A Citizen's Report

To

Jefferson County Voters

On the Management and Governance

Of

Jefferson County Public Schools'

$835 Million 2018-2024 Capital Program

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This report presents my personal views and not those of any other individual or organization.

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Introduction (December 2024)

We moved to Jeffco from Calgary, Alberta, in 2010, and enrolled our oldest child at Wheat Ridge High School because of the high quality of its academic and other programs, diverse student body, and emphasis on the "Farmer Tradition of Excellence". Built in 1957, WRHS was then (and still is) the oldest high school in the district.

When we remarked on the age of the building, we learned from embittered parents how the extensive improvements Wheat Ridge had been promised as part of the $359 million capital program district voters approved in 2004 were never made. Because of alleged mismanagement of the Capital Program, the district ran out of bond money, and the planned Wheat Ridge improvements were sharply cut.

So when the nearly $1 billion 2018 Capital Improvement Program (CIP) began (with WRHS once promised substantial improvements), I took a close interest.

I was well-qualified to do so. I spent the first ten years of my career at Chase Manhattan Bank, where I financed major projects in Latin America. I later moved to into management consulting in London, where I led major corporate turnaround projects, such as Philips Electronics. I later worked in the corporate sector, where I have been the CEO and CFO of energy and energy services companies that have done major capital projects around the world.

As I watched Jeffco board meetings, reviewed the presentations given at the Capital Asset Advisory and Financial Oversight Committees, and filed an increasing number of Colorado Open Record Act requests to ferret out different bits of information, it became painfully clear that Jeffco's Capital Program was out of control, and that improvement projects for Wheat Ridge High School scheduled for the final years of the CIP would once again almost certainly be cut back or eliminated (which is just what happened, until Board Director Susan Miller intervened).

As my frustration rose, I began to write a series of articles on Medium.com about the unfolding disaster in Jeffco's CIP.

I was fortunate to meet a kindered spirit in Robert Greenawalt, a retired Army Colonel, graduate of West Point with Masters in Engineering and Business from the University of Pennsylvania, and experience as a technology company executive. He was seeing the same problems (which later grew into scandals) as I did, and was writing about them at https://improvejeffcoschools.org.

This report contains all of the articles I've written about Jeffco's CIP since 2020, as well as an epilogue that brings this sad tale up to the present.

As you will see, I do my best to present arguments and conclusions that are solidly grounded in evidence.

This experience, as well as the appended limited review of Jeffco's CIP by Moss Adams, California's leading provider of School Bond Program Performance Audits (where they are required by law) have convinced me that Jeffco voters should never again approve school bonds unless and until many fundamental and critical changes in the management and governance of the district's Capital Improvement Programs are put in place.

In sum, the story I will tell about Jeffco Schools' Board of Education and some of the district's public servants is not a pretty one; for many it will – and should – be embarrassing. But however painful, it is one that Jeffco voters – and Board members -- must understand and use to guide major changes in the way future capital programs are governed and managed.

Jeffco's story is also critical guide for other districts that have or will undertake large Capital Improvement Programs. Forewarned is forearmed.

Last but not least, it is important to note the lack of coverage of Jeffco's Capital Program by major K-12 media, even as the CIP's growing problems were publicized at Board meetings by Director Miller, the columns I wrote on Medium, websites like htts://improvejeffcoschools.org, many posts on Twitter, and letters to town-level media.

I don't know whether this was due to a lack of knowledge by education reporters with respect to capital programs, or a reluctance on their part to offend Jeffco management and board members. I believe that this lack of media coverage enabled the problems in the CIP to go on far longer and do more damage than would otherwise have been the case.

October 2020: Jeffco Schools' Out of Control $705 Million Capital Program, Chapter One: A Case Study in Poor Management, Weak Governance, and Dysfunctional Culture

Jefferson County, Colorado, is located to the west of Denver. It is the United States' 36th largest school district, serving about 84,000 students with more than 150 schools and a billion dollars in annual tax revenue.

In November 2018, by a margin of just 1,417 votes (0.24% of the total votes cast), Jeffco passed proposition 5B, authorizing the school district to issue $567 million in bonds and incur up to $998 million in total cost (repayment of principal and interest), to fund a six-year capital improvement program. Including planned transfers from Jeffco's General Fund to its Capital Fund, the estimated total cost of the Capital Program was $705 million, as shown in the following table that the district provided to voters during the 2018 bond campaign.

PROPOSED CAPITAL IMPROVEMENT PROGRAM

JEFFCO PUBLIC SCHOOLS

FUNDING	
2018 Bond (Question 5B)	$567 Million
Annual Capital Transfer (6 years)	$138 Million
Available Funds	$705 Million

OUTLAY	
Efficiency & Future Ready	$250 Million
Parity	$125 Million
Programmatic Needs	$50 Million
Growth Areas	$56 Million
Replacements	$56 Million
Safety, Security & Technology	$26 Million
Charters	$56 Million
Contingency	$86 Million
TOTAL	$705 Million

2018 Bond Ballot Initiative Proposed School Improvements 1

Note that per its 8 October 2018 Resolution, the Jeffco Board of Education also committed to allocating "a percentage of the bond proceeds equal to the percentage of full-time district students enrolled in district-authorized charter schools to the district-authorized charter schools for construction and capital improvements."

Opponents of Prop 5B raised questions about the district's ability to efficiently manage the largest capital program in its history. They claimed that a previous capital program, funded with $324 million in bonds in 2004, had incurred significant cost overruns and failed to deliver the full scope of improvements the district had promised to voters.

Perhaps because of this experience, Jeffco voters subsequently rejected a proposed bond issue in 2008, passed a much smaller $99 million bond issue in 2012, and then defeated another bond issue in 2016.

To reassure voters who feared that cost overruns would once again cause promised school projects to be cancelled, in the 2018 campaign district management stressed that in addition to each individual project having a 10% contingency to cover cost overruns, the overall capital program would also include an additional $86 million "Program Contingency" fund to cover cost overruns that exceeded any project's 10% contingency.

Moreover, the Prop 5B ballot language also promised that the "spending of the proceeds of such debt [will] be monitored by the Citizens' Capital Asset Advisory Committee and be subject to an annual independent audit."

Given the extremely thin margin by which Prop 5B passed, Gordon Calahan, the longest serving member of the Citizen's Capital Asset Advisory Committee, reiterated to Jeffco's senior management team and members of the Board of Education that, "This committee was formed to oversee the financial situation of bond issues…that is our primary mission…After the bond has been approved it is very important for us to make sure that each facility gets what it is promised. We cannot make changes to what was promised. Those items that are on the bond have to be followed exactly the way they are, and come in under budget."

Unfortunately, less than two years into the six-year capital program, that is not the way things have turned out.

The district has already incurred over $100 million in extra costs, due to a combination of cost overruns and spending on projects (like athletic facilities) that were never disclosed to Jeffco voters during the 5B campaign.

The emergence of this disaster in less than two years is a case study of how Jeffco's poor management, weak governance, and dysfunctional culture continue to undermine its ability to deliver the academic and financial results the county's educated, affluent citizens expect in exchange for the billion dollars they spend every year on their schools.

Background

As Professor Philip Tetlock described in his book "*Superforecasting*", predictive accuracy is maximized when a forecaster starts with "base rate" or "reference case" outcomes, and then as new evidence arrives, uses it to constantly update their prior forecast.

Let's start with the base rate data.

Nobody with any knowledge of the outcomes of many other large school districts' capital programs should be surprised by what has transpired in Jeffco.

There is ample evidence available from performance audits of these programs. Three of these are included in Appendix 2 (links to Appendix 1 and 2 are at the end of this article).

- In 2015, the District of Columbia's City Auditor found that, "The District's School Modernization Program has failed to comply with DC Code and lacks accountability, transparency and basic financial management."

- In 2017, an independent performance audit of Portland (OR) Public Schools' Capital Program concluded that, "Given the complexity of capital construction projects, accurate cost estimates built on sound methodologies are critical to reduce risks of cost overruns, minimize potential gaps in funding, prevent scope reduction, and keep promises made to voters. At Portland Public Schools (PPS), cost estimate figures presented to the Board of Education (Board) were based on assumptions that were too low, and a formal documented methodology did not exist to substantiate cost factors."

- A 2016 performance audit by KPMG of Houston's 2012 bond program found that, "HISD is lacking a number of core controls for delivering a program of its size and complexity... Its policies and procedures for capital projects are not sufficiently developed... We found incomplete project assumptions, weak or nonexistent policies and procedures regarding budget development, lack of conceptual planning, and inconsistent bid evaluations...The program is not providing sufficient oversight into subcontractor bidding activities...The program is not conducting sufficient project cost estimating, variance analysis, contingency management, or reporting activities… In order for the HISD bond program to better achieve its scope, schedule, and budget objectives, the personnel tasked with delivering the program should implement additional processes or controls, enhance existing controls, and improve their program delivery tools and the overall program organizational structure."

In "*Audits of Public School Construction Programs: A Literature Review*", Washington's City Auditor reviewed a broad sample of performance audits of public school district capital programs. The auditor identified these key lessons from this analysis:

- "The importance of the "tone at the top" when it comes to accountability. Every aspect of a program's control environment depends on leaders demanding accountability."
- "The importance of planning and adhering to planning guidelines. One common theme in many reviews was change orders. A change order is a change in the contract that is agreed to by the architect and/or engineer, contractor, construction manager, and the owner. They result from a change in the contract time, price, and scope of work and can be due to unforeseen circumstances or owner requests."
- "Lack of controls and/or failure to adhere to controls outlined in policies and contracts also drive costs and limit accountability."
- "Over-customization can drive costs as well. Audits from Texas and California suggest that major cost-savings are available when

prototypes are used instead of customizing each school. If customization is necessary, efforts should be made not to over-customize. School facility needs are largely the same from school to school and district to district."

- "The importance of avoiding conflicts of interest with regard to procuring goods and services. Generally defined, a conflict of interest occurs when an individual finds him or herself involved in a situation where loyalties are divided between professional and personal obligations and/or interests."

For me, a critical warning sign about what lay ahead for Jeffco's capital program was the response I received to a CORA request I made for a copy of the program's risk management plan (see Appendix 2).

In the past I was the CEO of an engineering company that performed engineering, procurement, and construction management work on large LNG projects around the world. We would never bid on a project without having prepared such a plan, nor would any client's lenders finance a project prior to their approval of both the overall project risk management plan and individual plans from every project subcontractor.

The absence of a detailed risk management plan for a $705 million dollar multi-project capital program left me stunned.

The December 2018 Bond Issue

Following the approval of Proposition 5B, Jeffco decided to issue bonds in two tranches — one in 2018 and another in 2020 or early 2021.

In December 2018 the district issued bonds with a face value of about $326 million. In order to induce investors to purchase Jeffco's bonds, the district set a coupon interest rate on them that was above prevailing market rates. Investors were willing to pay a higher price for these bonds because the higher coupon rate provided them with some protection against future declines in market interest rates.

The additional amount they paid above the face value of the bonds that were issues is known as "Bond Premium." In December 2018, Jeffco received over $50 million in Bond Premium. Essentially, this is a windfall gain.

Treatment of bond premium varies across jurisdictions. In some places, the law requires that it be contributed to the issuer's debt service fund to reduce the risk of non-payment. Other jurisdictions allow bond premium to be used for other purposes.

