

Conn Hickey



Sharon Sagar



February 5, 2015

Inspector Michael McBride
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, California 94903

Dear Inspector McBride:

We are writing to file a formal complaint because we believe that the Ross Valley School District Board has been and continues to violate the spirit and letter of the Brown Act by discussing, in closed sessions and/or in de facto serial meetings, subjects that are not allowed in closed session or serial meetings under California Law. As a result they are discussing and deliberating on items privately, which should be discussed in public and should be open to public scrutiny, and are depriving the public its right to open participation in the conduct of public business. We have raised this issue both in emails and in public meetings with the Ross Valley School Board, and our requests have been rejected. We believe that the instances we cite herein represent a pattern of secretive behavior and a culture lacking a commitment to transparency, which is not good for the public or the Ross Valley Schools. We are concerned that this pattern of potentially illegal behavior may result in significant harm to the education of children in the Ross Valley School District and to the taxpayers who fund it.

We are not lawyers, but between us have over 20 years of experience on the Ross Valley School District Board and we believe that the Brown Act has been violated in at least five separate ways in the last few months.

First, we believe that on more than one occasion the Board has violated Gov. Code Sections 54956.8 and 54957.7 (a) by discussing the possible **disposition of district property** during one or more of seven closed session meetings over the past 14 months. The meetings in which we believe these discussions took place were noticed by: "Under Negotiation: Amendment to Lease" of Deer Park School. GC Section 54957.7(a) code specifically forbids discussing any subject other than that listed in the notice. Furthermore, board discussion of the possible sale of property is not a subject that is allowed for a closed session. And very recently, despite being asked to properly notice a discussion on the sale of the property, the district has refused and is instead proceeding to study disposition of the Deer Park School with a Superintendent's Committee, not subject to the Brown Act, **without any** conversation in public by the board on the reasons why this is happening and not in compliance with Education Code Section 17388-17390.

Second, we believe that in one or more of these seven closed sessions noticed for Deer Park School lease negotiations or possibly in a series of verbal or written communication with the District Superintendent prohibited under Gov. Code Sec 54952.2(b), the board discussed the subject of renting the ten unrented classrooms at Red Hill School and reached conclusions about that without noticing these discussions in a properly noticed public board meeting.

Third, we believe that on November 4, 2014, in one or two closed session meetings immediately preceding the open session portion of the meeting, the board discussed the charter petition that was on the agenda later that evening in direct violation of both the Brown Act and Charter School Law Sec 47608. Both complainants are executive officers of Ross Valley Charter School, a nonprofit public benefit corporation that would be injured by such a violation. If we are correct, then the action taken in open session should be voided.

Fourth, we believe on October 28 in a closed session the Board interviewed an attorney for writing a public report on the petition of the Ross Valley Charter School. This closed session was noticed as "Conference with Legal Counsel - Anticipated Litigation (Pursuant to Government Code Section 54956.9) - Significant Exposure to Litigation: 1 Case (Approx. 45mins.)(D)(V)" Interviewing an attorney to write a public report on a charter petition is not an allowable closed session purpose and furthermore is specifically forbidden by GC Sec 47608. The approval of the contract approved in public session later that evening should be voided. Ross Valley Charter School would also have been injured by this meeting if it is determined to be illegal.

Fifth, the Board has had a continuous Facilities Executive Committee since 2008 consisting of district staff and two board members, who are selected by the board and who report to the board, which meets every other week to deliberate on 2010 Measure A bond projects. This Board Committee should be open to the public because it meets the definition in the District's Board Policy 9130 and Government Code 54952(b) of "standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction." The board has been notified of this Brown Act requirement but refuses to make these meetings public. We do not understand why the district wants to conduct this very important public work outside of the public's view and we believe this is another example of the board's culture of secrecy. We ask that the District Attorney determine if our assessment is correct that this should be a committee subject to the Brown Act.

We are attaching to this letter an attachment which contains the details and the evidence of the violations in each of these five instances. We believe only the District Attorney's office can determine the extent to which illegal discussions may have occurred during these closed sessions and possible series of verbal or written e-mail communication forbidden by the Brown Act.

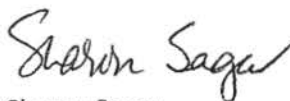
We understand these are serious allegations and know that your office will conduct a thorough investigation.

