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DUBLIN TO LIVERMORE I-580 CARPOOL LANES

INTRODUCTION

A complaint was received concerning a proposed HOV (High Occupancy Vehicle) lane on highway I-580 East from I-680 to Vasco Road in the Pleasanton/Livermore area. The complaint asserts that a temporary short-term solution of traffic congestion on the I-580 corridor is a wasteful use of Alameda County transportation funds and precludes Bay Area Rapid Transit (BART) extension to Vasco Road in Livermore.

INVESTIGATION

The grand jury met with the executive director of the Alameda County Congestion Management Agency (ACCMA) who explained what is involved in planning, constructing and paying for regional transportation. ACCMA is the transportation policy and planning agency for Alameda County and oversees federal, state and regional transportation funding and sponsors key transportation improvements.

ACCMA's transportation policy establishes a long-range 25 year county-wide transportation program, updated every four years, of projects funded with discretionary state and federal funds; develops a short-range congestion management program which includes a five year capital improvement program, updated every two years, funded by state funds; and oversees special planning studies and projects such as the I-580 HOV lanes.

The general approach to relief in the I-580 corridor in the short term includes the addition of east and west HOV lanes and the acquisition of right of way. ACCMA

has announced the intention of incorporating tolls for single-occupancy vehicles in the HOV lanes. The long-term plans include the construction of BART extensions to Livermore, subject to the availability of funding. Additionally, the route into Livermore has yet to be determined.

The I-580 Corridor is the second most congested corridor in the Bay Area. Federal and state funding for HOV lanes is mandated to reduce air pollution and has the stipulation that construction start by December 2012.

CONCLUSION

The ACCMA has developed a short-term strategy for delivering some congestion relief in this corridor, and the grand jury finds this strategy reasonable. This is a viable option due to current funding availability. At this time, the BART route to Livermore has not been determined. BART expansion to Livermore and beyond is entirely subject to the availability of funding, and sufficient funding at this time has not been identified.

RESPONSES REQUIRED: *None*

CITY OF BERKELEY DRUG HOUSES

INTRODUCTION

The grand jury investigated a complaint regarding drug houses in the city of Berkeley. A drug house is a private residence where illegal drug activity takes place. The complaint alleged that the city has been derelict in its duty to safeguard public safety and has shown willful intent to not enforce local and state laws pertaining to abating public nuisance drug houses. The grand jury requested information from the city with regard to what action had been taken with respect to drug houses in Berkeley.

HISTORY

Since 1990, neighbors in Berkeley have participated in ongoing meetings with city staff and police regarding one particular neighborhood drug house. Between 1992 and 2006, these neighbors won two judgments in small claims court against the specific property owner who was alleged to have a drug house. In the lawsuit, the neighbors testified how their quality of life was negatively affected. For example, bullet casings, drug paraphernalia and used condoms were frequently found in the neighbors' yards and on the street. In a court proceeding in April 2006, the owner of the drug house stipulated that the house was a legal nuisance.

INVESTIGATION

The grand jury learned that the city of Berkeley has a multi-faceted approach to addressing the problem of illegal drug use:

Drug House Ordinance

Berkeley Municipal Code (BMC) chapter 13.56 allows the city manager to order a property owner to take corrective actions whenever it has been determined that “the unlawful sale, storage, manufacturing or selling or giving away of a controlled substance, precursor or analog has occurred in or about the premises of any privately owned property.” (BMC section 13.56.020)

Such corrective action “may include, but is not limited to, the hiring of a resident manager or security guard; the installing of secure doors at the front and rear of the buildings; the posting of ‘no trespassing’ signs in and on the property; the development of property rules which regulates [*sic*] the entrance to and egress from the property of nonresidents; and the institution of actions to remove any resident or others engaging in such illegal conduct on or about the premises.” (BMC section 13.56.020.A) If an owner fails to comply with the city manager’s directive, the owner may be fined \$100 per day. (BMC section 13.56.030.B)

Nuisance Abatement Law

In 1999 the city revised its zoning ordinance, adopting chapter 23B.64, which permits the abatement of nuisances and expedites the processing of these cases.

The city of Berkeley has the authority to use progressively stronger measures to abate illegal activities in drug houses. The city has been reluctant to apply the most severe measures to owner-occupied properties. In application of these measures the city does take into consideration the possibility of retaliation against neighbors.

The city has been monitoring this problem property for many years. The grand jury learned that the city of Berkeley believes that under the law it must have a high benchmark for seizure of private property, particularly a home.