In Colorado, the use of bond premium is usually approved by the district's board. For example, in 2019 the boards of both Denver Public Schools and Thompson School District voted on the use of the use of their respective bond premiums. The boards of both the Poudre and Englewood school districts did the same in 2018. The Denver Board asked its Bond Oversight Committee to recommend uses for the bond premium funds.

What Happened in 2019?

Based on information presented by the district to the Citizens' Capital Asset Advisory Committee (CAAC) at its 9 January 2020 meeting, it appears that $75 million of the $86 million in Program Contingency was spent or committed in 2019 (the first year of the six year program), either to cover cost overruns (after the 10% contingency on a given project was used up) and/or for projects that were never disclosed to Jeffco voters during the 5B bond campaign.

- *(The original campaign "flipbook", including projects and their budgeted costs, is included in the Appendix 2. Materials from all meetings of Jeffco's Citizens' Capital Asset Advisory Committee and Financial Oversight Committee, both of which are committees formed to advise the Board of Education, are available in Appendix 1. Links to both are at the end of this article).*

Up to CAAC's 7 November 2019 meeting, the district had presented its members with an estimate of unused contingency that was far higher than the $86 million program contingency. Clearly it included other funds. Strangely, the meeting notes do not reflect any members of the CAAC questioning this discrepancy.

On the agenda for the 7 November meeting for the first time there appeared a separate breakout of Program Contingency, which showed that only $11m of the $86m remained.

CAAC members were also presented with a separate total of $72 million for "Unallocated H Bond", which logically included Bond Premium and

Accumulated Interest Earnings (respectively, $50 million plus $11 million) which were disclosed in other financial reports. The source of the remaining $11 million was not disclosed, and remains a mystery.

The discussion notes for CAAC's 7 November 2019 meeting (available here) show that CAAC did not discuss these new numbers.

Those notes also mention that one of the "main objectives" that the CAAC wanted to get out of their meetings with district management was "things that effect 'on time and on budget'". There was also a question: "Are we delivering the committed scope, on time and on-budget?"

There is also a note to "bring forward significant changes in cost". It isn't clear whether that is a directive to district staff or something that CAAC wanted to bring forward to the Board. Finally, there was also a note to "Get the community involved."

On 13 November 2019, the Jeffco Board (then composed of Susan Harmon, Ron Mitchell, Brad Rupert, Ali Lasell and Amanda Stevens) held a "Listening Session" with district principals who are members of the Jefferson County Administrators Association (JCAA). The principals complained to the board that the projects their schools had been promised in the Prop 5B flipbook were getting cut back (video of all board meetings is available on Jeffco Board Docs).

This is a critical point: Not even one year into the six-year Capital Improvement Program, it appears that scope reductions were already being made. Then again, that's what you would expect to happen when only $11 million of the $86 million in Program Contingency remained unspent.

At their 5 December 2019 meeting, CAAC was again informed that at the end of November 2019, $75 million in Program Contingency had been used.

However, the agenda for the meeting also noted that a further charge of $6.3 million had been made against "Unallocated H Bond". Again, the meeting notes indicate that neither the low level of remaining Program Contingency nor the charges against "Unallocated H Bond" were discussed by the CAAC.

However, the notes do mention that "8 sites have been identified for track and field updates." Subsequent investigation found that some of these (e.g., West Jefferson Middle School) were never disclosed to the public in the 5B campaign flipbook (available in Appendix 2).

Following their election, in December, Susan Miller and Stephanie Schooley were sworn in as new members of the Jeffco Board of Education, replacing directors Amanda Stevens and Ali Lasell

Prelude to the Events of 2020: Background on the CAAC and FOC

In order to understand the events that have transpired in 2020, it is necessary to take a closer look at Jeffco's Citizens' Capital Asset Advisory Committee (CAAC) and its Financial Oversight Committee (FOC).

Both committees are advisory committees to the Board. Yet in complete disregard for board governance principles, they report to the Board *through management* — in this case, the Superintendent (e.g., the CEO) because Jeffco uses "policy governance."

I have written elsewhere about how the use of policy governance limits board directors' ability to exercise their fiduciary duty of care (which is why no public company uses it, much less a billion dollar public company). Having critical governance committees report to the board through management is a classic example of this.

Jeffco's website describes the CAAC as follows:

"In 2010, the Board of Education authorized the establishment of the Capital Asset Advisory Committee in accordance with Policies EL-8 and FB, both of which deal with facility condition and long range facility planning. The Committee was formed from members of the 2005 Capital Improvement Program Oversight Committee and the 2009 Facilities Usage Committee. The purpose of the Committee is to monitor the planning of capital needs and the implementation of capital programs, which may include future bond programs."

"Members have a working familiarity with facility design and/or construction practices; business management expertise with organization(s) of comparable size to the district, and are independent and free from any relationship that would interfere with independent judgment. Preference is given to Jefferson County residents."

THE WORK OF THE COMMITTEE

“The committee meets monthly throughout the year. Its primary functions are to:

- Establish a transparent set of criteria for evaluation of district facilities. Elements may include facility condition index (FCI), educational adequacy index (EAI), utilization based on enrollment to capacity ratio, demographic predictions, financial stewardship, etc.
- Assist in the development of an annual District Wide Facility Master Plan that may include school replacements, school consolidations, school closures, grade level reconfigurations, and boundary and transportation changes.
- Monitor the planning of capital needs and the implementation of capital programs, which may include future bond programs (*Note that this does not specifically utilize the language used in the 5B bond proposal passed by Jeffco voters, that was also included in the district’s Official Statement to bond investors*).
- Assist in the development of a potential future bond program.
- Ensure that sound, long-term decisions are consistent with the needs of the district and in support of the district’s strategic plan.
- Ensure that decisions are made through active involvement in communications with the community.

- Provide an annual written report to the Board of Education on the ongoing responsibilities of the committee.

- Consistent with the above functions, the Capital Asset Advisory Committee encourages continuous process improvement and implementation of sound decision-making based on data which adheres to the district policies, procedures, and practices."

Members of the CAAC include:

- Gordon Calahan, *President, Calahan Construction*

- Megan Castle, *Communications Officer at Colorado Oil & Gas Conservation Commission*

- Kathy Hodgson, *City Manager, City of La*kewood

- George Latuda, *Director of Design and Construction at Denver Public Schools, and Former Director of Construction Management for Jeffco*

- Tom Murray, *President, Summit Brick & T*ile

- Bret Poole, *Commercial Real Estate Appraiser, Alpine Ba*nk

- M.L. Richardson, *Regional Manager, Asphalt Paving Company*

- Brittany Warga, *Project Manager, Adolfson and Peterson Construction*

- Jeff Wilhite, *Management Consultant*

Jeffco's website also lists these employees as members of the CAAC:

- Kristopher Schuh, *Interim Superintendent*
- Nicole Stewart, *Interim Chief Financial Officer*
- Steve Bell, *Chief Operating Officer*
- Tim Reed, *Executive Director, Facilities & Construction Management*
- Bruce Huxley, *Director, Planning & Property*
- Berry Jones, *Director, Construction Management*
- Heather Frizzell, *Supervisor, Construction Acctg*.
- Jason Hendricks, *Budget Analyst*
- Maureen Wolsborn, *Communications Specialist*
- Robin Acree, *Executive Administrative Assistant, Facilities Management*

Language in the 5B bond measure passed by the voters, and repeated in Jeffco's Official Statement for potential bond investors, states that the "spending of the proceeds of such debt [will] be monitored by the Citizens' Capital Asset Advisory Committee and be subject to an annual independent audit."

This implies that "citizens" and not district employees, will provide independent oversight of the use of bond proceeds.

Yet the “Citizens’ Capital Asset Advisory Committee” is not chaired by a citizen. Instead, it is led by Steve Bell, Jeffco’s Chief Operating Officer, and Tim Reed, its Director of Facilities, who direct the spending of the bond proceeds. Moreover, it reports to the Board through the Superintendent, with Bell and Reed preparing (and often delivering) the CAAC’s presentations to the Board.

In sum, conflicts of interest are rampant in the CAAC’s structure and operations.

Jeffco’s website describes the FOC as follows:

“The Financial Oversight Committee was established in December 1999. The committee typically meets monthly throughout the school year with the primary function to assist the Board of Education in fulfilling its fiduciary oversight responsibilities per district policy DIEE and DIEE-R by reviewing:

- Financial reports and other financial information used internally and provided by the district to any governmental body or the public;
- *The district’s system of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board have established*;
- The business risk of the district; and
- *The district’s accounting and financial reporting processes generally*.”

"Consistent with this function, the Financial Oversight Committee should encourage continuous improvement of, and should foster adherence to the district's policies, procedures and practices at all levels.

"This group meets at least 10 times a year and has seven business community members. They are:

- Brian Ballard (Chair), *President, FirstBank, West*
- Gordon Calahan (also a member of the CAAC), *President, Calahan Construction*
- Leanne Emm, *Former Chief Financial Officer, Colorado Department of Education; previously, Jeffco Schools Finance Department*
- Mary Everson, *Certified Public Accountant*
- Charlotte Franson, *Vice President, Capstone Headwarters (investment bank*)
- Kyla Jones, *Certified Public Accountant*
- Scott Tarbox, *Attorney, Rumler Tarbox Lyden Law Corp*.

2020 Developments Up to the End of April

At their 6 February 2020 meeting, CAAC member were informed of very large cost overruns on the Alameda HS and Columbine HS, as well as cost overruns on multiple artificial turf and all-weather track projects, not all of which had been disclosed to voters in the original 5B flipbook.

Yet at the same meeting CAAC members were told by district management that, "*We are noticing bids coming in under budget for the majority of the projects*." This theme comes up again and again in the 2020 CAAC meeting notes.

In the case of Alameda, the Board was not informed about the large cost overruns until its 7 May meeting, when its consent agenda contained new project contracts for them to approve *at that night's meeting — without any discussion.*

At their 5 March 2020 meeting, CAAC members were informed (on the agenda they were sent) of $25 million in new anticipated charges against the "Unallocated H Bond" funds, which would leave unspent only $35 million out of the original $72 million balance that had been reported to the CAAC at the 7 November 2019 meeting. Based on the meeting notes, there was — yet again — no discussion by CAAC about this charge, or about the "Unallocated H Bond" balance.

Due to COVID, the CAAC's 2 April 2020 meeting was not held, though materials were sent out. Members of CAAC were informed on the agenda they were sent that only $10m (of the original $86m) remained in Program Contingency, due to its use to cover cost overruns and fund projects that were not included in the original 5B flipbook shown to voters during the

2018 campaign. They were also informed that $52m of "Unallocated H Bond" remained unspent, before additional charges.

The Smoking Guns: CAAC's and the Board's 7 May 2020 Meetings

Materials distributed to CAAC members and district staff along with the Agenda for its 7 May meeting show that only $37.5 million of "Unallocated H Bond" funds remained.

Consider what this meant. When it was first disclosed to CAAC members at their 7 November 2019 meeting, "The Unallocated H Bond" fund had a balance of $72 million. Logically, $50 million of this came from Bond Premium, a further $11 million came from interest earnings, and the final $11 million came from an undisclosed source.

The remaining balance reported to CAAC on 7 May 2020 was just $37.5 million, which mathematically implies that $34.5 million had been spent. If the first $11 million of this came from the mysterious source, and the next $11 million came from the accumulated interest earnings, then **$12.5 million of Bond Premium had been spent without Board Approval — even though under Board Policy the Superintendent could, on his own authority, spend no more than $500,000 without a Board resolution authorizing the expenditure.**

This represents not only a major violation of Board Policy, but also a dangerous failure of Jeffco's governance processes and financial controls.

