

## **Public Statement Regarding Grand Jury Report 0906**

### **Mt. Diablo Unified School District**

**March 30, 2009**

The contents and recommendations of the Contra Costa Grand Jury come as no surprise to the leadership of the Mt. Diablo Unified School District, and we take the Grand Jury's findings and recommendations regarding the District's fiscal operations very seriously. Indeed, the District on its own had already identified many of the most significant issues included in the Grand Jury report and has already begun implementing many of the reforms that the Grand Jury is now recommending. The District continues to work quickly, but carefully resolving all remaining issues and looks forward to providing the Grand Jury and the public with a complete response in the coming weeks.

The District is pleased by the Grand Jury's conclusion that new leadership in the District, including the appointment of a new Superintendent in February and the election of a new trustee in November, has enabled the District to make "positive movement" in resolving these past problems. We also agree with the Grand Jury's conclusion that the "time and attention devoted to these matters detracts from the District's educational mission." In the face of continuing state budget cuts, the District's full attention and energy must be focused on ensuring our students are getting a quality education. That's why the District takes the Grand Jury's recommendations so seriously and why we are working so hard to keep our house in order.

1. Currently, the Board President and Superintendent jointly prepare the agenda for board meetings.
2. The Board and the Superintendent are committed to providing the Board unfettered access to information. As an example, the budget development process used last year provided transparency to all who attended the numerous budget study sessions. In addition, all budgets were based on actual expenditures over a three year period, rather than being routinely rolled over from one year to the next.
3. Today, the Board is truly providing appropriate leadership and working with, not at the direction of, the Superintendent. Both the Board and the Superintendent understand their duties regarding our function and our financial responsibilities to taxpayers.
4. Payroll errors have been largely corrected over the past months and the District is improving the payroll system on an ongoing basis.
5. The District's General Counsel now reports directly to the Board, with a dotted-line reporting relationship with the Superintendent.
6. The Board has authorized the General Counsel to hire an additional attorney to move more of our legal work in-house.
7. The District is strictly adhering to its policy that all contracts and allocations of \$25,000 or more are brought to the Board of Education for review and oversight.
8. The District is no longer employing the outside law firm referenced in the Grand Jury Report.
9. All current outside law firms are adhering to District billing policies and all billing disputes are being handled by the District's General Counsel.
10. Both the Board and the Superintendent are encouraging unfettered exchange of information between departments.

The most significant outstanding concern raised by the Grand Jury is already being resolved by the District. We are working with the Internal Revenue Service to reconcile reporting errors when payroll forms were filed. The District believes that payroll taxes for our employees have been paid. The dispute with the IRS is mainly over agency imposed late charges and interest accruing on those late charges. In some cases, the District was charged with fees for a discrepancy of a single day based on when the IRS received our filing. We welcome the IRS audit into our payroll process as an opportunity to clarify the problem and resolve this situation to everyone's satisfaction.

The District will take the balance of the Grand Jury's recommendations seriously and provide a detailed response to the Grand Jury in a timely manner.

The District is a large and complex educational system. We are delivering many positive and exciting services and programs that enable our students to achieve to their full potential. We take the public's trust very seriously and are making every effort to be diligent, accountable and responsible fiscal stewards in all of our money management practices, now and in the future.

We have worked diligently over the past few months to make difficult, but necessary, decisions to reduce expenditures to keep our budget in balance. Part of that process has been to reduce the operating budget by \$16 million for the next school year. As a result, we have a positive Second Interim Report despite the drastic reduction in funding resulting from the State budget crisis. The Board of Education and the District administration are committed to having sound business policies and practices in place and exercising strong fiduciary oversight to make sure that they are observed and followed by all staff. We have an obligation to be as transparent and open as possible in our financial dealings and we are determined to fulfill that obligation.

With the reformulation of the Board in December 2008 and the appointment of a new Superintendent in February 2009, the District is moving in a positive direction and we appreciate the Grand Jury's recognition of that movement. Finally, we applaud the Grand Jury and appreciate its willingness to step forward when real, correctable issues were facing the District.

**Contact: Leslie Lea  
Foreperson  
(925) 957-5638**

Contra Costa County 2008-2009 Grand Jury Report No 0906

**LEADERSHIP CRISIS IMPERILS MOUNT DIABLO SCHOOL DISTRICT**

**TO: The Board of Trustees of the Mt Diablo Unified School District**

**SUMMARY:**

The Board of Trustees of the Mount Diablo School District is responsible for over one-quarter of a billion dollars of annual expenditures. Disbursements have been made without Board approval, required Federal Payroll Taxes have not been paid, and Legal Services contracts have not been properly administered. These actions contribute to a lack of confidence in the district's leadership. Investigative evidence indicates the Superintendent and the Board of Trustees have failed in their respective administrative roles. Corrective policies and procedures are recommended to address these problems.