We thank you for your service to our community and your commitment to the transparency of our local governing agencies.

Sincerely,



Conn Hickey



Sharon Sagar

Attachment to Ross Valley Schools Brown Act Complaint Attached

Attachment to Ross Valley Schools Brown Act Complaint: Details of Five Complaints

Complaint One

Not following the requirement in Gov. Code Section 54957.7 (a) to "consider only those matters" covered in the Closed Session Statement.

Between November 2013 and October 2014, the Ross Valley School Board held 7 Closed Session meetings on the subject of Deer Park School Lease Renewal. The notices are reproduced in Exhibit A below. These meetings totaled 4 hours and 40 minutes of deliberations on the Deer Park School lease renewal.

Our complaint about these meetings is very simple. We believe that the subject of "should the District dispose of Deer Park School" was illegally discussed in some, if not several, of these meetings and :

- 1) the subject of property disposal cannot reasonably be understood as a subject under negotiation covered by "Lease Price, Terms of Payment & Lease Renewal," "Renewal of Lease," or "Amendment to Lease" and therefore all discussions of this subject, no matter how brief, were not allowed by GC 54957.7(a);
- 2) the subject of the possible sale of district property is of general concern to the public and could not be legally noticed in the first place for a closed session under the Brown Act.

In May 2014, Mr. Hickey met with Eileen Rohan, then District Superintendent, Jim Cerreta, Business Manager, George Baranoff, Bond Facilities Director, and Bret Joyner, Facilities Director, to preview with them a potential charter school's desire to rent Red Hill School. At that time Mr. Hickey was told that the District was looking into a variety of scenarios about what to do about Deer Park.

In a Board meeting on December 16, 2014, when there was no closed session dealing with property beforehand (contrary to the IJ article cited below), at the very end of the meeting, under a general item at the end of a list of 6 subjects of a Superintendent Update called "Facilities Update," the Superintendent announced that he was proceeding to work with the district lawyer and the Fairfax-San Anselmo Children's Center (the lessee of the Deer Park School) to explore the disposition of the Deer Park property. No one on the board expressed the least surprise, nor asked any questions regarding this comment, and the meeting ended 10 minutes later.

On December 26 the Marin IJ contained an article (reproduced below as Exhibit B) entitled "Ross Valley School District Considers Selling Deer Park School In Fairfax." The Superintendent was not available for comment but board member spokesperson, Amy Stock, was quoted as saying, "we announced that we are going to look into what the property is worth and if it makes sense for us to keep it or not." The article went on "'We don't really know what it's worth.' The real estate division of the district's legal counsel, Fagen, Friedman & Fulfroost in San Francisco, will be appraising the property, Stock said." Later in the article, "Stock said the Children's Center is a great asset to the community. 'A good number of kids in our district use that facility,' she said. 'We don't want to sell it out from under them.'" Heidi Tomskey, executive director of the Fairfax-San Anselmo Children's Center, was quoted in the article, "I know they have been looking at what is the best use of the property." The article closes with a comment from the

director of the Children's Center, Heidi Tomsy saying, "Who knows, we could be interested in purchasing the property." Clearly board deliberation on the possible disposing of Deer Park had taken place somewhere and not in public as it has not been on any agenda in the past year or more.

After an IJ editorial on this subject asking for open meeting conversations, and a Marin Voice by one of the complainants, Mr. Hickey, during Public Comment at the January 6th board meeting, pointed out to the board why this was an apparent violation of the Brown Act and asked that the board not approve the Superintendent's plan to have a Superintendent Subcommittee, not subject to the Brown Act, to provide input to him so that he could make a recommendation to the board on disposition. At that meeting both Mr. Hickey and Ms. Sagar asked the board to go back to the beginning, and have a public noticed board discussion on the subject of what to do with Deer Park School before proceeding with the Superintendent Subcommittee approach. Board President Capron responded that the board had not violated the Brown Act, which she said it always carefully observes, and that it was not possible to talk about Lease Renewal without also talking about disposing of the property. The board declined to reconsider its current path as requested and agendaize Deer Park for a properly noticed discussion of the subject of what to do with Deer Park. Two other board members, Trustees Dettmer and Bauer, expressed their appreciation for the Board President's response regarding the Brown Act issue. None of this discussion appears in the Board minutes.

