and objectives was held on December 9, 2003.

Response: Soquel Union Elementary School District AGREES.

3. District officials say the December 9, 2003 meeting was properly noticed in the same way that all school board meetings are. The public is notified about the meeting in several ways:

- Notice is posted on bulletin boards at each school.
- Information is faxed to local newspapers and media outlets.
- Information is posted on the district's Web site.

Response: Soquel Union Elementary School District AGREES.

We note that agendas are also posted in the display window on the exterior front wall at the district office.

4. The Grand Jury heard testimony that a president of a Home and School Club asked about the December 9, 2003 Goals and Objectives Workshop ahead of time and was told they could not attend.

Response: Soquel Union Elementary School District CANNOT RESPOND.

Neither the Superintendent nor a member of the Board of Trustees was present for testimony as described and any response would be speculative.

5. The Grand Jury heard testimony that this person was told that presidents of the Home and School Clubs were not invited to participate in the Goals and Objectives Workshop but were welcome to observe. Invited participants included school board

members, presidents of School Site Councils and representatives of the California School Education Association (CSEA) and Soquel Education Association (SEA) unions for each school.

Response: Soquel Union Elementary School District CANNOT RESPOND.

Because the Superintendent and/or Board of Trustees has not been told the identity of the person referred to above, it is difficult to agree or disagree with the specific language in the statement. However, it is the strong belief of District officials that at no time was anyone told that they could not attend as an observer to the meeting. The goals setting process involved structured interactive “focus group” discussions between representatives of employee groups, Site Council Presidents, a representative from the Citizens’ Oversight Committee and members of the Board of Trustees. Inquiries had been made as to whether others could be a part of the focus groups. Those making inquiry were told that, to make the focus group process manageable, the focus groups were set as described above, but that the meeting was a public meeting. At least one individual making inquiry was specifically told by the Superintendent that observers were welcome.

6. The agenda for the December 9, 2003 meeting lists the following items:
 - A public session.
 - Time for public communications.
 - A Goals and Objectives Workshop.

Response: Soquel Union Elementary School District AGREES.

7. District officials said that no members of the public attended the meeting.

Response: Soquel Union Elementary School District PARTIALLY AGREES.

The focus groups included members of the public, therefore, members of the public did attend the meeting. Some of those members of the public participating in the focus groups were frequent attendees at other Board meetings. District officials said that no members of the public attended the meeting purely as observers.

8. The text of Ballot Measure A (March 2002) gives a complete list of construction and modernization projects for the school district's five schools. For details, see Appendix B.

Response: Soquel Union Elementary School District AGREES.

9. An update of the district's construction funding as of February 8, 2004 shows projects, construction management costs and bond costs totaling approximately \$11.5 million. For details, see Appendix C.

Response: Soquel Union Elementary School District AGREES.

10. All bond money is spent under a specific coding. Money raised from a construction bond cannot be spent on anything but construction, construction management and bond costs. Moving funds meant for one construction project to another construction project is a common and acceptable practice.

Response: Soquel Union Elementary School District AGREES.

Further, the Board of Trustees approves all transfers among projects in open session.

11. Facilities funds not restricted to other projects (e.g., funds from a bond for other projects) or purposes (e.g., maintenance) may be used to protect a school district's legal rights to use specific real property for school facilities, including litigation.

Response: Soquel Union Elementary School District AGREES.

12. All check requests go through the County Office of Education, where the checks are written.

Response: Soquel Union Elementary School District AGREES.

13. The school district's 2003 lawsuit against the City of Capitola was funded by the sale of the Parrish house, a piece of property the district owned. After deducting costs such as agent and escrow fees, the sale of the \$303,000 property raised \$286,396. The cost of the lawsuit was \$360,784. The difference between the two figures is \$74,388. That money is coded as coming from capital outlay funds, not from bond funds.³ This fund includes school fees paid by developers.

Response: Soquel Union Elementary School District AGREES.

14. School districts are required to have balanced budgets. The Santa Cruz County Office of Education closely monitors their budgets. If they are not balanced, in extreme cases the state will step in and appoint a trustee to oversee operations.

Response: Soquel Union Elementary School District AGREES.

³ Soquel Union Elementary School District financial records.

15. School board trustees are charged with ensuring a free and adequate education, overseeing the spending of taxpayers' money and approving balanced budgets each year.

Response: Soquel Union Elementary School District PARTIALLY AGREES.

We note that the phrase commonly used and consistent with federal law is “free and appropriate education”.

16. The school district “deficit spent in its general fund”⁴ for the four years before its 2003-2004 budget. Auditors recommended the following:

“The budget for 2003-2004 must be constantly compared to actual results and no additional expenditures approved unless there are cost savings in other areas, or unexpected revenue is realized. In the future the budget should not be approved if appropriates exceed revenues. The District (should) develop budgets in the future that ensure available reserves exceed the minimum state requirements of three percent of total General Fund outgo.”⁵

The district’s response was:

“The District is currently operating with a balanced budget for 2003-2004. The District is making every effort to accumulate and retain sufficient reserves to provide a cushion against further economic uncertainties. The District is relying on the flexibility allowed by the State during the next few years to achieve adequate reserves.”⁶

District officials dispute the auditors’ finding of deficit spending on technical grounds. School budgets include both restricted and unrestricted funds. Restricted funds are for categorical items with strict control over how they may be spent. Such funds are allowed to carry over balances from one fiscal year to the next. The district was expecting surpluses in its unrestricted funds, which can be used in any way.