## **BACKGROUND:**

The Mount Diablo School District (District), which is governed by a Board of Trustees (Board), is one of California's largest. Incorporated in 1948, its 56 schools and educational centers provide educational services to over 36,000 students in the incorporated cities of Walnut Creek, Concord, Pleasant Hill, Martinez and Clayton and unincorporated sections of Lafayette, Pacheco, and Bay Point. The District has 3736 employees, of which 2161 are certificated and 1575 are classified. It has a \$286.3 million budget for the 2008-2009 Fiscal Year.

Multiple occurrences in 2008 brought the school district to the attention of the Grand Jury. These included citizens' complaints, press reports of significant budget problems, contentious labor negotiations, and unpaid Federal Payroll Taxes. The Grand Jury elected to conduct a fact-finding investigation of the school district. This effort involved review of publicly available information and structured interviews with selected district personnel. The Grand Jury's findings and recommendations follow.

## **FINDINGS:**

1. The Mount Diablo Unified School District has a \$286.3 million budget for the 2008-2009 fiscal year.
2. The Superintendent, rather than the Board, controlled the agenda for board meetings and decided what information to give or withhold from the Board.
3. Some Board members did not have a full understanding of their duties regarding their function and financial responsibilities to taxpayers. As a result, they failed to lead and instead, followed the Superintendent's directives.
4. The District had not paid its correct federal payroll tax obligations for several years. In 2005 the District paid a levy of over \$105,000 for payroll taxes, interest, and penalties. The Board did not approve these payments and was unaware of these issues because financial documents given to the Board lacked adequate detail. In 2008 the IRS informed the District that it may owe \$833,000 in unpaid payroll taxes, interest, and penalties. This matter remains unresolved as of this writing.
5. ADP, a private corporation which had served as the District's payroll tax processor, cancelled its contract in November 2006, because the District failed to fund the necessary amounts to provide for payment to the IRS.
6. The Board approved the creation of an in-house attorney position as a cost cutting measure. It directed that the attorney report to the Superintendent. This reporting relationship limited the volume and type of work provided to the Board by the in-house attorney.
7. Between 2002 and 2007, the District paid for work performed by an outside law firm. The law firm worked without a valid contract. This action violated District policy and

the Board was unaware of this situation because renewal contracts were not forwarded by the Superintendent.

8. District policy dated 7/16/2002 requires Board approval for all bills over \$25,000. The Superintendent frequently violated this policy by not submitting bills in excess of \$25,000 to the Board. As one example, he unilaterally authorized payment in 2007 of a disputed bill for almost \$110,000 to an outside legal firm.
9. The Superintendent withheld critical financial information from the Board.
10. The Superintendent inhibited the free exchange of information between various departments within the District. These actions undermined employee morale and, in some cases, led them to not report for work or to resign.

## **RECOMMENDATIONS:**

1. That the President of the Board have a direct role in setting the agenda for its meetings.
2. That current Board members be required to attend training or continuing education programs to learn and understand their role and financial responsibilities as elected Board members and similar training be a requirement for new Board members.
3. That effective immediately, the Board be given a list of disbursements on a monthly basis. Vouchers exceeding \$25,000 shall detail the vendor and the reason for payment.
4. That the Board initiate a feasibility study on the outsourcing of the payroll function.
5. That in-house legal counsel report directly to the Board.
6. That a feasibility study be initiated to determine the optimum number of attorneys needed to serve in the Legal Counsel Department, and the Legal Department be expanded to bring the majority of legal work in-house, including unique work for Special Education.
7. That outside legal service providers agree to adhere to District billing policies.
8. That the Accounts Payable Department verify all contracts over \$25,000 be approved by the Board prior to payment and Legal Counsel monitor deficiencies.
9. That a list of all service contracts up for renewal be provided to the Board annually.
10. That all billing disputes be handled by the in-house Legal Counsel who shall review and recommend to the Board any actions to be taken.

11. That the Board consider approving any unauthorized contracts retroactively to adhere with policy.

## **CONCLUSION:**

The administrative and financial functions of the Mount Diablo School District have been in chaos. The Superintendent and a Board majority have allowed continuing policy violations, the non-payment of Federal Payroll Taxes, and the disbursement of monies without required Board approval. The subsequent time and attention devoted to these matters detracts from the District's educational mission and contributes to continuing budget problems. In December 2008, the leadership of the Board changed. Since that time the Grand Jury has noticed positive movement. The Grand Jury strongly advocates its recommendations be adopted immediately.

## **REQUIRED RESPONSES**

### **Findings:**

The Mt Diablo Unified School District Board: 1 through 9.

### **Recommendations:**

The Mt Diablo Unified School District Board: 1 through 11.