Before the January 6 meeting opened, with all board members present, there was a board discussion – also a violation of the Brown Act since it was deliberation without notice and not even in a meeting – about whether a "7 - 11" committee to declare the property as surplus was required and the Superintendent responded that there had been such a committee in the early 1980's before the property was leased, as required by law, and so there was no need to repeat that process. The Superintendent told the board that the property was already surplus and therefore could be sold even though, we believe, the conclusion of the 7-11 committee in the early 1980's was not to sell as the district had originally proposed but rather to lease.

It is our opinion, based on our own 20 year combined board experience with the Brown Act, that the board is incorrect in its view that it is impossible to talk about lease renewal without discussing a possible sale of the property. We have both been involved in many lease renewal conversations regarding district property. Meetings are allowed to be closed because you are discussing information you may not want the lessee(s) to have, such as the terms of the lease. No such reason exists when you are discussing the general idea of disposing of the property.

If our view is correct, we ask the District Attorney to find these conversations illegal and all actions and conclusions that resulted from them void, and the board be asked to start this conversation all over again in public and share with the public its thinking on considering disposition as well as to form a "7-11" Brown Act committee on this subject as required by Ed Code Sections 17388-17390.

Complaint One Exhibit A - 7 Notices of Closed Session Meetings on Deer Park Lease Renewal

The following were excerpted from Board Meeting Agendas [These can be found at

<http://rvsd.csbaagendaonline.net/cgi-bin/WebObjects/rvsd-eAgenda.woa/wa/displayCalendar>]

October 28, 2014: Pursuant to Government Code Section 54956.8 Conference with Real Property Negotiators

- Property: Deer Park - Agency Negotiator: Rick E. Bagley, Ed.D., Superintendent –
- Negotiating Parties: Ross Valley School District and Fairfax San Anselmo Children's Center –
- Under Negotiation: Amendment to Lease (Approx. 15mins.)(D)(V)

Aug 5, 2014: Conference with Real Property Negotiators: (Government Code Section 54956.8) (D)(V)

- Allowable Actions: Board Direction and/or Voting is Allowed
- Property: 199 Porteus Avenue, Fairfax, CA 94930
- Agency Negotiator: Mark Williams, Legal Counsel (Fagen, Friedman & Fulfroest LLP)
- Negotiation Parties: Fairfax San Anselmo Children's Center (FSACC) and Ross Valley School District (RVSD)
- Under Negotiation: Amendment to Lease
- Facilitator: Anne Capron, Board President
- Allotted Time: 40 Minutes

June 24, 2014: Conference with Real Property Negotiators: (Government Code Section 54956.8) (D)(V)

- Allowable Actions: Board Direction and/or Voting is Allowed
- Property: 199 Porteus Avenue, Fairfax, CA 94930
- Agency Negotiator: Mark Williams, Legal Counsel (Fagen, Friedman & Fulfroest LLP)
- Negotiation Parties: Fairfax San Anselmo Children's Center (FSACC) and Ross Valley School District (RVSD)
- Under Negotiation: Amendment to Lease
- Facilitator: Anne Capron, Board President
- Allotted Time: 60 Minutes

June 4, 2014

Conference with Real Property Negotiators: (Government Code Section 54956.8) (D)(V)

- Allowable Actions: Board Direction and/or Voting is Allowed
- Property: 199 Porteus Avenue, Fairfax, CA 94930
- Agency Negotiator:
 1. Jim Cerreta, Business Manager
 2. Mark Williams, Legal Counsel (Fagen, Friedman & Fulfroest LLP)
- Negotiation Parties: Fairfax San Anselmo Children's Center (FSACC) and Ross Valley School District (RVSD)
- Under Negotiation: Renewal of Lease
- Facilitator: Anne Capron, Board President
- Allotted Time: 15 Minutes

March 18, 2014 Discussion/Action &/or Board Direction: Conference with Real Property Negotiators (Government Code Section 54956.8)(D)(V)

- Allowable Action: Board Direction &/or Voting is Allowed
- Facilitator: Anne Capron, Board President

Hickey and Sagar Complaint Attachment

- Property: 199 Porteous Avenue, Fairfax, CA 94939
- Agency Negotiators: Jim Cerreta, Business Manager & Mark Williams, Legal Counsel (Fagen, Friedman, Fulfrost LLC)
- Negotiating Parties: Ross Valley School District (RVSD) & Fairfax San Anselmo Children's Center (FSACC)
- Under Negotiation: Lease Price, Terms of Payment & Lease Renewal
- Allotted Time: 60 Minutes

