



# Citizens' Oversight Committee 2010 Annual Report to the Community

March 2011

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## COC Duties

- Review Use of Bond Funds
- Document Appropriate Spending of Funds
- Inspect School Facilities & Grounds
- Report to the Community

## COC Members

- Grier Graff *Chair*
- Ken Jensen, *Vice Chair*
- Philip Cardon
- William Drum
- Rob Hendrickson
- Ward Lindenmayer
- Dana Serleth
- Nava Shaham
- Cory Smegal

## Letter from the Citizens' Oversight Committee

The Citizens' Oversight Committee for the Seismic Safety Bond Program is pleased to present our 2010 Annual Report to the community. The Committee, which was formed in June 2006, oversees the expenditure of Seismic Safety Bond Program funds and ensures that all expenditures are made for the purposes authorized by voters.

The COC is composed of individuals from local businesses, senior citizen organizations, organizations involved with schools, legal, technical, and financial advisors, as well as involved parents of children residing in the Piedmont Unified School District.

The COC reviewed summaries and reports of all expenditures made between July 1, 2009 and June 30, 2010 and determined that the use of Bond Program funds as reported is appropriate. This period is the fiscal year for the District. The District's auditors submitted a separate annual independent Performance Audit and an annual independent Financial Audit required by Article XIII (A) and found no irregularities. Additionally, the COC reviewed recent revisions to the Program budget, cash-flow projections and project schedules that take into considerations the State budget crisis and the disruption in payment and future uncertainty of State matching funds.

The COC is a public body which generally meets each quarter. Regular and special meeting locations, dates and times are posted on the District website at [www.pusdbond.org](http://www.pusdbond.org). The public is welcomed and encouraged to attend and participate in our meetings. A copy of the full report is available online and at the District Office.

Thank you for your support.

The Seismic Safety Bond Program Citizens' Oversight Committee

## Seismic Safety Bond Program History

Before the initiation of the Seismic Safety Bond program, the Piedmont School District's facilities were a mixture of aging one-story and two-story buildings built between 1935 and 1996. While all buildings are Field Act-approved, meaning they were built in compliance with the applicable building codes at the time of construction, some structures do not comply with contemporary building code requirements. Building codes changed dramatically after the 1971 San Fernando earthquake and again after the Loma Prieta and Northridge earthquakes, when structural engineers studied how buildings performed during these major earthquakes and improved the building codes accordingly.

Between 2000 and 2005 two independent structural engineering reports identified Piedmont school buildings that would likely pose life safety risks in the event of a major earthquake on the nearby Hayward Fault. On March 7, 2006, Piedmont voters authorized the District to sell up to \$56 million in general obligation bonds to finance the repair, strengthening, and renovation of school buildings. The District sought voter approval for up to \$56 million based on cost estimates developed by Vila Construction, the District's construction manager, and estimates concerning eligibility for State matching funds.

The District is eligible for State matching funds to help pay for the seismic strengthening and modernization of the school facilities. Eligibility is based on the age of buildings, student population, and past receipt of State modernization funds. At the start of the bond program, it was estimated that the District would be eligible to receive roughly \$10 to \$13 million in State modernization funds. District consultants now believe the amount of eligibility is between \$14.9 and \$15.5 million. Nonetheless, due to the unprecedented State budget crisis, the timing of receipt of the State funds remains uncertain.

The total budget for the Seismic Safety Bond Program is \$69,156,161, including bond funding (up to the maximum amount of \$56 million), State matching funds for facility modernization (estimated to be close to \$15 million), and City funds (\$1,200,000). The mix of funds will also be used to meet current accessibility requirements. The estimated time to complete the construction phase (separate from the design and engineering phase) was to be three years (*one year for each elementary school*). The high school and middle school construction occurred concurrently with Havens Elementary School. Currently (March 2011) seismic upgrades are under construction at Wildwood Elementary School. The construction phase of the Seismic Safety Bond Program started in 2009 and may extend beyond the initial three year estimate.

The Seismic Safety Bonds are sold as needed to fund the bond projects. The District issued the first \$15 million in August 2006, and an additional \$19 million in October 2009 in long-term bonds. In May 2010, the District issued \$12 million in bond anticipation notes ("BANs"), leaving \$10 million available to issue. (In January 2011, the District received an authorization from the State to issue the remaining \$10 million as Qualified School Construction Bonds, or "QSCBs," rather than capital appreciation bonds. QSCBs are subsidized by the Federal stimulus package, which means that Piedmont taxpayers are likely to save a significant amount in interest payments as compared with conventional bond repayments.)

## The Impact of the State Budget Crisis

The State budget crisis has slowed the payment of State voter-approved matching funds to local school districts for seismic strengthening and facility modernization, including the estimated \$15 million to PUSD. As a result, the Board of Education has to consider whether and how to proceed with each phase of the Seismic Safety Bond Program without receiving all of the anticipated State matching funds.