Notes from the 7 May meeting (see Appendix 1) show that the CAAC also discussed an email received from Robert Greenawalt (see next section for a longer discussion of who he is and the contents of his emails, which are also available in Appendix 2).

According to the CAAC meeting notes, Greenawalt's email "expressed concerns with how we are running the bond program, and contends that the [remaining program] contingency is only $7m". In fact, according to the information presented on the meeting agenda, the remaining program contingency was actually $9.9 million.

The meeting notes also record that Mr. Greenawalt "is concerned that the projects slated for the end of the six-year program will not be completed due to lack of funds."

The notes continue: "The [facilities] department believes there is adequate current and projected funding, including contingency, to complete the Program." There is no mention of the evidence and logic that supported this claim, nor any indication that members of the CAAC asked district management for it.

Later on in the meeting notes there appears THIS CRITIAL STATEMENT: [Greenawalt's] "email questioned the distribution of bond premium."

And then this bombshell:

THE USE OF PREMIUM AND ANY DISTRIBUTION IS A BOE DECISION NOT THIS DEPARTMENT'S. TIM WILL BE FORWARDING MR. GREENAWALT'S CONCERNS TO THE BOE."

The following chart shows the members of Jeffco district staff who were, according to the notes (see Appendix 1) present at this CAAC meeting (and others):

CAAC Meetings	9-Jan	6-Feb	5-Mar	7-May	4-Jun	2-Jul	6-Aug	3-Sep	
Staff Members									
Kathleen Askelson			√	√		√	√		Chief Financial Officer
Steve Bell	√		√	√	√	√	√	√	Chief Operating Officer
Stephanie Corbo	√	√	√	√	√				Director of Finance
Heather Frizzell	√	√	√			√	√	√	Supervisor, Capital Program Accounting
Jason Hendricks				√	√		√	√	Budget Analyst
Bruce Huxley	√	√	√	√	√	√	√	√	Director, Planning and Property
Berry Jones	√	√	√	√	√	√	√	√	Director of Design and Construction
Nat'e Morrell				√	√				Lead Accounting Technician
Tim Reed	√	√	√	√	√	√	√	√	Exec Director, Facilities and
Nicole Stewart	√	√	√	√		√	√	√	Director of Budget and Treasury; later Interim CFO
Maureen Wolsborn	√	√	√	√	√		√	√	Senior Communications Specialist
Robin Acree	√	√	√	√	√	√	√	√	Executive Assistent, Facilities Management

As you can see, the senior leaders of Jeffco's Finance Department — Kathleen Askelson (Jeffco's CFO), Stephanie Corbo (Director of Finance), Nicole Stewart (Currently Interim CFO and on 7 May 2020 Director of Budget and Treasury) — were all present at the 7 May CAAC meeting. So too was Steve Bell, Jeffco's Chief Operating Officer.

THE JEFFCO BOARD OF EDUCATION MET LATER ON 7 MAY 2020.

CONTRARY TO WHAT THE CAAC NOTES INDICATE, TIM REED DID NOT RAISE THE BOND PREMIUM ISSUE WITH THE BOARD.

NOR DID THE DISTRICT'S CHIEF FINANCIAL OFFICER (ASKELSON), CHIEF OPERATING OFFICER (BELL), DIRECTOR OF FINANCE (CORBO), OR DIRECTOR OF BUDGET AND TREASURY (STEWART).

THE ENTIRE SENIOR LEADERSHIP OF JEFFCO'S FINANCE DEPARTMENT HAD BEEN MADE AWARE OF A POTENTIAL BREACH OF BOTH DISTRICT POLICY AND A DANGEROUS BREAKDOWN OF DISTRICT FINANCIAL CONTROLS, INVOLVING $12.5 IN BOND PREMIUM FUNDS.

THEY WERE ALSO AWARE THAT TIM REED WAS GOING TO RAISE THIS ISSUE WITH THE BOARD THAT EVENING.

WHEN HE DID NOT, THEY SAID NOTHING.

AND SINCE THAT MEETING THEY HAVE CONTINUED TO SAY NOTHING, TO THE CAAC, THE FOC, OR THE BOARD, EVEN AS ADDITIONAL AMOUNTS OF BOND PREMIUM HAVE BEEN SPENT WITHOUT BOARD AUTHORIZATION.

Later on 7 May 2020, the Jeffco Board of Education held its monthly meeting.

Board member Susan Miller took off the Board's Consent Agenda a resolution to approve additional funds to cover a very large ($10m plus) cost overrun on the Alameda HS project. This overrun was presented as 77% over the originally budgeted cost. However, under questioning by Miller, Tim Reed admitted that this was only for construction costs, and that there would be additional overruns related to soft costs that were not included in the resolution. In short, the full amount of the cost overrun at Alameda HS was not disclosed to to the Board.

MILLER ALSO ASKED REED, "SO IF I'M LOOKING AT YOUR CAPITAL PLAN PAGE THAT YOU HAVE UP…WE'VE ALREADY USED SOME OF THE BOND PREMIUM, IS THAT CORRECT?"

REED REPLIED: "NO WE HAVE NOT. WE HAVE NOT USED THE PREMIUM." THEN AFTER A PREGNANT PAUSE, REED ADDED, "IN ITS ENTIRETY." (Video of this exchange is available on Jeffco Board Docs).

During this exchange, Jason Glass (the Superintendent) remained silent.

So did the senior leadership of Jeffco's Finance Department (Askelson, Corbo, and Stewart), all of whom had been present earlier in the day at the CAAC meeting.

After the 7 May meetings, none of these senior officials ever again mentioned the use of Bond Premium funds without Board Authorlzation at either: (1) any subsequent 2020 CAAC meetings; (2) any subsequent FOC meetings; and (3) any subsequent Jeffco Board meetings.

They knew what had happened, but, according to the notes and minutes from all these meetings, they continued to remain silent.

Whether any of them privately raised the Bond Premium issue with Clifton Larson Allen, the district's auditor, or with the district's legal counsel, remains unknown.

An Aside: What is Board Director Susan Millers' Background?

Miller began her career as a municipal Ratings Officer at Standard and Poor's. She was later a public finance investment banker at Kidder, Peabody, and then a management consultant specializing in large project development. Currently, Miller's firm advises school districts around the country on enrollment, strategy, facilities planning, financing, and capital project management. She also holds an SEC/Municipal Securities Rulemaking Board Series 50 Municipal Financial Advisor License.

A Closer Look at Robert Greenawalt's Whistleblower Complaints and the District's Response

Who is Robert Greenawalt?

He is a retired United States Army Colonel. He graduated from West Point with a degree in electrical engineering. He received two graduate degrees from the University of Pennsylvania: an MSE in Computer and Information Science, and an MBA from the Wharton School. He has a Project Management Professional (PMP) Certification from the Project Management Institute. After leaving the Army, he served as the Chief Technology Officer for a number of technology companies. And he is the father of two Jeffco graduates.

Robert Greenawalt is a heavy hitter. But district staff, CAAC, and perhaps the FOC repeatedly treated him like a lightweight and dismissed his well-documented whistleblower complaints.

Let's look at the emails Greenawalt sent to CAAC (all of which are available in the Appendix).

On 5 May 2020, Greenawalt emailed the CAAC. His comments included the following:

- "As a taxpayer, I am concerned about the continued and unsustainable use of 5B Program Contingency funds. Another $10M+ of Program Contingency is on the agenda for May 7th. Less than 2 years into the Capital Improvement Program, by my calculations (see below), there remains less than $7M, out of an original $86M in Program Contingency, and this is only from what I can gather from Board documents or publicly available information. The real amount of remaining contingency is most likely even less."

- “Bids for project after project are coming in not only above the original estimates, but above the revised estimates. There is no reason to expect that will change. At this rate it appears that later starting projects will require scope cuts in order to stay within the stated Program funding. In addition, it appears that the $23M annual Capital Transfer [from the district’s General Fund] needed to partially fund the program is not sustainable in future years, adding even more pressure on contingency. I would think that it is time to start asking some hard questions about the Program’s sustainability.”
- “Finally, as a taxpayer, I don’t think the $50M in bond premium should be used as additional contingency to cover up for poor estimates, mismanagement, over promises, or ‘Nice to Have’ scope changes for the first projects. That money should be used for new projects, completely outside of the original 2018 Capital Improvement Program which the Superintendent and Board of Education should discuss and approve. As far as I am aware there has not been a discussion at the Board table regarding uses for the $50M. And shouldn’t Charters get their prorated share of that $50M?”

On 1 June 2020, Greenawalt sent a second email to the CAAC. Key points included:

- “The $100M in cost overruns and revised estimates is already over the $86M in contingency taxpayers were told was in the project, only 18 months into the program. As a project manager myself, that is just appalling”.

- “Where is this additional money coming from? It appears that Jeffco is using the Bond Premium. Is the Board of Education aware of that? The minutes from the May 7th CAAC meeting state “The use of premium and any distribution is a BOE decision not this department”. I have not seen the Board discuss, or approve the use of the Bond Premium for contingency.”
- “When there are other possible uses for the Bond Premium such as replacing older schools, ensuring equity throughout the District by putting more money into high FCI schools such as Vivian, Stober, Colorow, Lumberg or Mulholland or even cutting back on the Capital Transfer for a few years to free up General Fund money during the budget crisis, the creation and use of an unmonitored $146M+ contingency slush fund is completely beyond belief. How do you expect voters to ever approve another bond package when the proceeds from this one are being so poorly managed?”
- “At the rate of use of contingency funds, will there be enough money to complete all projects promised to taxpayers? Merely hearing Tim Reed say that everything would be completed wouldn’t be enough for me. As I said, you don’t have to take my word for this. You should ask Tim Reed some very pointed questions. Here are some suggestions:
- (1) Were the project estimates that were originally presented to voters raised by approximately $30M? Are these new estimates now used as a baseline when calculating the amount of contingency used?
- (2) Has nearly $70M in contingency already been spent or encumbered

- (3) What was the approval process for using the Bond Premium for contingency purposes? At what meeting did the Board discuss and approve its use for contingency?
- (4) At the current rate of contingency expenditure, how can the CAAC be absolute certain that Jeffco will be able to complete all projects in the stated scope?”
- “It seems that Tim Reed likes to tell the Board of Education that the CAAC is briefed and up-to-date on the Capital Improvement Program. Is that truly the case? Or, are you only seeing what Tim wants you to see?”
- “If/when this train wreck of a program implodes, will you as the CAAC be left holding the bag?”
- “The Bond language includes two interesting sentences: (1) Spending of the proceeds of such debt to be monitored by the Citizens’ Capital Asset Advisory Committee, and (2) Subject to an annual independent audit. I would think it’s time to subject the Capital Improvement Program to the prescribed annual independent audit outlined in the ballot language. It’s time to determine what is really going on with the proceeds and expenditures as the Program seems to be totally out of control.”

Greenawalt ended his email with this: “I’m available to discuss this or provide more detail relating to the source of any of the numbers in this email.”

The notes from the 4 June 20 CAAC meeting indicate that the CAAC discussed Greenawalt's emails.