February 4, 2014 Discussion/Action: Conference with Real Property Negotiators (Government Code Section 54956.8)(D)(V)

- Formal Action/Vote: Voting is Allowed
- Facilitator: Anne Capron, Board President
- Property: 199 Porteous Avenue, Fairfax, CA 94939
- Agency Negotiators: Jim Cerreta, Business Manager & Mark Williams, Legal Counsel (Fagen, Friedman, Fulfrost LLC)
- Negotiating Parties: Ross Valley School District (RVSD) & Fairfax San Anselmo Children's Center (FSACC)
- Under Negotiation: Lease Price, Terms of Payment & Lease Renewal
- Allotted Time: 60 Minutes

November 19, 2013 Discussion/Action" Conference with Real Property Negotiators (Government Code Section 54956.8)(D)(V)

- Formal Action/Vote: Voting is Allowed
- Facilitator: Annelise Bauer, Board President
- Property: 199 Porteous Avenue, Fairfax, CA 94939
- Agency Negotiator: Jim Cerreta, Business Manager
- Negotiating Parties: Ross Valley School District (RVSD) & Fairfax San Anselmo Children's Center (FASACC)
- Under Negotiation: Lease Price, Terms of Payment & Lease Renewal
- Allotted Time: 30 Minutes

Complaint One Exhibit B – Marin IJ Article 12-26-2015 – Grayed sections are most relevant

Ross Valley School District considers selling Deer Park School in Fairfax

*By Richard Halstead rhalstead@marinij.com @HalsteadRichard on Twitter
Posted: 12/25/2014 06:44:14 PM PST
marinij.com*

The Ross Valley School District board is considering selling Deer Park School in Fairfax.

The five-member board made the announcement after a closed-door session at its Dec. 16 meeting.

"We announced that we are going to look into what the property is worth and if it makes sense for us to keep it or not," said board member Amy Stock. "We don't really know what it's worth."

The real estate division of the district's legal counsel, Fagen, Friedman & Fulfroost in San Francisco, will be appraising the property, Stock said. Board member Wesley Pratt declined to comment, saying that Stock is the board's designated spokesperson on the issue.

"The issue of Deer Park is one that is very sensitive to the community," Pratt said. Ross Valley School District Superintendent Rick Bagley did not return phone calls.

It has been more than 20 years since Deer Park School was used by the district. Deer Park School houses the Fairfax-San Anselmo Children's Center, which provides preschool and afterschool care for children of low income families.

Periodically since the mid-2000s, when enrollment in Ross Valley School District schools shot up, there has been discussion of having the district reopen Deer Park School.

"We had an overflow problem in the district," Stock said. "We had way more kids than the district could hold."

As a result, some kids who lived close by Manor Elementary School in Fairfax had to be transported to Wade Thomas Elementary School in San Anselmo, and some students had to be sent to Brookside Upper School in Sleepy Hollow.

Initially, there was talk of building a new school at the Deer Park School site. Then later in 2010 there was discussion of refurbishing the existing school to accommodate a limited number of students, about half as many as at the district's other schools in Fairfax and San Anselmo.

Stock said both ideas were ultimately rejected for two reasons. She said first it would cost too much to make the necessary changes to Deer Park School, and second, reopening the school would jam the neighborhood's winding roads.

"The property itself is quite dilapidated and has a lot of structural issues," Stock said. She said for example costly changes would have to be made for the school to comply with Americans With Disabilities Act requirements.

Due largely to the traffic issue, neighbors in the area voiced their opposition at the time to reopening the school.

"Certainly, getting a fire truck in and out of there is a hassle because of the narrowness of the street," Stock said.

She said that since the entrance to the property passes through Marin Municipal Water District property, it can't be widened without securing the water district's permission.

Heidi Tomskey, executive director of the Fairfax-San Anselmo Children's Center, said Tuesday that she was unaware of the board's decision.

"I know they have been looking at what is the best use of the property," Tomskey said.

The Children's Center, a nonprofit funded by the California Department of Education, cares for about 115 children, ranging from infants to 5th-graders. It provides meals for the children as well as support programs for their parents. It is open from 7:30 a.m. to 6 p.m. and operates year-round.

Stock said the Children's Center is a great asset to the community.