In 2009, the District revised its cash flow analysis and implementation plans based on the assumption that no State funds would be available in the near term. Relying only on its bonding capacity, and \$1,200,000 in contributions from the City of Piedmont, the District proceeded with the following “Year One” projects: Havens Elementary School; Piedmont High School; Piedmont Middle School; Ellen Driscoll Auditorium; development and completion of construction documents for Wildwood Elementary School; and development and completion of design documents for Beach Elementary School (construction of Wildwood Elementary School is occurring during the 2010-2011 school year). Beach Elementary School construction will occur when the Board is satisfied that financing will be arranged. The Maintenance Building was completed in the Spring of 2009. The order of work was determined primarily based on the safety risks associated with each of the buildings, and the District did complete the Year One projects, without receiving any State money and without exhausting its bonding capacity.

In 2010, the Board determined that it was possible to proceed with “Phase Two” -- construction of the Wildwood project and construction documents for the Beach project -- during the 2010/2011 academic year as originally planned, relying on a combination of bond sales and bridge financing. By completing the construction documents and obtaining DSA (Division of State Architect) approval the District can apply for approximately \$2 million in State matching funds for the Beach project. Establishing eligibility is important because, as State funding does become available, it is paid to school districts on a first-come, first-served basis.

The Wildwood project is currently on schedule for completion by early August 2011, and the construction documents for the Beach Elementary School have been approved by DSA (Division of the State Architect) as of March 23, 2011.

**As of March, 2011**, it is unclear whether construction of the Beach project will begin in 2011/12 as originally planned, or will be postponed. To complete the Beach project, the District will need approximately \$10 million. The State has distributed some seismic and modernization funds to school districts, and the District has received \$4.7 million; another \$6 million is expected after the next State bond sale, which is tentatively set for the Fall of 2011. Combined, these payments are sufficient to complete the Beach project.

The School Board may consider going forward on the Beach Elementary School project in 2011/12 using one or more of several options to bridge financing until the distribution of State bond funds to PUSD.

## Seismic Safety Bond Program Developments

The following is a partial list of Bond Program developments from July 1, 2009 through June 30, 2010. During that period, the District:

- Completed construction documents and obtained Division of the State Architect (DSA) approval for the Wildwood project.
- Completed design development for the Beach project.
- Conducted a thorough investigation and community meeting concerning alternatives to the synthetic turf at Havens. Alternatives to the crumb rubber infill that was originally included in the Havens project design were reviewed including organic infill. Based in part on the input received from the community, the District incorporated organic infill into the plans for the Havens play field.
- Negotiated an amendment to its lease with Emery Unified School District for use of the Ralph Hawley School in Emeryville. The amended lease agreement allows flexibility, without additional cost, for use of the site despite possible changes in the timeline for the completion of the Wildwood and Beach projects.
- Applied for and obtained a waiver from the California Department of Education (CDE) to temporarily exceed the statutory bonding capacity – 2.50% of total assessed value of real property for the issuance of bonds. Specifically, the California Education Code states: “a unified school district may issue bonds pursuant to this article that, in aggregation with [all other bonds outstanding], may not exceed 2.5 percent of the taxable property of the district.” The waiver ensured that the District would have flexibility to take advantage of favorable interest rates and programs, such as QSCBs, when issuing the remaining bonds.
- Authorized a second bond auction, raising \$19 million.
- Approved the issuance and sale of Bond Anticipation Notes (BANs) not to exceed \$12,000,000.
- Approved an increase in the Guaranteed Maximum Price (GMP) for the Piedmont High School project from \$5,574,000 to \$5,797,309, to include preliminary service agreements and increased project scope required by DSA.
- Approved an increase in the GMP for the Havens project from \$20,500,000 to \$21,092,183 to include unforeseen conditions and increased project scope.
- Approved an increase in the GMP for the Ellen Driscoll Theater project from \$1,700,000 to \$1,749,931 to include unforeseen conditions such as termite damage and dry rot.
- Approved contracts with murakami/Nelson Architects for:
  - Completion of the construction documents for the Beach project; and
  - Pre-construction services, construction administration services, and recordation of drawings for the Wildwood project, in an amount not to exceed \$287,900.
- Approved contract with Norcal Moving Services for moving from PHS portable classrooms located at the Havens site back to PHS, for up to \$27,828.

- Approved contract with Graebel Moving Services for the relocation of Wildwood to the Emeryville site and to Beach, for up to \$24,062.
- Approved contract with Graebel Moving Services for the relocation of Havens from the Emeryville site and from Beach to the new Havens Elementary School, for up to \$25,132.