These notes state:

- "Mr. Greenwalt suggests that the CAAC should have questions around the way funds are being allocated. Tim Reed asked the committee if there were any questions or comments. Jeff Wilhite stated, 'We need to keep an eye on the contingency funds. Please keep us updated on how you are reloading the slush fund'. Tim Reed said, 'We will continue to look at the contingency and financial information that is presented each month and address any contingency issues. In the market that we are in and the additions being big projects, recently we have seen pretty good numbers and contractors are eager to do work for us and we want to get them out to bid as soon as we can'".
- "M.L. Richardson stated, 'I recommend a response being prepared by going line by line to answer each question.' Tim Reed responded that he will do that and will attach it to the meeting notes."

These meeting notes suggest that CAAC failed to discuss many, indeed most of the substantive points Greenawalt raised in his emails.

On 8 June, Tim Reed sent an email to Robert Greenawalt.

Think about that.

In the 2018 ballot language for Proposition 5B, as well as Jeffco's Official Statement for investors in its bonds, the district promised that the "spending of the proceeds of such debt [will] be monitored by the Citizens' Capital Asset Advisory Committee and be subject to an annual independent audit."

Yet here we have Tim Reed, a member of district management, sending a response to a whistleblower who has raised serious issues about Reed's (and others') mismanagement of the Capital Improvement Program, including misuse of Bond Premium funds, on behalf of the very board advisory committee (CAAC) charged with monitoring (on behalf of Jeffco citizens and bond investors) the actions and performance of Reed and the other district managers responsible for the Capital Improvement Program.

Conflicts of interest don't get any starker than this.

You can find Tim Reed's response to Greenawalt in Appendix 2.

Unsurprisingly, it essentially evaded all the issues that Greenawalt raised.

It may well be that at least some members of the CAAC were disappointed (to put it mildly) with Reed's email to Greenawalt, because the issues raised by the latter came up again in the CAAC's next meeting on 2 July 2020.

Those meeting notes include the following:

- “Greenawalt Email/Responses-forwarded and presented to CAAC as requested.”
- “The committee discussed whether Mr. Greenawalt’s concerns are viable. Tim Reed states that every question presented has been answered.”
- “It is believed [by who?] that if the response doesn’tconform to Mr. Greenawalt’s theory then it is wrong.”
- “Tim believes that Mr. Greenawalt does not understand the full scope of the bond.”
- “The Board is aware and well informed on how the Capital improvement program is funded.”
- “This is not a new model and many school districts use it.”
- “The committee asked if an independent audit has been completed for the first year and if there will be another for the second year?”
- “Kathleen Askelson stated that there are audits annually. However, external auditors do not look at the scope of the work being done and what is being delivered, they are looking at expenses, allocations and conforming to accounting practices.”
- **NOTE: This begs the question of whether Askelson’s description of what the “independent audit” covered is what people who voted for Prop 5B and invested in Jeffco’s bonds understood “independent audit” to mean. I very**

strongly suspect that in contrast to the limited scope described by Askelson, what voters and bond investors had in mind was a true "performance audit", of the kind other large districts have conducted on their capital programs. Examples of these audits can be found in Appendix 2. The procedure for performing a performance audit is described in great detail in Chapters 8 and 9 of "*Government Auditing Standards (July 2018 Revision) (GAGAS) Fieldwork and Reporting Standards",* also known as the U.S. Government Accountability Office's (GAO) "Yellow Book".

- To return to the meeting, notes, the committee asked if anyone had sat down with Mr. Greenawalt and gave a more simplistic answer? Capital Improvement staff have not met with him."
- "It was stated that he [Greenawalt] has met with multiple people in the district, and attended several Board meetings. Mr. Greenawalt has had disagreements with other district departments. Mr. Greenawalt has met with the superintendent and other leadership members.
- "Steve Bell stated that he would discuss options with Dr. Glass for responding to Mr. Greenawalt's email."
- "The consensus of the committee is that a great deal of time and staff resources has gone into providing Mr. Greenawalt with responses when his questions are repetitive even though they've been answered."

- “The committee will wait to see how Dr. Glass would like to proceed.” Later, this was added to the meeting notes: “During the 7/6 Cabinet meeting the Cabinet recommendation is to take no further action regarding Mr. Greenawalt requests.”

These meeting notes speak for themselves about CAAC’s reaction to Greenawalt’s whistleblower warnings, which described not only a Capital Improvement Program that was out of control, but also potential unauthorized use of millions of dollars in Bond Premium funds.

A billion dollar public company would take Greenawalt’s allegations extremely seriously, in light of both the credentials of the person making them and the evidence he provided. In my experience, a public company board would not hesitate to retain outside counsel to conduct a thorough independent investigation of Greenawalt’s allegations. To not do so would invite shareholder litigation, hostile media coverage, reputational damage, and non-renewal of Directors and Officers liability insurance coverage.

Yet Jeffco’s senior management and the CAAC both dismissed Greenawalt and his claims.

That speaks volumes.

The Financial Oversight Committee’s Possible Failure to Act on Greenawalt’s Email to Them

According to their meeting agendas, the FOC received regular updates on the Capital Improvement Program from Steve Bell and Tim Reed. Their meeting notes show that they never raised any issues regarding program spending or financial controls.

Robert Greenawalt also reports that he sent an email in late July to Brian Ballard, Chair of the FOC, in which he laid out his concerns about the Capital Improvement Program. Unlike the CAAC, the FOC's meeting agendas and notes make no mention that they ever received or discussed Greenawalt's email

This seems curious, considering the seriousness of Greenawalt's claims about multiple failures in Jeffco's internal controls and governance processes, his credentials, and the substantial professional experience of the members of the FOC.

This is even more concerning given that Gordon Calahan is a member of both the CAAC and the FOC.

A final question is whether, assuming the FOC received Greenawalt's email, they passed it on to Clifton Larson Allen (CLA), the district's auditor.

CLA is the nation's 8th largest accounting firm, and therefore likely has public company audit clients. That makes it subject to the regulations of the Public Company Accounting Oversight Board, which has very strict rules for how audit firms must respond when they become aware of client whistleblower complaints. And presumably their audit engagement letters require clients to share whistleblower complaints with CLA.

At this point, the response of the FOC and CLA to Greenawalt's email (assuming they received it) remains a unknown — but it is a very important mystery, given auditors' potential liability if they ignore whistleblower complaints about which they have become aware.

By May, Spending on Jeffco's Capital Improvement Program was More than $100 Million Above Its Original Budget

The following table summarizes the information that was presented by district management to the CAAC (in writing, on meeting agendas) between January and August 2020.

Note that this table was never presented. All the CAAC members received on their meeting agendas (see Appendix 1) was how much of Program Contingency and Unallocated H Bond funds remained unspent. I created this table from the information on the CAAC agendas to show how the use of Program Contingency and Uallocated H Bond funds evolved over time.

What was Reported to Jeffco CAAC						
CAAC Report Date	Remaining from $86m Program Contingency	Program Contingency Used	Remaining from $72m Unallocated H Bond	Unallocated H Bond Used		Total Program Contingency & Unallocated H Bond Used
Jan-20	$ 10,801,407	$ 75,198,593	$ 69,662,376	$ 2,337,624		**$ 77,536,217**
Feb-20	$ 10,635,666	$ 75,364,334	$ 70,200,341	$ 1,799,659		**$ 77,163,993**
Mar-20	$ 10,285,489	$ 75,714,511	$ 60,462,832	$ 11,537,168		**$ 87,251,679**
Apr-20	$ 10,148,889	$ 75,851,111	$ 51,505,857	$ 20,494,143		**$ 96,345,254**
May-20	$ 9,926,194	$ 76,073,806	$ 47,508,686	$ 24,491,314		**$ 100,565,120**
Jun-20	$ 9,699,678	$ 76,300,322	$ 38,564,512	$ 33,435,488		**$ 109,735,810**
Jul-20	$ 9,796,977	$ 76,203,023	$ 37,781,658	$ 34,218,342		**$ 110,421,365**
Aug-20	$ 8,742,749	$ 77,257,251	$ 37,787,980	$ 34,212,020		**$ 111,469,271**
Sep-20	$ 8,818,967	$ 77,181,033	$ 38,766,576	$ 33,233,424		**$ 110,414,457**

Note also, that the publicly available materials on the CAAC's website show that, through September, district management had never provided a comprehensive table showing the projects on which $110 million was spent, what it was spent on, and why (e.g., a detailed variance analysis). Nor does it appear that any member of CAAC has asked for this information.

In fact, the only person who has asked for it is Board director Susan Miller.

But the district hasn't provided it to her either.

The Curious Financing of the Aviation Wing at the New Warren Tech South CTE High School

Following the passage of Proposition 5B, on 9 December 2020 Superintendent Jason Glass wrote a long post on his "Advance Jeffco" blog titled "*What Happens Now With 5A and 5B Funds?*" (included in Appendix 2).

Glass told the public that, “We will use 10% of 5A [mill levy override] funds [about $3 million/year] for career/technical education… We are currently planning the expansion of Warren Tech programming into existing schools and on a new site in south Jeffco that will be constructed using 5B funds.”

At their 3 September 2020 meeting, the CAAC was told that a bid for $9.2 million was received to construct the new Warren Tech South school. The bid came in $212,301 under budget.

At the Jeffco Board meeting later that same day, Director Susan Miller pulled the proposed contract for Warren Tech South off the Consent Agenda, to ask additional questions about the project’s curious funding.

Rather than being paid for with 5B Capital Program funds as Jason Glass had promised the public, the Aviation Wing of Warren Tech South was to be financed via the transfer of $1.35 million in Proposition 5A mill levy operating funds.

Miller asked why the district was taking this unusual approach when, presumably, Bond Premium and Program Contingency funds could be used for that purpose.

District staff (Steve Bell and Nicole Stewart) replied that the use of these funds had been authorized by Marner Messer, the district’s head of Career and Technical Education, and Matt Flores, the district’s Chief Academic Officer.

Miller expressed her astonishment at this, and pointedly noted that since the Superintendent's maximum approval authority was just $500,000 this expenditure should have come to the Board for approval.

Miller also noted that the Jeffco Board had never passed a resolution on how the $50 million in Bond Premium should be spent.

Board president Susan Harmon, and directors Ron Mitchell, Brad Rupert, and Stephanie Schooley remained silent during this discussion, until Harmon cut it off and called for a vote. The contract was approved, despite its curious financing, with only Miller voting against it.

Consider what happened here.

Through the end of June 2020, Jeffco had received $6 million (in annual payments of $3 million) of Prop 5A mill levy override funds that were specifically earmarked for improving the district's CTE and STEM programming. Yet at the end of June, 2020, $4.7 million of that $6.0 million in Prop 5A funds remained unspent, despite promises made to parents, employers, and other Jeffco voters in 2018 during the Prop 5A mill Levy override campaign.

At the same time, the STEM program at Wheat Ridge High School (where 50% of students are eligible for free and reduced lunch) that has won many national awards (e.g., winning the international Shell Eco Marathon multiple times with the fuel cell vehicles they designed and built) was closing down because its budget has been cut.

In spite of this situation, district management claimed to the Board that it made sense to transfer $1.35 million of these General Account funds to the Capital Account, and then approve their use to construct part of a building at the new Warren Tech South schools, contradicting what Superintendent Jason Glass had told the public after Prop 5B passed.

When Miller pointed this out, Interim CFO Nicole Stewart claimed the funds had been earmarked for “a one time use.” She neglected to mention that this “one time use” was very likely the purchase of equipment to be used in programs that would be delivered once the Aviation Wing of the new Warren Tech South building was constructed.