"A good number of kids in our district use that facility," she said. "We don't want to sell it out from under them."

In the past there has been talk of possibly relocating the Children's Center to the former Red Hill School site, another district asset that hasn't functioned as a public school for more than 20 years. Currently, the district leases out that property to several tenants including Robin's Nest Pre-School.

"I'm confident that if the school district were to need to sell the property that we would be given plenty of notice to meet our goal of remaining in the area," Tomskey said. "Who knows, we could be interested in purchasing the property."

Complaint Two The Board had illegal conversations and reached conclusions either in closed sessions or in a series of illegal verbal or written communications on the subject of renting the ten unrented classrooms at Red Hill School.

First, we were confused by the most recent posting for February 3, 2015 as follows:

February 3, 2015: Conference with Real Property Negotiator(Government Code Section 54956.8)(D)(V)

- Property: 199 Porteous Avenue, Fairfax, CA (a.k.a.: Deer Park) and 100 Shaw Drive, San Anselmo, CA (a.k.a.: Red Hill)

- Agency Negotiator: Rick E., Bagley, Ed.D., Superintendent

- Negotiating Parties: Ross Valley School District and Fairfax San Anselmo Children's Center (FSACC)

- Under Negotiation: Lease Amendment/Extension

Currently the Children's Center leases Deer Park School. All previous seven postings have been about extending and amending the lease at the Deer Park School. With no public discussion, now suddenly the posting includes a new property at Red Hill School, as being under negotiation. We are confused because we thought the purpose of the closed meeting exception for real property negotiations was for a board to keep its negotiating positions confidential from the lessee. But now the board is contemplating more than just renewing and amending the Deer Park Lease with the Fairfax San Anselmo Children's Center, it is discussing behind closed doors the merits of leasing a completely different property with no public discussion about an appropriate use of that property, and the possible impacts, traffic and other, to the public of leasing the unrented classrooms at the Red Hill School property.

Second, on July 28, 2014, The Ross Valley Charter School formally expressed in writing to the District its desire to rent a large portion the Red Hill School property from the school District. (See Exhibit C below.) There was never any response to this email and letter nor was it ever noticed for a public meeting discussion. Then in a meeting with Ross Valley Charter School on October 15, 2014, two and half months after Exhibit C was sent to the Board, the District Superintendent volunteered to six Charter School team members present, without being asked a question related to this, that he wanted the Charter School to know that there was no way this school board was ever going to be willing to allow the Charter school to rent rooms at Red Hill School. This assertion of a board decision appears, on its face, to be the result of either a series of verbal or written communication with the District Superintendent prohibited under Gov. Code Sec 54952.2(b or an illegal conversation in one or more of the closed sessions listed above in Exhibit A, because there was never public deliberation on this subject or anything closely related to it. There is no legal way for the board to have reached this conclusion.

It appears to us that both these conversations about Red Hill School represent another case in which the District Board is conducting public business in private well outside the intent of the Brown Act with the result of avoiding requested public discussion on public business.

Complaint Two Exhibit C – Notice of RVCS desire to Rent at least 7 classrooms at the Red Hill School

From: Jason Morrison [mailto:jmorrison@pacinst.org]

Sent: Monday, July 28, 2014 4:31 PM

To: 'Anne Capron'; 'Hadley Dettmer'; 'trustee.bauer@rossvalleyschools.org'; 'trustee.pratt@rossvalleyschools.org'; 'Amy Stock'

Cc: 'rbagley@rossvalleyschools.org'; 'superintendent@rossvalleyschools.org'; 'Marci Trahan'

Subject: Notice to Ross Valley School District Regarding Prop 39 Intentions

Dear Trustees and Superintendent Bagley,

Attached for your information and convenience, please find an electronic version of a letter I dropped off at the District Office today.

We do very much look forward to engaging in a dialogue on these issues relating to the Ross Valley Charter School. In the meantime, please let me know if I can answer any questions.

Best regards,

Jason Morrison

Attachment

Exhibit C - continued

Ross Valley Charter School
25 Deer Park Lane
Fairfax, CA 94930

Ross Valley School District
Attn: Governing Board and Superintendent
110 Shaw Drive
San Anselmo, CA 94960

Re: Notice of Desire to Reach a Prop 39 In Lieu Agreement

Dear Board President Capron and Superintendent Bagley:

I represent a group of MAP parents and teachers who are going to submit a petition for charter to Ross Valley School District by September 15, 2014 for the 2015-6 school year. We are currently incorporating as a California nonprofit public benefit corporation and I am the Incorporator.

