



CAYUCOS ELEMENTARY SCHOOL DISTRICT

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August 13, 2014

RECEIVED

San Luis Obispo County Grand Jury
P.O. Box 4910
San Luis Obispo, CA 93403

AUG 26 2014

San Luis Obispo
Grand Jury

Presiding Judge Dodie A. Harman
Superior Court of California
1035 Palm Street, Room 355
San Luis Obispo, CA 93408

Re: Response of Cayucos Elementary School District Board of Trustees to
San Luis Obispo County Grand Jury Report

Dear Members of the Grand Jury and Honorable Presiding Judge Harman:

Recently, the Board of Trustees of the Cayucos Elementary School District received notice that the San Luis Obispo County Grand Jury completed its report entitled "Developer Fees: A School Lesson in Justification" ("Report"). The Report dated June 5, 2014, relates to impact fees charged by Cayucos Elementary School District ("Cayucos Elementary") and Coast Unified School District ("Coast Unified").

The following is the response of the Cayucos Elementary School District Board of Trustees to the Report.

Cayucos Elementary is advised that Penal Code section 933.05 provides the structure for the responses, and subsections (a) and (b) of Section 933.05 read as follows:

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The Report requests that the Superintendent and School Board of Cayucos Elementary respond to Findings 1, 2, 4 and 5, and Recommendations 1, 2 and 4. Pursuant to Penal Code sections 933, et seq., the responses to the findings and recommendations are provided below:

RESPONSE TO GRAND JURY'S FINDINGS

Finding 1. *Cayucos Elementary and Coast Unified are not in compliance with California Education Code section 17623 as they are operating without a fee splitting agreement since it expired in 2010.*

The Board disagrees with this finding. Although Cayucos Elementary and Coast Unified do not currently have a fee splitting agreement, Education Code section 17623 does not limit the amount of time districts may take to negotiate a new fee splitting agreement after an old agreement has expired. Cayucos Elementary is in compliance with Section 17623 because of its ongoing efforts to negotiate a fee splitting agreement. Pursuant to Section 17623(b), Cayucos Elementary will submit to arbitration if it determines that it cannot reach an agreement with Coast Unified regarding fee splitting.

Finding 2. *The fees for development projects in Cayucos might need to be paid to two separate locations since Cayucos Elementary and Coast Unified cannot agree on having the fees collected at a single site.*

The Board disagrees with this finding. The County Superintendent has offered to collect the fees at the County Office of Education. Cayucos Elementary intends to finalize this arrangement with Coast Unified and the County Office of Education in the near future.

Finding 4. *Neither Cayucos Elementary nor Coast Unified have verified their compliance with Government Code section 66001(d) that mandates five-year audits of the developer fee programs.*

The Board partially disagrees with this finding. During the Grand Jury's review, staff provided all pertinent information available regarding Cayucos Elementary's imposition of development fees. Nevertheless, Cayucos Elementary values the Grand Jury's analysis and will ensure compliance with Section 66001(d).

Finding 5. *Despite the intent within the justification studies to demonstrate student enrollment growth, the increased enrollment projected by both districts has not been realized as Cayucos*

Elementary and Coast Unified school districts have both experienced stagnant or declining enrollment and under capacity of maximum enrollment.

The Board partially disagrees with this finding. Although enrollment growth at Cayucos Elementary has not met some prior projections, many districts throughout the state have experienced enrollment patterns similar to Cayucos Elementary. Furthermore, even with current and expected student enrollment, the development fees justified by the prior projections only pay for a small portion of the increased district costs associated with new construction. Therefore, fees collected by Cayucos Elementary continue to be justified by the prior projections.

RESPONSE TO GRAND JURY'S RECOMMENDATIONS

Recommendation 1. *Cayucos Elementary and Coast Unified school districts should cooperate and must negotiate a new developer fees splitting contract.*

This recommendation has been implemented by Cayucos Elementary. Cayucos Elementary understands and appreciates the importance of its obligation under state law to enter into a development fee splitting agreement with Coast Unified. Pursuant to Education Code section 17623, Cayucos Elementary is doing everything in its power to cooperate with Coast Unified to negotiate a new fee splitting agreement. If it becomes clear that these negotiations will not result in a new fee splitting agreement, Cayucos Elementary will consider arbitration pursuant to Education Code section 17623(b).

Recommendation 2. *Cayucos Elementary and Coast Unified school districts should work together, along with the County Superintendent of Schools, to agree on one location for the collection of the fees, so as to not create the need for a developer to travel to two places to pay the respective portion of the fee.*

This recommendation has not yet been implemented, but will be implemented in the future. The County Superintendent has offered to collect the development fees at the County Office of Education. Cayucos Elementary intends to finalize this arrangement with Coast Unified and the County Office of Education in the near future.

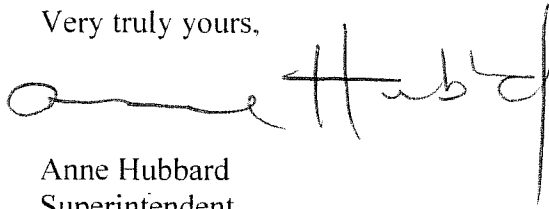
Recommendation 4. *Cayucos Elementary and Coast Unified school districts must complete the five-year audits required under the code.*

This recommendation has not yet been implemented, but will be implemented in the future. Cayucos Elementary appreciates the importance of the precise accounting of all monies collected through development fees. During the next several months, Cayucos Elementary will review its compliance with Government Code section 66001. Cayucos Elementary will review its collection of development fees and initiate any required audit. Furthermore, to ensure the greatest possible level of transparency and financial accountability, Cayucos Elementary will consider annually conducting Section 66001 audits during the district's yearly review of its finances.

CONCLUSION

Once you have had an opportunity to review the foregoing, please contact the undersigned with any follow-up comments or questions you may have.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Anne Hubbard", written in dark ink.

Anne Hubbard
Superintendent

cc: Board of Trustees
Cayucos Elementary School District
Dr. Julian Crocker
Dr. James Brescia

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