And once again, the details of this strange Warren Tech South financing did not appear on the CAAC’s agenda, nor were they discussed at its meeting earlier in the day.

Finally, the 3 September meeting raised another extremely troubling point, when Director Susan Miller asked Tim Reed if the CAAC regularly received the same information about proposed projects and contracts that was given to the Board. He said they did not.

How Has Jeffco Been Managing the Project Bidding Process?

Director Miller later pulled another contract off 3 September Board meeting’s Consent Agenda, and asked Tim Reed how it came to pass that the contractor’s bid amount was exactly equal to the project’s budget. Reed’s answer left her speechless: “We tell the contractor this is how much we’ve got to spend. Work to this number. Which they do. The number is what we told them it needed to be" (again, this can be seen on video of the meeting on the Jeffco Board Docs site).

Miller's Challenge to Other Jeffco Board Members at the 1 October 2020 Meeting

At the 1 October Jeffco Board meeting, Director Miller confronted her four fellow directors with the elephant in the room that since the May 7th board meeting they had all been trying hard to ignore.

"We have extra dollars that came in from the Bond Premium and interest earnings. And we have not talked about how to allocate that money or where that money has gone, and we have spent about $77 million dollars of our Program Contingency. We have only about $9 million left in contingency for [the remainder of the Capital Improvement Program]…

"As a Board, we're supposed to understand where $61million dollars goes… it could have gone to a new school for Molholm [an old school with a high percentage of minority and free and reduced lunch eligible students] or other projects that are important for our community. That's the conversation we haven't had…

"We've went and invested in fields we said we weren't going to do. West Jeff Middle School was not on the list [the 2018 5B campaign flipbook], Golden [HS] was not on the list, and there were other ones that weren't on the list…

"We should have had a discussion about where we are going to spend that Bond Premium… We could have used $50 million dollars to build two new elementary schools… Those are the conversations we're supposed to be having at the Board. I don't know who made the decision to direct those dollars somewhere else…

"$61 million dollars went somewhere else without the Board talking about it. We didn't get anything from CAAC. And CAAC doesn't sign off on any of the spreadsheets that [district staff] gives us. My concern is how are we honoring what we said to our bondholders. We were going to have a committee that oversaw this bond program, aligned with what we told the taxpayers they were going to receive…

"There was no conversation about how the Bond Premium was going to be spent."

At that point, Jeffco Board president Susan Harmon cut off further discussion.

The CAAC's 7 October 2020 Presentation to the Board

On 7 October, the CAAC has a scheduled meeting with the Jeffco Board to review the Capital Improvement Program.

Except only one member of the CAAC will be there — Gordon Calahan (*note: he didn't show up*). The CAAC's presentation was prepared by district staff, and will be given by Steve Bell and Tim Reed.

Based on what has been posted on the district's website (which is included in Appendix 2), that presentation is deeply deceptive.

It presents only the relatively small number of projects that have been completed and closed out during the Capital Improvement Plan's first two years. And it notes that cost overruns on them total only $20 million dollars.

It makes no mention of far greater use of Program Contingency to cover cost-overruns projects that have not been completed and closed out. Nor does it mention the use of Program Contingency to pay for projects that were never disclosed to Jeffco voters during the 2018 campaign. Unsurprisingly, it is also completely silent on the unauthorized use of Bond Premium funds.

In short, it appears to be a brazen whitewash of the true condition of Jeffco's Capital Improvement Program. A skeptic might even say it is an attempt to deceive the Board, Jeffco voters, the media, and bondholders.

This behavior would be inconceivable if Jeffco was a billion dollar public company instead of a billion dollar school district.

Steve Bell is Likely to Raise Two Objections to this Analysis

The first is that when Board members approve Capital Improvement Program contracts and associated cost overruns (almost all of which appear on the Board's Consent Agenda, unless Director Miller had pulled them off for discussion), they are authorizing the use of Bond Premium.

However, the information about those contracts that has been presented to the Board has repeatedly stated that cost overruns would be paid for out of the Program Contingency. Board Members were never told that, nor did they ever approve any increase in the size of Program Contingency beyond the $86 million that had originally been presented in 2018 to the Board, the public, and potential investors in Jeffco's bonds.

Bell's second objection is that Bond Proceeds, the Bond Premium, and Accumulated Interest Earnings are indistinguishable amounts of money that can be spent on projects not disclosed to the voters in the 5B flipbook and on cost overruns.

This objection is contradicted by multiple pieces of evidence. First, there are the notes from the 7 May CAAC meeting, which state: "THE USE OF PREMIUM AND ANY DISTRIBUTION IS A BOE DECISION NOT THIS DEPARTMENT. TIM WILL BE FORWARDING MR. GREENAWALT'S CONCERNS TO THE BOE."

Second, at the 7 May Board meeting, there is Reed's initial denial (in response to a question by Director Miller) that any of the Bond Premium had been spent: "NO WE HAVE NOT. WE HAVE NOT USED THE PREMIUM". Then, after a painful pause, Reed said, "IN ITS ENTIRETY"

Third, in the information provided to CAAC (but not the Board), since November 2019 district management has been separately reporting unused Program Contingency and unused H-Bond funds.

Fourth, if the Bond Premium and Accumulated Interest Earnings were in fact just part of Bond Proceeds" then per the Jeffco Board's 8 October 2018 resolution, 10% of this pot of money should have been shared with the district's charter schools. But it was not.

Finally, the fact that boards in the Denver, Thompson, Poudre, and Englewood school districts have all in the past three years separately voted on how to use the Bond Premium they received suggests that Bond Premium is not, in fact, part of Bond Proceeds.

Conclusions

What is the probability that Jeffco's Capital Improvement Program is going to either end up over budget, behind schedule, and/or fail to deliver all the projects it promised to the people who voted for Prop 5B in 2018?

The reference case/base rate data for the results of other large school district capital improvement programs indicated that there is a high probability that one or more of these fates would befall Jeffco.

Updating that probability with the evidence presented in this analysis leads me to conclude that the probability that Jeffco's Capital Improvement Program will fail to deliver its promised scope, on time, and on budget is almost certainly higher than the base rate suggests.

There is also a broader set of conclusions that are even more important to the future of nation's 36th largest school district.

The case of the Capital Improvement Program provides further painful evidence of the persistent, insidious effects of three deeply rooted causes of Jeffco's many performance problems.

Poor Management

This case study has highlighted multiple instances of weak or absent management processes and systems in Jeffco. Undoubtedly, if and when a performance audit is conducted, many more will be found.

Project costs were systematically underestimated (see Appendix 2 for a detailed project by project analysis). Contrary to good project management and project accounting practices, the original project cost baseline was adjusted upward, which hid the full extent of these underestimates.

Management of the project bidding process appears to be questionable. While numerous cost overruns have occurred,systematic variance analyses have not been provided to the Citizens' Capital Asset Advisory Committee, the Financial Oversight Committee, or the Board.

More broadly, different and at times inconsistent information has been provided by district management to all three of these governance groups. For example, none of them have received a regularly updated report on how much of the Program Contingency has been used.

It is not clear that the CAAC and FOC realized that projects that were not disclosed to voters in the 5B flipbook were undertaken and paid for with Program Contingency and/or Unallocated H-Bond funds.

The fact that Bond Premium has been spent, and on what it has been spent, has never been clearly reported to or authorized by the Board.

And this is just a partial list of poor management practices in Jeffco's Capital Improvement Program…

Weak Governance

In light of this evidence, it is hard to avoid the conclusion that Jeffco has experienced a widespread breakdown of multiple internal controls, decisionmaking, and governance processes. Many of these breakdowns appear to have resulted from intentional behavior by different parties, including both what they did and what they failed to do.

It is hard to believe that Jeffco citizens and Jeffco's bond investors would agree that CAAC has carried out its responsibilities as stated in the 5B ballot language and the district's Official Statement.

CAAC's agendas and meeting notes paint a picture of a group that is largely passive and spent most of its time listening to Steve Bell and Tim Reeds' presentations and assurances that all was well.

CAAC rarely dug deeply into issues that were clearly indicated by the rapid depletion of Program Contingency, the use of cryptically described "Unallocated H-Bond Funds" (which included Bond Premium), and the absence of clear and regularly updated reports showing how these funds were used.

To his great credit, Robert Greenawalt's whistleblower communications to the CAAC temporarily aroused their interest. However, Bell and Reed appear to have quickly damped down the CAAC's curiosity. To be blunt, the CAAC's treatment of an evidence-based whistleblower complaint from a highly credible source was nothing short of scandalous.

The fact that the Citizens' Capital Asset Advisory Committee, which was created by the Board to provide advice to the Board, had no citizen chair and was in fact run by management, and reported to the Board through management, is particularly damning.

Moreover, as indicated by the upcoming CAAC "report" to the Board on 7 October, which will be delivered by Bell and Reed, with Calahan as the only CAAC member present, these manifest weaknesses in the governance of Jeffco's $705 million dollar capital program have not yet been addressed — or even acknowledged by the Board.

The Financial Oversight Committee has apparently remained unaware of these problems. It would be deeply troubling if the FOC in fact received Greenawalt's whistleblower email and chose not to act on it, because the members of the FOC, like the members of CAAC, do not lack for professional expertise.

What the CAAC, and perhaps the FOC, did appear to lack was the skepticism required to use their expertise to challenge district staff — as you would expect a board committee to do. This is deeply troubling.

With respect to the governance performance of Jeffco's Board of Directors, the top finding of the DC City Auditor's review of performance audits of school district capital programs seems painfully appropriate:

- *"The importance of the "tone at the top" when it comes to accountability. Every aspect of a program's control environment depends on leaders demanding accountability."*

The evidence shows that Board Director Susan Miller repeatedly attempted to carry out the fiduciary duty of care she owes to both Jeffco's citizens, taxpayers, and bond investors. She removed contracts from the consent agenda, questioned Tim Reed and Steve Bell about their contents, and raised concerns about apparent violations of Board Policy in the case of the financing of the Aviation Wing at Warren Tech South and the unauthorized use $12 million (or more) in Bond Premium funds.

Yet on multiple occasions, Directors Mitchell, Rupert, and Schooley remained silent, and Board president Susan Harmon cut off Miller's line of questioning.

This is curious because both Rupert and Harmon are attorneys — members of the bar and officers of the court — with professional obligations to ensure that laws are upheld.

It is also galling, because that Directors Harmon, Mitchell, and Rupert were elected in 2015, calling themselves the “Clean Slate” candidates who would bring a new era of transparency to Jeffco.

A cynic might argue that the “Clean Slate” has seemed far more interested in protecting the district’s (and perhaps their own) reputation than in carrying out their fiduciary duty of care.

In light of the accumulated evidence, it is very hard not to conclude that there has been a dangerous breakdown of many critical governance processes in the billion-dollar organization that is the United States’ 36th largest school district.

Dysfunctional Culture

This case also provides many examples of Jeffco’s dysfunctional and deeply rooted culture. This is not the first such case, nor will it be the last (for example, see the recent investigation of Jeffco’s dysfunctional approach to reading instruction, by Chalkbeat’s Ann Schimke).

The DC Auditor’s warning about the importance of “tone at the top” applies to Jeffco’s senior management as much as it does to its Board directors.

In this case, a pattern of behavior is observed, in which the information provided to governance committees — the CAAC, the Board, and perhaps the FOC — has been restricted and, in some cases, arguably materially distorted. Recall too that when confronted on the use of Bond Premium, Director Miller effectively caught Tim Reed lying to the Board.