We are also preparing a Prop 39 request for "reasonably equivalent facilities" for seven classrooms and 162 district resident students for the 2015-16 school year.

We are sending you this notice to let you know that we are very interested in entering into discussions with the district as early as possible about a Prop 39 "in lieu agreement" for a long term rental of part of the Red Hill School. We are currently in the process of estimating a priority list of improvements that might be made to Red Hill by the district as part of such an in lieu agreement.

Please contact me at (415) 342-8276 if you have any questions. I appreciate your time and attention to this important matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jason Morrison", with a stylized flourish at the end.

Jason Morrison

Complaint Three

Contrary to both the Brown Act Section 54956.9 and Education Code Section 47608 on Charter Schools, on November 4, 2014 the School Board very likely illegally discussed the Ross Valley Charter School petition in one or more closed sessions that same evening.

In the Tuesday, November 4, 2014 public meeting that immediately followed two closed sessions, despite a 26 page Superintendent's Report recommending petition denial, a 19 page rebuttal report prepared by the petitioners, a 30 minute presentation of the Superintendent's Report, and 90 minutes of public comment, there was only one brief question asked by one board member to the attorney about the Superintendent's report, two very brief comments by board members to the audience, and absolutely no other deliberation, before voting 5-0 to approve the Report recommendation to deny the petition. It strains the imagination to believe that the board, which first saw the 26 page Report on 6:30 pm Friday October 31, and the 19 page rebuttal on Monday, had no questions about this complex matter and absolutely nothing to discuss amongst themselves about all this. This leads to the suspicion that these matters were discussed either together or serially outside the noticed discussion.

One of the closed session topics before the meeting was noticed as "Conference with Legal Counsel - Anticipated Litigation (Pursuant to Government Code Section 54956.9) Significant Exposure to Litigation: 1 Case (Approx. 30min.)(D)(V)" and was, we suspect, a discussion with the attorney, who had prepared the 26 page Superintendent's Report, about her report, the charter petition, and the petitioner's rebuttal report despite such discussion being explicitly forbidden by Government Code 47608 and not allowed by Gov Code Sec 54956.9. The other was noticed under "Public Employee Performance Evaluation: Superintendent - Pursuant to Government Code 54957" and may also have illegally included discussion on the charter petition.

We believe that there were no circumstances relating to the charter school petition that meet the standard of Gov. Code Sec. 54956.9. Under Government Code Section 47605(j)1, a charter petitioner's only recourse when a petition is denied by a school board is to appeal that decision to the County Board of Education. No school district has ever been sued by a charter petitioner for denying a petition. To make this clear California Charter Law lays out this appeal process in 47605(j)1 and prohibits closed sessions when discussing charters in Gov. Code Sec 47608.

Despite repeated requests, starting in May, 2014, by the petitioners to the board to have discussions, in public or private, on the charter idea, board members would not meet with the petitioners either in private or public, the subject was never discussed in public by the board and these three brief board comments are the only words spoken by board members in public on the subject in seven months. The public has had no opportunity to observe deliberation on this important matter. There are recordings of both the Petition hearing held on October 7 and November 4. Both meetings in the auditorium of Wade Thomas School were attended by over a hundred people. There were over 3 hours of public comments but you will hear on these tapes over two meetings only one question and two comments from board members and nothing else. We believe that board discussion of the charter occurred in the closed sessions immediately preceding the open meeting discussion on November 4 as well as possibly in a series of verbal or written communication with the District Superintendent prohibited under Gov. Code Sec 54952.2(b).

Complaint Four

An illegal closed session was held on October 28 in violation of GC Sections 54956.9 and 47608

We believe none of the elements required in GC Sec 54956.9 were met in the closed door session held before the board meeting on October 28, 2014. In the public meeting that evening on the consent agenda was a contract with Dannis Woliver Kelley (DWK) law firm to evaluate the Ross Valley Charter School Petition submitted on September 15, 2014. The contract was dated and executed by DWK on October 9, 2014. It was approved by the board 5-0 that evening, October 28, 2014. The contract is available on the District Board Agenda website at https://rvsd.csbaagendaonline.net/cgi-bin/WebObjects/rvsd-eAgenda.woa/files/MTQyMjc1MDU3OTQ1Ny9yb3NzdmFsbGV5ZUFnZW5kYS8yMTM5Lzk5ODIvRmlsZXME/dwk_agreement_-_signed_app_d.pdf

We believe the actual purpose of the meeting was for the board to interview Sue Ann Salmon Evans from DWK, who the Superintendent had already hired to prepare a report on the Charter Petition and who had very likely already prepared much of the report. Her 26 page report was posted 72 hours after the agreement was approved.