Response: Soquel Union Elementary School District AGREES.

⁴ Soquel Union Elementary School District, County of Santa Cruz, Capitola, California Audit Report, June 30, 2003. Goodell, Porter & Fredericks, L.L.P., Certified Public Accountants.

⁵ Soquel Union Elementary School District, County of Santa Cruz, Capitola, California Audit Report, June 30, 2003. Goodell, Porter & Fredericks, L.L.P., Certified Public Accountants.

⁶ Soquel Union Elementary School District, County of Santa Cruz, Capitola, California Audit Report, June 30, 2003. Goodell, Porter & Fredericks, L.L.P., Certified Public Accountants.

17. The public elects school board trustees. They serve until they leave office in one of several ways. Their term can expire, they may be recalled, they may lose an election, or they may leave office in any of a number of other ways.

Conclusions

1. The Grand Jury found no evidence that any local, state or federal laws have been violated.
2. The Grand Jury found no evidence of a violation of the Brown Act. Since the president of the Home and School Club in question would almost certainly have attended if they had known the public was allowed, it seems likely that a miscommunication occurred. There is a discrepancy between the meeting notice given in the December 3, 2003 minutes. However, the fact that this member of the public knew about the meeting would seem to indicate that other methods of noticing were used.
3. The Grand Jury found no evidence that the Soquel Union Elementary School Board of Trustees has disregarded the terms of the Measure A General Obligation Bond. Closing one of the five schools listed does not violate the terms of the bond, especially since the buildings will be used for another of the district's schools. Including all five schools on the bond measure may have implied that all five schools would be kept open but did not guarantee it.
4. The Grand Jury found no evidence that the Soquel Union Elementary School District Board of Trustees has illegally spent the Measure A General Obligation Bond funds.
5. Funding for the school district's lawsuit against the City of Capitola came mostly from the sale of the Parrish house property. The Grand Jury found no evidence that Measure A bond funds were used for the lawsuit.
6. Four years of alleged deficit spending and auditors' recommendations for a balanced budget may have played a role in the school board's decision to hold to a tight budget for 2003-2004.
7. Capitola Elementary School has been closed. The idea of a pre-school or pre-kindergarten school is being discussed for Jade Street Park. Thus it might appear that the school board is continuing to carry out the aims of the defeated Measure Q. The Grand Jury found no evidence to support this.

Recommendations

1. The Soquel Union Elementary School District should work to ensure that the public knows that all board meetings are open. The public should not be expected to know the fine points of the Brown Act. It is up to the Board of Trustees and the Superintendent to go the extra mile to make sure their business is done in the open. The Board and the Superintendent should also work hard to make sure the public knows its rights to information. They should take extra care to make information available in a timely manner. This is especially important when facing such potentially contentious issues as school closings.

The easily dispelled and incorrect rumors in this report should not have had to come to the Grand Jury to be resolved. Allowing them to circulate unchallenged in a school community makes for mistrust and divisiveness. This is particularly unfortunate at a time when a school was closed.

Response: Soquel Union Elementary School District AGREES.

The Board of Trustees and District officials currently ensure that the public is aware of meetings, especially those at which key decisions will be made. The district regularly posts notices that exceed the requirements of the Brown Act. When issues of significant impact have arisen, such as deep budget cuts or the closing of a school, notices of meetings were sent home with every child in the district. In the last two years we have had public meetings on serious issues in school auditoriums filled to capacity with observers. This is evidence of our level of communication.

The Board of Trustees and District officials agree that this matter should not have had to come to the Grand Jury to be resolved. All of the information reviewed had been public prior to the Grand Jury inquiry. Many of these issues had been raised at widely attended public meetings and been answered again and again by both Trustees and District officials. The Citizens' Oversight Committee, responsible for the oversight of Bond funds, was available as an avenue for complaint. The Citizens' Oversight Committee has published newsletters sent home with every child in the district and maintains a website linked to the district website, so this committee and its purpose were known.

2. School board trustees are elected to vote according to their own consciences in carrying out their duties. They are accountable to the public through the ballot box. Members of the public who feel they are not being well represented have the option to recall trustees or to support another candidate at election time.

3. The Soquel Union Elementary School District’s Board of Trustees is to be commended for making difficult decisions in order to keep its district solvent without cutting programs and staff.

Response: Soquel Union Elementary School District AGREES.

Though not asked to respond to Recommendation 3, the Board of Trustees and the Superintendent appreciate this commendation. Difficult decisions, such as cutting programs, laying off staff and closing schools, by their nature create an emotionally charged atmosphere. We believe that this highly emotionally charged atmosphere was one of the factors that led to questions going before the Grand Jury that had already been thoroughly asked and answered locally.

Responses Required

| Entity | Findings | Recommendations | Respond Within |
|---|-----------------|------------------------|---------------------------------|
| Soquel Union Elementary School District Board of Trustees | 8 - 16 | 1 | 90 days (September 30, 2004) |
| Soquel Union Elementary School District Superintendent | 1 - 15 | 1 | 60 days (August 30, 2004) |

Appendix

Voters Information Pamphlet, Measure Q, March 2000.

Voters Information Pamphlet, Measure A, November 2001.

Update on the General Obligation Bond Issuance and Construction Funding.