CONCLUSION

In 2006, the city of Berkeley failed to take action on the owner occupied drug house when the court concluded and the property owner stipulated that the property was indeed a nuisance. The court noted that the owner “need[ed] to either actively manage the property so as to eliminate the nuisance or sell it.” The court further noted that there has been a 30-year history of drug problems with this property. The city failed to follow through with all possible measures to eliminate this drug house problem. The property remains a chronic nuisance to the neighborhood.

RECOMMENDATIONS

Recommendation 08-14:

That the city of Berkeley apply the same standards regarding abatement of owner-occupied drug houses as it does for tenant-occupied and commercial properties.

Recommendation 08-15:

The city of Berkeley review its municipal codes and state legislation to ensure appropriate tools are in place to abate owner-occupied drug houses. If current laws are insufficient, adopt or modify city ordinances to abate drug house problems.

RESPONSES REQUIRED

Berkeley City Manager

Recommendations 08-14 and 08-15

Mayor, City of Berkeley

Recommendations 08-14 and 08-15

Berkeley City Council

Recommendations 08-14 and 08-15

OAKLAND UNIFIED SCHOOL DISTRICT

The Oakland Unified School District (OUSD) has been under state control since June 2003. In order to avoid bankruptcy, it sought \$65 million in emergency funding from the State of California to meet its June 2003 payroll. It borrowed an additional \$35 million from the State of California in June 2006, which it continues to hold in reserve. While OUSD remains under state control, the grand jury's investigation focused on the question of why, after over four years of state control, a succession of state administrators has not balanced the school district's budget.

In its 2002-2003 Final Report, the grand jury concluded that "the system for financing public school districts requires overhaul . . . however, inadequate funding is not an excuse for failure to operate within those constraints." That statement is as valid today as when it was written at the end of the 2003 grand jury term. Since the school district has been under state control, the district's expenditures exceeded its revenues in each of the past four fiscal years.

By November 2007 the Fiscal Crisis and Management Assistance Team (FCMAT) had raised OUSD's average FCMAT score for financial management. FCMAT recommends that the state return control of both financial management and pupil achievement to the school district once certain goals are met.

In April 2008, the authority to hire a superintendent was returned to OUSD's school board by the state. An interim superintendent has been hired.

INVESTIGATION

The grand jury interviewed FCMAT's chief executive officer regarding the OUSD's current financial situation, as well as the district's immediate past and

current financial officers, the district's first state administrator, and the current president of the Board of the OUSD.

The grand jury's investigation revealed that information was not shared within the various departments due to the district's computer systems not being compatible; however, the district is establishing the tools necessary to communicate and generate accurate financial reports, daily attendance, and accounting reports.

In October 2007, the grand jury discovered that restricted and unrestricted funds were commingled and not always used for their intended purposes. Key revenue indicators were not being tracked, including discovery that the district was continuing to lose revenue due to a major decline in enrollment and the subsequent loss in average daily attendance (ADA) funding.

The grand jury also discovered that the State of California had recently completed auditing OUSD's 2005-2006 financials and as of February 2008 were just beginning to audit the 2006-2007 financials. Thus, reliable verified financial data continues to lag by a full school year. OUSD has to rely on the State of California, its largest creditor, to perform this necessary auditing service.

The continued loss of students means a steady loss of state funding which, in turn, generates cuts in programs and continued crises in teacher retention. Reduced funding from the state in recent years exacerbates this problem. In the current school year, the state administrator decided not to send out pink slips to teachers (notifications in writing that they may not be rehired) for the next school year, thereby precluding the OUSD from reducing its teaching staff if it should determine it has fewer students in the coming school year or reduced state funding. These pink slips must be sent out by March 15.

The grand jury found that the school district's current financial staff has taken steps to implement a more realistic budgeting process. In fact, for the current school year, it appears that there will be a small deficit. However, the district's financial situation remains burdened by its obligation to repay the state loan.

The grand jury found the district was hampered by continuous staff turnover, particularly in the area of finance, numerous reorganizations and a succession of state administrators. After four years of state control, the district's budget remains unbalanced. When financial control is returned to the board, the state-appointed financial trustee will have veto authority over all financial decisions that OUSD may make until the \$100 million loan is repaid.

