

August 20, 2008

Presiding Judge of the Superior Court
Office of the Grand Jury
Room 008
400 McAllister Street
San Francisco, California 94102

RE: Grand Jury Report "Accountability in San Francisco Government"

Dear Judge Ballati:

Please accept the following response to the above referenced Grand Jury report on behalf of the members of the Citizens' General Obligation Bond Oversight Committee ("CGOBOC"). The CGOBOC was able to discuss the report briefly during its last meeting in July.

Specifically, the Grand Jury has asked the CGOBOC to respond to issues raised under Finding #17 and Recommendations #8 and #9. These issues relate to the section of the report entitled Fiscal Controls and Accountability: Bond Financed Construction.

FINDING 17. The Mayor's Office, the Library Commission, the Bond Oversight Committee, and DPW all knew or should have know that escalation calculations were inadequate for both (Laguna Honda and Branch Library) projects.

The CGOBOC does not agree or disagree with this Finding. Rather, the CGOBOC desires to provide information that shall provide insight into CGBOC review of the Laguna Honda bond program and the Branch Library Improvement bond program.

BACKGROUND: The CGOBOC was created when San Francisco voters adopted Proposition F, the "Citizen Oversight of Bond Expenditures" initiative on March 5, 2002. The CGOBOC has been active since late 2003 and began issuing annual reports summarizing its activities in December 2004.

FACTS: Since 2004, the CGOBOC has received numerous presentations on both the Laguna Honda rebuild and the Branch Library improvement. However, San Francisco voters approved general obligation bond funds for Laguna Honda in 1999. The voters approved further, general obligation bond funds for the Branch Library Improvement program in 2000. Consequently, the CGOBOC was unable to review these projects until after each was well under way. During its meeting on April 28, 2005, the CGOBOC raised numerous concerns regarding the progress of the Laguna Honda rebuild, including the high rate of construction cost escalation. These concerns were detailed further by the CGOBOC in later meetings that year and in its annual report. During 2006, the CGOBOC identified a more than 20% construction cost escalation for the Laguna Honda project, substantially higher than industry standards. In addition, during its July 28, 2005 meeting, members of the CGOBOC raised concerns of the construction cost increases related to the Branch Library bond program. Similarly, concern about the high rate of construction cost

escalation was one of the motivating factors for the Committee to request the Controller's Office to perform an audit on this project in 2007.

CONCLUSION: The CGOBOC was aware of very high construction cost escalation on the Laguna Honda rebuild project and the Branch Library program and the Committee identified this information during its public meetings as early as 2005. Further, the CGOBOC provided this information to the Board of Supervisors, the Mayor's Office and the public in its annual reports of 2005 and 2007.

Item 8. "The Citizens' General Obligation Bond Oversight Committee should appear regularly before the Board to report on the bonds it oversees including highlights of successes and challenges."

The CGOBOC accepts recommendation #8 and will make regular presentations to the appropriate body of the San Francisco Board of Supervisors.

BACKGROUND: The CGOBOC provides an annual report to the Mayor's Office and the Board of Supervisors as required by City Administrative Code 5.31. In addition, the CGOBOC holds regular meetings to review the spending of general obligation bond proceeds to meet its established purpose.

FACTS: The CGOBOC annual report contains an overview of the work performed by the CGOBOC as well as detailed information concerning the expenditures of general obligation bond funds. Also the report identifies the Committee's accomplishments and areas of concern in its review. While not currently presented to the Board of Supervisors, the information is provided to each Board member in writing.

CONCLUSION: Prior to the next meeting of the Committee, The Chair of the CGOBOC will contact the President of the Board of Supervisors to request the appropriate time and venue to make oral presentations concerning the Committee's work to the Board of Supervisors. If for some reason the Board does not respond, the Chair will present the Committee's annual report to the Board at its first meeting after the annual report is completed.

Item 9. "The Mayor's Office and the Board should take whatever steps are necessary to authorize the Bond Oversight Committee to evaluate any bond measure before it is placed on the ballot to assure that proper plans, escalation factors, milestones, damages clauses and the like are in place to deliver the project on time and within the budget the voters are being asked to approve."

The CGOBOC cannot accept recommendation #9 because currently the City Charter precludes the Committee from reviewing bond proposals prior to consideration by the voters. But even if the authority existed, there are numerous issues raised by such a change, some of which may be in conflict with the policy objectives met when the CGOBOC was created.

BACKGROUND: The purpose and activities of the CGOBOC are outlined in City Administrative Code 5.31. Generally the Committee is to ensure general obligation bond funds are being spent only in accordance with the ballot measure for which the voters adopted and not for administrative salaries or other governmental operating expenses.

FACTS: Administrative Code 5.31 states "the committee has no power to review bond proposals prior to voter approval. Further, the committee shall not participate or interfere in the selection process of any vendor hired to execute the bond funded projects." In addition, the campaign process associated with ballot approval of a general obligation bond is not necessarily fact-based, a circumstance which creates much of the frustration felt by voters after passage of a bond proposition. Finally, the creation of the Capital Planning Committee and current voter displeasure with implementation of several previous general obligation bonds has forced bond advocates into much more planning prior to placing general obligation bond proposals before the voters. This was evidenced by the extensive vetting used in the proposal and review of the Neighborhood Parks and Recreation bond approved in February by the voters.

CONCLUSION: At present, the CGOBOC does not have the authority to review in any way proposed general obligation bond expenditures prior to consideration of approval of such funds by the voters of San Francisco. In addition, such authority may have unintended negative consequences. First, bond supporters would undoubtedly use any review and approval by the CGOBOC as proof that the proposed G.O. bond is worthy of voter adoption, even though a thorough review prior to approval is in no way a guarantee of success of bond spending. Second, some flexibility in selection of specific spending of general obligation bond proceeds remains critically important to the ultimate success of a bond. A natural disaster or other significant event may drastically change the needs of a particular City department after the voters have approved a bond. Finally, it is possible that review by the CGOBOC of a proposed bond issuance prior to voter approval very well may lead to perceived conflicts of interest when the CGOBOC reviews a passed bond in the future.

Should you desire any further information, please do not hesitate to ask.

Very Truly Yours



Hunter Stern

Chair, Citizen's General Obligation Bond Oversight Committee