As I have written elsewhere, this is one of the dangers that can arise from the Board's decision to use of policy governance (which vests extreme power in the Superintendent) rather than the administrative approach to governance used by public companies. What this case suggests is that these dangers increase non-linearly with the size of a school district.

As a former CEO and CFO of public and private companies, I am particularly horrified by the dysfunctional behavior of Jeffco's Finance Department staff.

An organization's CFO holds a unique position, reporting to both the CEO and to the Audit Committee of the Board of Directors. CFOs are responsible for the quality and performance of an organization's internal control systems and decision and governance processes. They are also responsible for the accuracy and completeness of information flows, both internally (to the Board of Directors) and externally to multiple outside parties, including regulators, auditors, lenders, investors, and other users of the organization's financial statements.

As many CFOs can tell you, there are times when the dual nature of their responsibility lands them at cross-purposes with their CEO. I know CFOs who lost their jobs because they refused to compromise on what they knew was right, and told audit committees and boards what they needed to know. But I have also seen CFOs who went to prison because they played along with the games their CEO, and in some cases, other members of the management team were playing.

It therefore came as a shock to see that CFO Askelson, Director of Finance Carbo, and Budget and Treasury Director Stewart (who is now Jeffco's acting CFO after the departure of the other two) were all present at the 7 May CAAC meeting. As you recall, the notes from that meeting stated that, "THE USE OF [BOND] PREMIUM AND ANY DISTRIBUTION IS A BOE DECISION NOT THIS DEPARTMENT. TIM WILL BE FORWARDING MR. GREENAWALT'S CONCERNS TO THE BOE."

Yet at that evening's Board meeting, neither Tim Reed nor Steve Bell raised the use of Bond Premium with the Board of Directors. But neither did Askelson, Corbo, or Stewart (all of whom are CPAs), even when Director Miller forced Tim Reed to admit (after he at first denied it) that Bond Premium funds had been spent.

Even more disturbing, Askelson, Carbo, and Stewart continued to attend CAAC meetings where it was clear (as it should be to a billion dollar organization's finance department leaders) that millions of dollars of Bond Premium funds continued to be used without the Board's approval.

They also continued to attend FOC and Board meetings, and, based on the meeting notes (included in Appendix 1), never brought it up there either.

This represents far more than additional evidence of Jeffco's dysfunctional culture. It suggests that professional ethics have been dangerously undermined at the very top of a billion dollar organization's Finance Department.

A Final Question: Have Any Laws Been Broken?

While the ultimate determination must be made by appropriate law enforcement authorities, it could be the case that laws have been violated. Sadly, this would not be shocking news to people familiar with other large school districts' capital improvement programs.

The critical issue appears to be district employees' possible use of $12 million dollars or more of Bond Premium funds without the Board's authorization, and without disclosure of this to the Board, when any district employee's maximum expense approval authority (at the Superintendent level) is only $500,000.

At the state level violations could have occurred under the following statutes:

CRS 18–8–405 Second Degree Official Misconduct:

"(1) A public servant commits second degree official misconduct if he knowingly, arbitrarily, and capriciously: (a) Refrains from performing a duty imposed upon him by law; or (b) Violates any statute or lawfully adopted rule or regulation relating to his office."

CRS 18–8–404 First Degree Official Misconduct:

"(1) A public servant commits first degree official misconduct if, with intent to obtain a benefit for the public servant or another or maliciously to cause harm to another, he or she knowingly: (a) Commits an act relating to his office but constituting an unauthorized exercise of his official function; or (b) Refrains from performing a duty imposed upon him by law; or [c] Violates any statute or lawfully adopted rule or regulation relating to his office."

CRS 6–4–106 Bid Rigging:

(*1) It is illegal for any person to contract, combine, or conspire with any person to rig any bid, or any aspect of the bidding process, in any way related to the provision of any commodity or service.*

At the federal level, there could be a violation of USC Title 18, Section 1346, Honest Services Fraud (and possibly a related conspiracy).

Honest Service Fraud is defined as "a scheme or artifice to deprive another of the intangible right of honest services." Note that, "No money or property needs to change hands, and the attempt to deprive someone of honest services does not need to be successful. A breach of fiduciary duty, or a failure to disclose a conflict of interest, can now be charged as wire or mail fraud…In general, one can only be charged with honest services fraud where a fiduciary duty exists to another."

How Do You Clean Up a Mess This Big?

In Jeffco's case, the glib answer is that it depends on which mess you are talking about.

Jeffco's Capital Improvement Program still has more than four years left to run. At this point, the Board should take two initial steps that other district boards have also taken under similar circumstances.

First, retain independent outside legal counsel to conduct a thorough investigation of the apparent failure of multiple critical governance processes. This should also include a recommendation as to whether referral to law enforcement is warranted.

Second, retain an independent firm to conduct a performance audit of the Capital Improvement Program (see the Appendix 2 for examples from other districts).

Depending on the results of these initial steps (the reports from which should be made public), the Board may choose to contract with an outside engineering, procurement, and construction management firm to take control of Jeffco's Capital Improvement Program.

With respect to how to clean up the larger mess — the deeply rooted problems of Jeffco's poor management, weak governance, and dysfunctional culture — my recommendations for that are set out in this article: "A Long Overdue 12 Step Plan to Improve Jeffco's Performance".

One thing however, is crystal clear.

Culture eats management and governance processes for breakfast, as they say. And a deeply dysfunctional culture will never change unless and until the senior leaders who perpetuate it either leave or are fired.

Tom Coyne is a business executive and former member of the Jeffco District Accountability Committee. His wife, Susan Miller, was elected to the Jeffco Board of Education last November. These are solely his views.

Download Appendix #1

Download Appendix #2

Download the Houston Capital Program Performance Audit

February 2021: Jeffco Schools' Out of Control $705 Million Capital Program, Chapter Two: The Scandal Has Widened and Worsened

The Jefferson County school district is located in the western suburbs of Denver. It is the nation's 37th largest district, serving about 84,000 students with annual revenues of over a billion dollars a year.

Jeffco has a population of almost 600,000. Many of its citizens are educated and affluent — 42% of adult residents are college graduates, and median household income was $85,890 in 2018.

On 7 October 2020, I published a detailed, evidence-based analysis of Jeffco's $705 million six-year capital improvement program that was approved by a razor thin 0.24% margin in November 2018: "*Jeffco Schools' Out of Control $705 Million Capital Program: A Case Study in Poor Management, Weak Governance, and Dysfunctional Culture.*"

This report updates that analysis through early February 2021. It covers the following topics:

1. New Developments in Chronological Order

2. The Kathleen Askelson Report: Spin City with Evidence of Election Fraud?

3. Did the Rating Agencies Really Say What Steve Bell Claims They Did?

4. Conclusion

New Developments in Chronological Order

7 October 2020: At the scheduled Jeffco Board of Education quarterly meeting with the Citizens' Capital Asset Advisory Committee (none of whose members showed up!), Board Director Miller read a statement expressing her deep concerns about the Capital Improvement Program, and called for the appointment of an independent outside firm to conduct a performance audit of it.

Miller began her career as a municipal Ratings Officer at Standard and Poor's. She was later a public finance investment banker at Kidder, Peabody, and then a management consultant specializing in large project development. Currently, Miller's firm advises school districts around the country on enrollment, strategy, facilities planning, financing, and project management. She also holds a SEC/Municipal Securities Rulemaking Board Series 50 Municipal Financial Advisor License.

Here is her statement in full:

"Back in November 2018, we asked the community to support a $567 million dollar bond ~ 5B, to upgrade aging buildings, provide new furniture, new labs, and new schools throughout the district. We promised our community and our bond investors that the Citizens Capital Asset Advisory Committee [CAAC] would faithfully oversee the capital program, including financial oversight as well as the on-budget delivery of all the projects that were promised to our voters.

Last January, you and the other members of the Capital Asset Advisory Committee joined us and you said, "it is very important for us to make sure that each facility gets what it is promised. We cannot make changes to what was promised. Those items that are on the bond have to be followed exactly the way they are, and come in under budget."" Speaking for many Jeffco voters, I could not agree more.

When we sold the bonds in December of 2018, we benefited from a very strong market and secured an additional $50 million in bond premium, which is basically an unexpected windfall, a bonus so to speak, that could be spent on additional projects. In Denver, Poudre and Thornton, which also benefited from a strong market, those districts had their bond oversight committees make recommendations to their school boards about how best to use the extra money they received from the sale of their bonds. And those boards voted to allocate the extra money to additional projects that were high priorities for their communities.

The Jeffco community has been denied the chance to have that discussion. We didn't have the chance to ask the community where it wanted to address equity challenges. We never had the opportunity to fund new labs for Jefferson High School, nor new schools to replace the old ones in the areas of Jeffco facing the greatest challenges, nor address overcrowding issues at Ralston Valley, nor consider upgrades for Outdoor Lab. Those discussions never happened. I asked for them, and I was dismissed.

But the committee [CAAC] did raise the issue of the extra $50 million dollars realized in the sale of the first round of bonds. On May 7th 2020, *the committee asked Tim Reed, in front of our CFO, Kathy Askelson, our COO, Steve Bell, and other members of our Finance Team (Stephanie Corbo and Nicole Stewart) who was responsible for allocation of the bond premium? According to the meeting notes, Mr. Reed stated, and I quote, "THE USE OF PREMIUM AND ANY DISTRIBUTION IS A BOE DECISION NOT THIS DEPARTMENT." Mr. Reed also promised to raise this issue with this Board.*

Twelve hours later, that SAME day, as we discussed the 77% cost overrun at Alameda High School, I asked Mr. Reed if any of the $50 million bond premium had been spent. Initially Mr. Reed denied the unauthorized use of the bond premium, but then admitted that it "had not been spent in its entirety." At no time did he bring forward what he told the committee [CAAC] just twelve hours earlier, that how to spend that extra $50 million, that bonus money, was a board of education decision. But then Kathy Askelson, Stephanie Corbo, and Nicole Stewart, nor Steve Bell didn't say anything to the board either.

That's a very big problem for me and for this district. As board members we have a fiduciary duty of care. We promised our taxpayers and bond investors the greatest level of transparency and oversight of the $705 million dollar capital plan, that included 5b approved by the voters. It is painfully clear we have not kept that promise.

Therefore I ask that we abide by the resolution language the previous board approved on September 6, 2018. The resolution stated "…the *spending of the proceeds of such debt to be monitored by the Citizen's Capital Asset Committee and subject to an independent annual audit."*

I ask this board to call on the audit committee to secure an independent performance audit, as other large schools districts have done across the country for their capital programs. We must be completely transparent with the citizens of Jefferson County and with our bond investors about the implementation of this capital program. To do any less would be a betrayal of their trust."

Directors Susan Harmon, Ron Mitchell, Brad Rupert, and Stephanie Schooley refused to support Miller's motion.

9 October 2020. After she resigned as Jeffco's CFO at the end of August 2020, Kathleen Askelson was hired as a consultant to the district. A report she submitted to the district on 21 January 2021 states that, "*An interim report on the bond program was requested on October 9, 2020*." That's just two days after Harmon, Mitchell, Rupert, and Schooley failed to support Miller's motion for an Independent Performance Audit (a specified term under Government Auditing Standards — see Chapters 8 and 9 of the "Yellow Book" published by the Government Accountability Office (GAO).