It is our belief that GC Section 54956.9 does not include the purpose of interviewing attorneys for the purpose of preparing a report on charter petition findings. And GC Section 47608 of the Ed Code on Charter Law expressly requires that "all meetings of the governing board of the school district . . . at which the granting, revocation ,appeal, or renewal of a charter petition is discussed shall comply with the Ralph M. Brown Act."

Complaint Five

The District's Facilities Executive Committee is covered by the Brown Act and should be available for the public to observe

The District used a bond executive committee to do much of the detail work of overseeing bond funded work on facilities for the first recent District facilities bond measure which was passed in 1999. That executive committee had one board member who at least monthly reported to the board the recommendations of the committee on the project. These decisions were reviewed by the board but rarely voted on except if they were very material.

The current Facilities Executive Committee (FEC) was constituted in 2008 to guide discussions about what eventually became Measure A in 2010 and then to oversee week to week implementation decisions. It has continually had 2 board members appointed by the board, usually in the December organizational meeting. It also gave an oral report directly to the board at many board meetings and occasionally asked the board to deliberate on and vote on its recommendations. Both complainants served on this FEC for some period between 2008 and December 2011 when they retired from the board.

Section 54952 of the Brown Act includes in its definition and application any standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction. Reflecting this legislative requirement, Ross Valley District Board Policy 9130 states that: "Board advisory committees composed solely of less than a quorum of the members of the Board are not subject to open meeting laws unless they are standing committees that have a continuing subject matter jurisdiction or a meeting schedule established by the Board. (Government Code 54952)"

There has been no comprehensive public presentation of the overall situation of the bond project -- particularly how much cash is available, how the district is thinking about issuing bonds or Bond Anticipation Notes (BANS) to raise cash, the projected timetables and priority of various projects yet to be started -- since March of 2014. This is important because changing real estate values in the county have drastically affected bond issuance and project timetables and there was considerable public meeting discussion of all these items prior to March 2014.

As a result, Mr. Hickey, (who has been a member of the Measure A Prop 39 Citizens Oversight Committee since 2012) first verbally in mid-October 2014 and then in an email on January 8, 2015, asked the Superintendent for the FEC meeting schedule so he could attend. In Exhibit D below, the Superintendent claimed these were closed Superintendent Committee meetings which existed at the Superintendent's discretion, were only to advise the Superintendent. Mr. Hickey responded with Exhibit E email to the board and followed that up with a statement to the board in public comment time on January 20, 2015. He has received no response to his second email.

The Superintendent apparently is referring to District Board Policy 2230 which may reflect an exception to Brown Act requirements for administrative committees created by the Superintendent as follows: "The membership, composition and responsibilities of these groups shall be defined by the Superintendent or designee. The Superintendent or designee may establish, change or dissolve these groups at his/her discretion. Groups established by the Superintendent or designee shall act in an advisory capacity unless specifically authorized to act on behalf of the Superintendent or designee.

Hickey and Sagar Complaint Attachment

Advisory groups shall submit their recommendations to the Superintendent or designee, who may report the recommendations to the Board as appropriate.”

As a practical matter it seems unlikely that the Superintendent has the authority to dissolve the FEC at his/her discretion. For 6 years (and for many years before that in the last bond), it has not been the Superintendent who reported to the board, it has been the board representative, which the board, not the Superintendent, has appointed subject to BPs 9100 and 9140.

The subject matter jurisdiction of this committee is to deal with the day to day and month to month issues regarding implementing the District's 40 million dollar facilities bond passed by the District under Prop 39 rules in 2010. It was established by the board and its board representatives have been selected by the board. Both complainants have served on this committee and it in no way functions as described under Board Policy 2230. Prop 39 was passed by the voters allowing bonds to pass with a 55% vote as long as they were subjected to additional requirements for transparency. The Ross Valley Board is violating these transparency requirements.

