

EDI BIRSAN

FEBRUARY 11, 2016

COMMENTS ON THE JENKINS REPORT

THE REPORT CALLS FOR CONSIDERATION OF TWO ASPECTS:

1. Lobbying

The report makes a case for the accusation of 'lobbying' via campaign donations which rests on a definition of what influence and lobbying is beyond the legal election laws definition; using a definition that aligns with a English Dictionary usage. It then calls for the Council to consider remedies without specific recommendation other than to decide something.

In August, with our prior lawyer, the matter was taken up and discussed openly through early September and dealt with by the return of the donations. Our lawyer rested on the Election Law Definition in his dealings with the matter. I applied a more vernacular definition of what lobbying is than either the prior lawyer or the current report from Mr. Jenkins and for me the matter was closed months ago.

We are asked to RECONSIDER the prior action and the approved remediation based on the definition now provided. While I am compelled to do so out of respect for the process, the FACT that it was previously dealt with by all concerned weighs heavy on me as it relates to going forward from this point and what impact it would be allowed to have.

2. The Changes in Recommendation in the report and the Brown Act.

For me, the Staff is NOT Michael Wright and those that worked under him. The Staff is the City Manager and those that work for her, which includes Michael Wright and his support people. The Staff Report only comes to us when signed by the City Manager. The City Manager owns the staff report and they are accountable to her, and she is accountable to the City Council. The decision partner of the City Manager in protocol and process was the city attorney who was present at all meetings and decision points.

Coming from the private corporate sector, I was appalled that a member of the staff would communicate to a vendor on a multi billion dollar deal that there was a draft recommendation and the reconsideration of that from internal discussions. Such actions do not fit within my experience of good practice in such negotiations. However, I am advised that things are done differently in the public sector. Nevertheless, I still find it compelling to point out this as an example of how the actions are not in the interest of the City as negotiators for the public benefit.

Ultimately, where this impacts in the complexity of the Brown Act is something for us to resolve in a manner of understanding about protocols and process. The draft recommendation is known, its consideration or rejection is available to all of us and will provide headlines for the future.

I have steadfastly made it clear throughout the process and to this day I have not asked the City Manager what her recommendation is. I wanted throughout the period, the staff to negotiate on the COUNCIL's policy points, answer the Council's questions and give an analysis on the good, bad and unclear aspects of the developers' proposals. The Council owns the decision, the Council has the requirement to take into the people's generational impacts and the broadest most intense circumstances that a selection will have on the history of this city and region whose factors rest far beyond the twisted terms on a sheet of paper.

That there was a DRAFT of a recommendation is now obvious. For me, the bullet points of the draft recommendation explaining the reasoning for it, highlights exactly why I did not want a recommendation since they are generalizations and where specific, they are in conflict with the views that I hold as important in the decision making policy that I have. As such, it reaffirmed that the good and bad simply needed to be highlighted and the summation and the weighing of the factors is the Council's job.

The process issues are always subject to enhancement, but the report makes clear there was no issue of influence from developers or outside forces in this regard.

I look forward to the advancement of good government practice.

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FOR IMMEDIATE RELEASE
February 11, 2016

**Statement by Concord Councilmember Tim Grayson
on Concord Naval Weapons Station Investigative Report**

For the past five years as Councilmember and Mayor of Concord, I have been honored to participate in the unique opportunity to develop a 5,000+ acre site at the former Concord Naval Weapons Station – a project that will result in great benefit to our community and to our entire region.

I am proud of our accomplishments thus far at the CNWS and look forward to a future development that provides the best opportunities for our community: New and affordable housing, retail and commercial businesses that will create new local jobs, one of the largest parks and open space preservation plans in the East Bay, the opportunity to attract and build our County's first four year state college or university, and the possibility of a world class youth sports complex – all within close proximity to BART.

I am proud of what we have accomplished thus far and I am saddened that claims of improprieties have placed a wrench in our plans to select a qualified Master Developer partner. It is time to move forward and to reinstate faith in the City of Concord's decision-making process with regard to the CNWS project.

Toward that end, and in response to the investigative report issued swiftly and provided openly to the residents of Concord and members of the public, I would like to go on record with the following comments:

In general, I'm disappointed in the innuendos and unsubstantiated claims that are dispersed throughout this report.

For example, it's critique of my question as to whether Master Developer candidate Catellus had struck a deal with a local developer to potentially transfer the property over is completely unwarranted. It is my responsibility as a representative of the Concord community to ask these kinds of questions – as a result, the City of Concord tightened its language regarding transfers of land at the Naval Weapons Station – which everyone agrees is a good thing.

The same goes for my questioning whether city employees had attended a professional basketball game paid for by Catellus, its law firm or any other entity associated with Catellus. In fact, aren't these the kind of questions we should be asking to put staff on notice that there will be no favors or back room deals on the bleachers or anywhere for that matter?

Those issues aside, **I am pleased that the report exonerates me from any wrongdoing, concluding that there is no basis to Catellus's accusation that I may have solicited funds from companies allegedly associated with Lennar, nor is there credible evidence that**

suggests my meetings with Speaker Willie Brown had anything whatsoever to do with or related to the Concord Naval Weapons Station project.

I do take issue with the report's claim that the contributions constitute "lobbying". At no time did I know the contributions were in anyway associated with Lennar – and when I learned this, I IMMEDIATELY returned the contributions. To be "lobbied" by Lennar, I would have had to be made aware that, in fact, they (they being Lennar or Lennar Associates introducing themselves as such) were making a contribution to me. I would have to have known that the checks were from Lennar associates, which I did not; and Lennar would have had to take credit for the checks, which they did not.

There is a principle I have lived by that I want to share with you – I would rather pay the cost for doing what is right, than to get paid a price of doing what is wrong. I can say without equivocation that I would never, and have never, let a contribution to my campaign sway my vote. I say this to Lennar, Catellus or any company wanting to do business with our City or to anyone contributing to my campaign: No one can or ever will buy my vote – my vote is not for sale, and I do not play games with my integrity!

The report provides a lot of information and there have been numerous comments tonight; I will consider all of the information and comments as I decide what role, if any, I will have in choosing the Master Developer. It is my intention to announce my decision in the next regularly scheduled council meeting, February 23.