Strangely, Askelson did not say who requested her report.

This report was sent to members of the CAAC on 21Jan21. The notes to the CAAC meeting on that date say that the report was requested by the Board of Education. However that is not true; there is no record, in writing or in the meeting videos, of the Board ever having made such a request, particularly after having just rejected Miller's motion for an Independent Performance Audit.

I submitted multiple Colorado Open Records Act (CORA) requests in an attempt to determine who requested Askelson's report. Almost all of them were either rejected or came back with a demand for ridiculous fees before the district would even search for the information I requested (and those fees were non-refundable if no information was found).

However, I did receive an answer to my CORA requesting the consulting invoices Askelson has submitted to Jeffco. These billing records are in the Evidence Appendix, which can be downloaded using the link at the end of this report.

As you can see, there is no mention of the "Bond Report" in the October Statement of [Consulting] Work Askelson and Jeffco's Chief Human Resources Officer agreed she would perform in October 2020. The "Bond Report" was added later.

On 9 October (the date Askelson says the Bond Report was requested) only one meeting is listed in her invoices: A "planning meeting" with Acting Superintendent Kristopher Schuh, District Chief of Staff Helen Neal, and Acting CFO Nicole Stewart.

14 October 2020. Askelson's billing records also note another meeting five days later with Schuh, Neal, and Stewart. However, this time they were joined by Jeffco's Chief Operating Officer Steve Bell (who is in charge of the Capital Improvement Program) and Board Chair Susan Harmon. The purpose of the meeting is described as "project work and outcomes."

In her report, Askelson notes that the following objectives "were defined" for her work (but again does not say who defined them, or when they were defined):

· *"Review the original bond plan by project as communicated to the community and validate the projects developed in the PeopleSoft system (district financial system) and construction reports reflect the same budgets.*

· *Review of the current revised budget identifying the changes from the original budget and subsequent use of contingency.*

· *Review of current contingency balances.*

· *Review overages from current budget to actual costs.*

· *Make recommendations for changes in processes or communication to the Capital Asset Advisory Committee (CAAC) and/or Board to be included."*

Note that there was no instruction to Askelson for her to follow Government Auditing Standards for Independent Performance Audits when preparing her report. That is not surprising. Having been so deeply involved with the Capital Improvement Program, it would have been impossible for Askelson to meet them.

5 November 2020. Just when you think this story can't get any worse, it does. The Consent Agenda for the 5 November meeting of the Jeffco Board of Education included a contract for more than $500,000 for Calahan Construction, with which Gordon Calahan is affiliated. He is the only citizen who is a member of both the district Financial Oversight Committee (FOC) and the Capital Asset Advisory Committee (CAAC). Both these are advisory committees to the Board of Education, and play a critical role in the district's governance process.

Per both the Proposition 5B language approved the Jeffco voters in the November 2018 election, and the Official Statement provided to investors in the district's bonds (which incorporates the 5B language by reference), the CAAC is supposed to provide voters and bondholders with independent oversight of Capital Improvement Program spending.

Subsequent investigations (using Jeffco's financial transparency database) revealed that Calahan's company has received more than one million dollars in contracts from Jeffco's Capital Improvement Program.

It is hard to understand how the CAAC can provide "independent" oversight over a $705 million dollar Capital Improvement Program when at least one of its members is receiving Capital Improvement Program contracts awarded by the very district staff they are supposed to be overseeing. This is a blatant conflict of interest and, many would argue, a clear violation of the fiduciary duty of loyalty.

Calahan's presence on the CAAC also makes a mockery of this district requirement for the Citizens Capital Advisory Committee: "*Members must be free from any relationship that would interfere with independent judgment.*"

In advance of the 5 November meeting of the CAAC, I sent an email to Acting Jeffco Superintendent Kristopher Schuh, Board Chair Susan Harmon, and members of the media describing my concerns with respect to the Calahan contracts. I also noted that since questions had been raised about the management and oversight of the Capital Improvement Program, both the FOC and CAAC had begun to violate the Colorado Open Meeting Act, by not making it clear at least 24 hours in advance how members of the public could attend their meetings.

The notes from the 5 November CAAC meeting show that the email was discussed. The result was depressingly telling with respect to the extent of the rot in Jeffco's culture.

First, Chief Operating Officer Steve Bell misrepresented my complaint, describing it as related to Calahan having inappropriately obtained contracts, rather than the fact that he had obtained them at all while still a member of the CAAC.

It was also telling (but not surprising) that members of the CAAC voted against asking for an Independent Performance Audit, as such an audit would almost certainly be highly critical of their own performance in providing independent oversight over the spending of bond funds that the CAAC is mandated to provide by the language of Prop 5B (on behalf of taxpayers and bond investors).

There were also other odd but interesting items in the notes from this CAAC meeting (notes are in the Evidence Appendix):

"Tim Reed sent an email 10/16, to CAAC members that noted that certain individuals are questioning the Capital Improvement Program progress, financial status and by implication CAAC is not providing adequate oversight of the Capital Improvement Program. In the email there were suggestions for consideration and discussion at today's meeting."

In light of this, it is particularly strange that the members of the CAAC were not informed by any member of management (nor by Kathleen Askelson, who also attended) that Askelson had already been commissioned, apparently by Schuh, Stewart, Bell, and Harmon, to write a report about the Capital Improvement Program. That is a strange omission, to say the least.

These other exchanges were also interesting:

"Megan Castle asked if the Board of Education was looking at the bond language itself and what the citizen advisory committee's responsibilities are. She would like clarification on what oversight means? With the 10/16 email the responsibilities and requirements of members was included. Is the committee doing what they are supposed to do? Performance audit, what does that mean for CAAC?”

Two years after Prop 5B promised voters and bondholders that the CAAC would provide independent oversight over the spending of bond proceeds, “M.L. Richardson stated that she would like the following information provided to CAAC along with definitions:

· Scope of work

· Cost

· Variation to the scope of work

· Cost of variation, increase or decrease

· Final cost

· Source of funding

· Bond premium breakout

· Definitions: bond funding, program and bond contingency, capital transfer

· Explain exactly what the source is”

In response to Richardson's request, "Tim [Reed] stated that all the CAAC reports, presentations and meeting notes are on the Jeffco public website." Could he have been more arrogant and dismissive of Richardson's wholly reasonable, if far too long delayed, request? Reed told members of the CAAC that if they wanted to obtain the information they needed to exercise independent oversight over the Capital Improvement Program, they would have to root around on the Jeffco website to find it!

Finally, the contemptuous treatment of the CAAC by Bell and Reed was painfully summed up in this passage from the meeting notes:

"Jeff Wilhite proposed that a review of the bond contingency be performed to focus on preparing information to be presented to the BOE on how the contingency has been used to this point in the bond program. Jeff proposed that he, Megan Castle, George Latuda could make up this team. There was no discussion from the remaining members of the CAAC on moving forward with this proposal. The suggestion has been taken under advisement [by Bell, apparently]."

This is **exactly** the activity that Proposition 5B requires the CAAC to perform. And Bell prevented them from doing so, making it painfully clear that the committee charged with providing independent oversight is actually run by Steve Bell (the CAAC doesn't even have a citizen chairperson). Think about that.

Note too that all these statements were made in the presence of Board Member Brad Rupert, who attended the CAAC meeting, and who, according to the notes, did not object to anything Bell or Reed said. What does this tell you about Rupert's view of how a billion dollar school district should be governed? Or about the language in Prop 5B?

11 November 2020. One item on the agenda for the 11 November board meeting was a regular quarterly review with the members of the Financial Oversight Committee (FOC) to discuss whether Prop 5A funds had been used as specified in the resolution voters approved in November 2018.

Recall that in my previous report, I noted serious issues related to the use of operating funds raised in accordance with 2018's Prop 5A that were dedicated to expanding STEM and CTE programs being used for capital expenditures. Specifically, their use to pay for capital costs related to the construction of the new Warren Tech South School.

Only one member (who was just appointed) of the FOC showed up to this board meeting, either in person or via videoconference.

As was the case at the CAAC's last meeting with the board, the FOC's presentation was given by the person over whose work the FOC is supposed to provide oversight — in this case, Nicole Stewart, the district's CFO.

Board director Susan Miller noted that, based on the FOC's meeting notes, it did not appear to have discussed the use of 5A operating revenues intended to support STEM and CTE programming to build a building at Warren Tech South. Moreover, this use of funds was strangely omitted from the spreadsheet of 5A fund uses that the FOC supposedly reviewed before giving it to the Board.

As has frequently been the case since Director Miller began to publicly ask questions about the management and governance of the Capital Improvement Program, Board chair Susan Harmon cut off the discussion. Board director Mitchell then admonished Miller for “not trusting management.” So much for board directors of a billion dollar organization exercising (or perhaps even aware of) their fiduciary duty of care…

Later in the meeting, Miller made two motions.

First, that the board retain an outside firm to conduct an independent performance audit of the Capital Improvement Program. Board members Harmon, Rupert, Mitchell and Schooley again refused to support it.

Once again, Harmon said nothing about the report that Askelson had been working on since 9Oct20, which was allegedly requested by the Board. Rather strange, don’t you think? Especially since Harmon appears to have been present at the meeting when the design of the report was agreed?

Miller’s second resolution noted the board and district’s frequently mentioned concerns with equity, and how district schools with high percentages of at-risk students were mostly in worse condition than those with lower percentages.

With that in mind, and given the previous uses of Bond Premium funds that were not authorized by the Board, Miller proposed that the use of any Bond Premium received after the district's upcoming second issue of Prop 5B bonds must be expressly approved by a public vote of the Board of Education (as is the practice in other districts, such as Denver and Poudre). Again, Board members Harmon, Rupert, Mitchell and Schooley refused to support Miller's motion. Why? Who benefited from their refusal to back this motion?

1 December 2020. Meeting of the Financial Oversight Committee. Per the notes from this meeting (see the Evidence Appendix), Paul Niedermuller, from Jeffco's independent auditor, Clifton Larson Allen, LLP, "advised [the FOC] that a correspondence was received from a citizen regarding auditing of the bond program.

"He noted CLA has a firm policy to not engage with citizens, thus the communication was referred to the Financial Oversight Committee Chair. He noted that the capital program is audited as part of their engagement to audit the financial statements of the district; anything beyond that [such as an Independent Performance Audit conducted in accordance with Chapters 8 and 9 of the GAO's Government Auditing Standards] would require a separate engagement."

"Stewart noted that the Capital Asset Advisory Committee (CAAC) had received the same letter and that the district is working internally to provide more clarity to the CAAC to assist them with their reporting to the Board." Note that this is only happening TWO YEARS after bond proceeds were received by Jeffco, spending on the Capital Improvement Program began, and after Jeffco had received multiple whistleblower communications.

The meeting notes continue, “In response to a question regarding if the audit by CLA complies with the required language of the bond, Niedermuller clarified that they look at financial costs for compliance as part of the annual audit of district financials. He confirmed that CLA did not have specific direction to do a performance audit which is different than the financial audit.”

Note that, despite their awareness of the issues being raised with respect to the management of the Capital Improvement Program, as well as district compliance with the Prop 5B language that promised Jeffco voters and bondholders that an annual “independent audit” would be conducted covering the use of bond funds, per the meeting notes NOT ONE MEMBER OF THE FOC QUESTIONED WHETHER AN INDEPENDENT PERFORMANCE AUDIT WAS NEEDED.