Complaint Five Exhibit D – Email Exchange between Conn Hickey and RVSD Board and Superintendent

From: Conn Hickey< connbhickey@gmail.com>
Sent: Monday, January 19, 2015 11:56 PM
To: trustee.bauer@rossvalleyschools.org;
Trustee.capron@rossvalleyschools.org;
trustee.dettmer@rossvalleyschools.org;
trustee.pratt@rossvalleyschools.org; trustee.stock@rossvalleyschools.org
Cc: RBagley@rossvalleyschools.org
Subject: FW: Attending Facilities Executive Committee Meetings

Dear Board Members:

A little over a week ago I asked Rick if I could be informed of the schedule of your Measure A FEC meetings and he responded that he believed that this is a Superintendent Advisory Committee, like Cabinet and the Principals meetings.

The District has had a bond executive committee since the first District bond was passed in the late 1990's. That executive committee had one board member who at least monthly reported to the board the deliberations and recommendations of the committee. The current Facilities Executive Committee was constituted in 2008 and has had 2 board members selected by the board under Board Policy 9140.

Section 54952(b) of the Brown Act includes in its definition "any standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter." Reflecting this requirement, Ross Valley District Board Policy 9130 states that : "Board advisory committees composed solely of less than a quorum of the members of the Board are not subject to open meeting laws unless they are standing committees that have a continuing subject matter jurisdiction or a meeting schedule established by the Board."

I believe this committee falls within the definition of a board committee with a continuing subject matter jurisdiction and therefore should be subject to the Brown Act.

Furthermore, even if it didn't, I don't understand why you wouldn't want to make this work available to the public to observe, as you deliberate how you are going to spend the public's bond dollars. If you are discussing contracts or other items that allow a closed session, you can hold a closed session.

I will make this request again during open time of the board meeting tomorrow night and look forward to your answer some time in the near future.

Respectfully yours,
Conn Hickey

-----Original Message-----

From: Rick Bagley, Ed.D. [<mailto:rbagley@rossvalleyschools.org>]
Sent: Sunday, January 11, 2015 11:52 AM

Hickey and Sagar Complaint Attachment

To: Conn Hickey

Subject: RE: Attending Facilities Executive Committee Meetings

Hello Conn and happy new year to you as well. We had a great holiday and it was particularly special being my youngest grandson's first Christmas. Glad to hear you and yours had a special time as well.

As to your question about FEPC, it is my understanding this is not a Board-approved committee such as a District Advisory Committee or something of that nature. As a result, it is treated in much the same way as Cabinet, Principals' Meetings or other meetings that function in an operational context but are open to others as determined by the needs of each particular group.

On another note however, I do want to reach out to you to see if you'd be interested in participating in the ad hoc committee I'm forming to study Deer Park. I feel your historical knowledge and multiple perspectives would be most helpful to me, and others, as we develop, discuss and contemplate our options. I do not expect this will be a hugely time-consuming endeavor, but there will likely be several meetings. More details to come, so let me know if you are able to participate.

Finally and on a totally separate note, Chris Lyons suggested I check-in with you regarding the Prop 39 request you and the RVCS group submitted to us for consideration. Chris wrote that it is her understanding the Prop 39 request is being withdrawn at this point, but she suggested I confirm that with you. Please advise.

That's it for now. I hope you are enjoying your weekend. Talk to you soon.

Rick

Rick E. Bagley, Ed.D.
Superintendent of Schools
Ross Valley School District
110 Shaw Drive
San Anselmo, California 94960
Office: 415-454-2162
FAX: 415-454-6840

-----Original Message-----

From: Conn Hickey [mailto:connbickey@gmail.com]

Sent: Thursday, January 08, 2015 4:20 PM

To: RBagley@rossvalleyschools.org

Subject: Attending Facilities Executive Committee Meetings

Dear Rick:

Happy New Year. I hope you had a rich holiday season. I, like you, have a growing family of now 8 and they were all here for over a week after Christmas.

As a citizen in this community I am very interested in the district's facilities plans. As a result I would like to attend the district's periodic Facilities Executive Committee meetings as a silent member of the public. Would you please let me know when and where they are scheduled?

I understand that there may be occasions, as outlined in the Brown Act, that need to be closed to the public, but as a past member of that Committee I know that is a rare occurrence.

Thank you.
Conn Hickey