**As of December 2010**, The District has accomplished many of the bond program projects before receiving any State money; these include:

**Construction:**

- Haven’s Elementary School – replacement with a new school
- Maintenance facility – replacement with new facility
- Ellen Driscoll Playhouse - seismic upgrading and accessibility improvements
- Piedmont Middle School – fire and life safety upgrades
- Piedmont High School - seismic upgrading, accessibility improvements, fire alarm replacement
- Wildwood Elementary School- commenced construction of seismic upgrading, accessibility improvements, fire alarm replacement
- Beach Elementary – completion of construction documents

**Financing:**

- Obtained a waiver for tax limits from CDE (Department of Education) to preserve flexibility in financing options
- Applied for and received QSCBs (minimal interest cost bonds, part of the Federal recovery funding) to reduce costs to Piedmont taxpayers by more than \$40 million in long-term interest charges.
- Negotiated a lease with Emery School District for use of a school for the elementary schools during construction
- Negotiated a no-cost lease extension with Emery School District when state funding jeopardized Beach construction to be done in year three, thus providing flexibility.

The CDE waiver and the negotiation of a no-cost lease extension with Emery School District in Emeryville are examples of the ongoing extra efforts the District has taken to assure preservation of options. Through analysis of financing options, including Capital Appreciation Bonds, Bond Anticipation Notes, QSCBs, and bridge financing, the Board is obtaining excellent value for the Piedmont taxpayers. The original budget of \$69.1 million for the bond program remains unchanged.

## Oversight of Seismic Safety Bond Program

To oversee and ensure proper expenditure of bond funds, the COC is authorized to do the following:

- Actively review and report on the proper expenditure of taxpayers’ money for school construction.

- Advise the public as to whether the school district is in compliance with the requirements of Article XIII (A), Section (b)(3) of the California Constitution.
- Convene to provide oversight for (without limitation):
  - Ensuring that bond revenues are expended only for the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities.
  - Ensuring that no funds are used for any teacher or administrator salaries or other school operating expenses.
  - Receiving and reviewing copies of the annual independent Performance Audit required by Article XIII (A).
  - Receiving and reviewing copies of the annual independent Financial Audit required by Article XIII (A).
  - Inspecting school facilities and grounds to ensure bond funds are expended in compliance with Article XIII (A).
  - Receiving and reviewing copies of any deferred maintenance proposals or plans developed by the school district.
  - Reviewing efforts by the school district to maximize bond revenues by implementing cost saving measures.

**The COC reviewed summaries and reports of all expenditures made between July 1, 2009 and June 30, 2010 and determined that the use of bond funds as reported is appropriate.**

## Seismic Safety Bond Program Expenditures through 6/30/10<sup>1</sup>

### AVAILABLE & UNSPENT FUNDS (THROUGH JUNE 30, 2010)

• Sale from 2006 Bonds & Bond Anticipation Notes	\$ 45,997,599
• Interest Income	\$ 1,332,508
• Local Income	\$ 711,624
• Debt Service/Issuance Costs	\$ (1,403,439)
• Premium (debt service/issuance discount)	\$ 1,013,545
<b>REVENUE</b>	<b>\$ 47,651,837</b>
<b>EXPENDITURES (through June, 2007)</b>	<b>\$ 2,800,967</b>
<b>EXPENDITURES (through June, 2008)</b>	<b>\$ 3,356,612</b>
<b>EXPENDITURES (through June, 2009)</b>	<b>\$ 6,774,369</b>
<b>EXPENDITURES (through June, 2010 – figures rounded)</b>	<b>\$ 30,175,383</b>

<sup>1</sup> These figures represent audited financial information. See discussion re Audits.

- **Piedmont Middle School** **\$ 160,350**
- **PUSD Bond Program Development** **\$ 5,054,565**
- **Interim Housing** **\$ 3,818,603**
- **High School Quad Building/Student Center** **\$ 7,603,250**
- **Havens Elementary School Program** **\$ 20,985,266**
- **Ellen Driscoll Auditorium (Havens auditorium)** **\$ 2,212,543**
- **Beach Elementary School Program** **\$ 772,250**
- **Wildwood Elementary School Program** **\$ 618,933**
- **Piedmont Maintenance Facility** **\$ 1,881,571**

**Total Expenses from Inception through June 2010** **\$ 43,107,331**

## Audits

Article XIII of the California Constitution requires the District to complete (i) an annual Performance Audit and (ii) an annual Financial Audit of Seismic Safety Bond Program. These audits were conducted in conjunction with the District's own internal audit and are available for review at the District's Bond Website, <http://www.pusdbond.org/program/financial.html>.

The District's independent auditor, Vavrinek, Trine, Day (VDT) and Company, LLP, conducted its annual review of the Districts' financial statements of the Building Fund which captures all expenditures related to the Seismic Safety Bond Program. The audit findings conclude that "consistent with prior year findings, the financial statements are fairly presented and free of material misstatement." The audit findings note that:

1. The funds are kept and accounted for in a segregated fund;
2. Cash is accounted for accurately and according to generally accepted U.S. accounting standards;
3. Strong internal controls are present;
4. District and state bidding processes are being following; and
5. Funds are spent in accordance with the bond authorization.

## For More Information

If you would like additional information regarding the Seismic Safety Bond Program Program, please contact the Office of the Superintendent at (510) 594-2614.