CONCLUSION

After nearly five years of state management, OUSD's budget remains unbalanced and the district's future is unclear. The budgeting process must be based upon accurate projections of student enrollment. The grand jury learned that previous accounting methods overstated enrollment significantly. Overstating ADA causes monies to be distributed by the state to the district, which in turn must eventually be repaid to the state. It also results in retention of excess teaching staff, which the district must retain unless pink slips are sent out by the legally mandated deadlines.

Considering the financial situation of the district, all precautions should have been taken in the event of another year of an unbalanced budget. Once the school board gains full control from the state, it will be handicapped because of the actions of the current state administrator. Because the state administrator did not issue pink slips to teachers, the board will have little or no flexibility to reduce the number of teachers in the upcoming school year. With continued declining enrollment and likely cutbacks in state funding, the district's financial situation will worsen.

Future grand juries should closely monitor OUSD in its financial reporting and the management of budget elements across the board. Particular attention needs to be paid with regard to aligning the number of salaried employees with projected funding.

RESPONSES REQUIRED: *None*

ALAMEDA COUNTY MEDICAL CENTER

INTRODUCTION

In California, responsibility for providing medical care to the indigent rests with the county. To meet these needs in Alameda County, in 1927 Highland Hospital opened its doors. Currently the Alameda County Medical Center (ACMC) operates a hospital and trauma center (Highland), a long term care and rehabilitation center (Fairmont), a psychiatric hospital (John George), and three community clinics in Oakland, Hayward, and Newark. In 2007, Highland Hospital's 236 bed facility served approximately 11,800 inpatient admissions, 73,000 emergency room visits, 2,400 trauma activations and had over 125,000 ambulatory care clinic visits.

The Medical Center not only serves the indigent residents covered by Alameda County under its County Medical Services Program (CMSP) but also serves patients on Medicare, Medi-Cal and those with private insurance. Current sources of revenue of the ACMC are as follows:

- 19% County Medical Services Program (CMSP)
- 52% Medi-Cal
- 14% Medicare
- 5% Private Insurance
- 10% from other sources

BACKGROUND

In 1998 the Board of Trustees found the Medical Center could not deliver quality medical care and was in jeopardy of losing state and federal certifications that allow it to receive payment for delivering medical services to Medi-Cal and Medicare patients. The Board of Trustees corrected this difficulty but at the same

time neglected its responsibility to shore up management of the Medical Center which continued to have huge deficits. To address these deficits, and to cover cash flow fluctuations from its major payers, Medicare and Medi-Cal, ACMC was authorized to borrow from the Alameda County treasury. By 2004, their debt to the county treasury had grown to \$192 million. The same year, voters approved Measure A (medical sales tax). This tax has helped reduce the deficits of ACMC. Also in 2004 the Board of Supervisors imposed a \$200 million cap on the Medical Center's account with the county treasury and required ACMC to develop a repayment schedule designed to reduce the total balance to \$30 million over ten years. The cap limits at the end of each fiscal year agreed to by ACMC and the county are as follows:

6/30/05	\$200 million
6/30/06	\$190 million
6/30/07	\$180 million
6/30/08	\$165 million
6/30/09	\$150 million
6/30/10	\$130 million
6/30/11	\$110 million
6/30/12	\$90 million
6/30/13	\$70 million
6/30/14	\$50 million
6/30/15	\$30 million

In the fiscal year ending June 2006, ACMC reported an operating income of approximately \$5.5 million and a treasury account balance of \$166.8 million, well below the cap limit of \$190 million. In the fiscal year ending June 2007, ACMC reported an operating income of approximately \$3 million and a treasury account balance of \$173.9 million, well below the cap limit of \$180 million. This fiscal year ending June 30, 2008, ACMC expects to report up to a \$4 million to \$5 million loss and a treasury account balance at or below the cap limit. Because the

cap is being lowered annually, there will be continued financial challenges at ACMC.

MONITORING

As part of its monitoring activities, members of the grand jury attended ACMC Board of Trustee meetings and finance committee meetings, and reviewed financial documents and reports. The grand jury also made site visits of various departments throughout the Medical Center at its various campuses.

CONCLUSION

The grand jury is encouraged by the current administration of the Alameda County Medical Center and the strides made so far. Although ACMC continues to endure financial challenges, this administration appears to be capable of handling future adversities.

The grand jury must continue to monitor the budgeting process of ACMC.

In order to facilitate a better understanding of ACMC's financial status, the grand jury recommends that ACMC provide complete financial statements on a monthly basis to the grand jury.

RESPONSES REQUIRED: *None*