This continued a deeply troubling pattern of district governance that, as noted in my previous report, runs throughout the past two years.

Not once in the notes to FOC and CAAC meetings do you see any member of district management deny the claims made in these whistleblower communications. Instead, you see a pattern of ad-hominem arguments directed at the person or persons sending the whistleblower communications by district management, that FOC and CAAC committee members apparently found sufficiently persuasive that they never bothered to examine the veracity of the actual allegations that were made.

Put differently, one of the narratives that runs through the history (so far) of the growing scandal enveloping Jeffco's Capital Improvement Program is the failure of many members of Jeffco's key governance committees (the FOC and the CAAC) and the Board itself to exercise their fiduciary duty of care, and the resulting collapse of effective governance processes in a billion dollar organization. This is not unlike similar collapses that occurred in the famous failures of large public companies like Enron and WorldCom.

3 December 2020. Meeting of the Capital Asset Advisory Committee.

From the notes (in the Evidence Appendix):

· "M.L. Richardson stated that she would like the information [provided to the CAAC] to be in one place and in writing. She also stated that it would be helpful to note where the money is from. There are only two sources, bond and associated proceeds and capital transfer funds and accrued interest.

· "Steve Bell said that it has been explained several times that the capital improvement program's funds come from the bonds issued, any premium obtained and accrued interest. Moneys received from the general fund (capital transfer) are invested and intended to be used towards the end of the Program when bond proceeds have been exhausted. There are two sources of funds to cover unexpected costs they are the built in project contingency and unallocated program contingency.

· "Jeff Wilhite [once again] stated he would like to see how the contingency is being used.

· "Tim Reed stated that the revised Flipbook on the website has some of the information requested.

· "Megan Castle reviewed the Flipbook and thinks the committee needs more information than what has been previously presented." [Again, this is two years after Prop 5B was passed and the CIP begin spending taxpayers' and bond investors' money].

At the 3 December meeting, the CAAC also discussed an email that had been received from Robert Greenawalt.

As described in my 7 October 2020 report, Greenawalt is a retired US Army Colonel. He is a West Point graduate (engineering), with additional masters in Engineering and business administration from the University of Pennsylvania. He also is a certified as a Project Management Professional by the Project Management Institute (a very difficult certification to obtain, requiring a four-year degree, 36 months leading projects, and 35 hours of project management education). Greenawalt has also been the Chief Technology Officer of private sector corporations.

From the meeting notes (available in the Evidence Appendix): "Mr. Greenawalt sent an email with an attachment outlining why he believes a performance audit is necessary. [Note that this email was not provided to CAAC members]. Tim asked the committee if they would like to address Mr.

Greenawalt's concerns or if they prefer the department address them. The committee decided that a response was appropriate but would like the department to draft the response."

Again, there is no evidence that the CAAC discussed the accuracy of the allegations Greenawalt raised. And once again, as had happened with previous emails from Greenawalt, the CAAC asked the district managers *who were the subject of Greenawalt's complaints* to draft a response to him. This makes no sense at all.

Again, from the meeting notes: "M.L. Richardson asked if [Greenawalt] was currently on the meeting. Tim stated that he was advised he could attend in-person but this was not an electronic meeting."

In fact, many members of district management and the CAAC were actually attending this meeting electronically. Greenawalt had been denied electronic access to the meeting, and told he could only attend in person — at a facility where, because of COVID, the public had no access. Think about that.

3 December 2020 ML Richardson Email (obtained by CORA. Copy in the Evidence Appendix). After the CAAC meeting earlier in the day, M.L. Richardson sent an email to Tim Reed and Steve Bell that was copied to a large number of district staff as well as other members of the CAAC. It included the following:

"At the November 5th CAAC meeting, during discussions regarding the district's financial auditor, I requested that you ask the auditor for a statement confirming that the money generated from the 2018 bond that has been spent meets the requirements of the bond. Please correct the minutes to reflect this. I had assumed that we would be asked to approve the minutes and that would have been the time for me to make that request. Since preparation of detailed minutes is relatively new for the CAAC, please add an item for review and approval of the minutes on our future agendas so that any corrections or additions can be easily made at that time."

"Also, on page 3 of the minutes, Jeff Wilhite proposed a review of the bond contingency and volunteered to work on a team to do so…What did staff decide regarding Jeff's request? Perhaps that request should also be added to our next meeting agenda for further discussion?"

[As you recall, Bell (over whose actions the CAAC is supposed to provide oversight) told Wilhite that he would take the latter's request (to provide oversight) under consideration. What has been going on at the CAAC for almost two years doesn't get any more painfully revealing than this].

Back to Richardson's email to Bell and Reed. *"Can you clarify why our meeting was/is not made available to citizens who request to attend virtually?"*

"I look forward to the remaining information regarding the bond expenditures that I requested at the November meeting… It appears that

other committee members would find this information beneficial as well. I respect that you are of the opinion that all of this information is already available. However, it would be very helpful to have it all in once place… Having this information will assist members of the CAAC in our oversight duty, help us to show that we are good stewards and ambassadors for the school district. In addition, this will help the community to view us as trusted sources of information — especially should another bond opportunity come in the future for Jeffco."

Again, the critical point is that this email was sent TWO YEARS AFTER PROP 5B WAS PASSED, DURING WHICH TIME THE CAAC WAS SUPPOSED TO BE PROVIDING EFFECTIVE OVERSIGHT OVER THE CAPITAL IMPROVEMENT PROGRAM ON BEHALF OF JEFFCO CITIZENS AND BOND INVESTORS.

5 January 2021. Financial Oversight Committee Meeting. From the notes (available in the Evidence Appendix):

During their discussion of the district's recent bond issue, Steve Bell made the following remarks: "Bell noted that the coupon rates on the bonds were higher than the capital market environment prefers which enabled Jeffco to issue premium bonds, the same as in 2018. Because of the low rates and coupon demand, the district was able to realize a premium of $68 million on the phase two bonds which will allow the district to expand its capital improvement program."

The total amount of Bond Premium obtained on the first and second bond issues authorized by the voters who approved Prop 5B is $118,474,497. And that's before interest earnings on those funds.

Bell apparently assumes that the Board of Education has no say in how Bond Premium will be used.

For example, rather than expanding the CIP, Bond Premium dollars could have been (and what Premium remains might still be) used to reduce the amount of money transferred each year from the district's General Fund to the Capital Fund to pay for the original Capital Improvement Program.

These additional General Fund dollars could be used to expand programs to recover the substantial COVID learning losses that many Jeffco students have suffered. They also could be used to add staff with clinical training to address the student mental health issues COVID has caused. Or they could be used to address longstanding equity issues in Jeffco (e.g., the Capital Improvement Program failed to include replacement of many low quality school buildings with high percentages of at-risk students).

But Bell apparently believes the Board has no say in this. As noted in my previous report, in other districts (e.g., Denver and Poudre) the board must approve all uses of Bond Premium funds. But not in Jeffco, whose approach to governance is strange, to say the least (equally strange is that unlike in many other districts, in Jeffco the Chief Operating Officer and not the Chief Financial Officer is in charge of the use of bond funds).

Back to the meeting notes. FOC member Mary Everson provided a summary of points raised at the December 2020 meeting of the district's Audit Committee:

"Everson commented on a correspondence received from a citizen regarding allegations of potential fraud in the capital improvement program. It was noted that the letter was also sent to other individuals in the district and on this committee and others, Board members and CLA."

"[Steve] Bell advised that the district is pursuing some avenues to resolve the situation and that when information can be shared it will be passed along." [Does this refer to the Askelson Report?]

"There was discussion regarding the repetitive practice of letters by this individual, past discussions with other members of the committee and staff, discussions at past FOC and Audit Committee meetings, district actions regarding the accusations, and concerns about potential harm to the district. Interim Superintendent Schuh assured the committee that the district is well aware of the accusations and are taking steps to address it." [Does this also refer to the Askelson Report?]

"Paul Niedermuller with CLA [Jeffco's independent audit firm] discussed the letter and confirmed that similar correspondence from this individual have been a pattern. He noted that CLA communicated to the FOC that a letter had been received in early fall. He also engaged with Audit Committee members and discussed information around the allegations and clarification on what the audit does."

"Niedermuller clarified that CLA audits the financial statements whereas some of the allegations and comments within the document are program performance related; thus, he wants to make sure that everyone understands what CLA's scope of work includes. He confirmed that there have been conversations around this with the district as well as with FOC and Audit Committee. In addition, Niedermuller reiterated that CLA does not engage with the public and will work through the Board or district management in terms of any allegations. He confirmed that the allegations are taken very seriously and that it will look to the district to respond appropriately based upon the items that have been presented."

[Note that Clifton Larson Allen also audits public companies. These audits are subject to rules set forth by the Public Company Accounting Oversight Board, which takes whistleblower communications extremely seriously. There is no such requirement with respect to school district audits, although one could make the case that when it comes to whistleblower complaints in school districts, Clifton Larson should be following the highest standard to which it is held across ALL its audit/assurance clients. Otherwise, it would in effect be admitting that school districts can get away with treatments of whistleblower communications that would never be tolerated by the general counsel, officers, and board of a public company, or by its auditors and the PCAOB].

Back to the meeting notes. *"Staff acknowledged that the concerns raised over the allegations are valid and that information on the response will be shared with the committee when it is available."* NOT THAT THE

ALLEGATIONS THEMSELVES ARE VALID. RATHER, “THE CONCERNS RAISED OVER THEM ARE VALID”. THAT’S A CRITICAL DIFFERENCE.

More important points to note:

· District management apparently made no attempt to refute the accuracy of the claims made in the whistleblower correspondence; instead, there were the usual ad-hominem attacks that seem intended to undermine the credibility of the whistleblower, along discussions of “potential harm to the district.” As every trial lawyer knows, if you can’t attack the argument, attack the person making it.

· Billion dollar public companies have very explicit policies and processes for the treatment of whistleblower complaints. Apparently, Jeffco does not.

· Once again, district staff (including Schuh, Stewart, and Bell) made no mention to the FOC about the report that Askelson was working on. And yet again, one has to ask: Why the silence?

· Neidermuller reiterated that CLA had received complaints [PLURAL] about the Capital Improvement Program, and that the FOC had been aware of these complaints [PLURAL] since “early fall.” In point of fact, the FOC has been aware of potential problems with the Capital Improvement Program for longer than that (see my 7 October 2020 Report).

· Neidermuller’s comments are also interesting. After being aware for some time of the whistleblower complaints and allegations about the management and governance of the Capital Improvement Program, why is it that only at the December meeting of the Audit Committee he suddenly felt the need to clarify that CLA has not done an independent performance audit of the Capital Improvement Program?

Also, Neidermuller described CLA's previous conversations about the Capital Improvement program with the FOC and Audit Committee. Why were these never relayed to members of the CAAC? After all, CFO Nicole Stewart attended all these meetings, and Gordon Calahan is a member of both the FOC and CAAC.

· This lack of communication is particularly curious, given that, at the same time CLA was having conversations about the Capital Improvement Plan with the FOC and Audit Committee, CAAC members were raising questions about whether CLA's audit met the requirements of Prop 5B.

This last point is critical, given that the CAAC notes show that members of that committee had asked Bell and Reed if the district's auditor (CLA) could issue a statement that they [the CAAC] were doing what they were supposed to do under Prop 5B (e.g., in the 5Nov20 CAAC notes, ML Richardson and Megan Castle asked if the CAAC could get a note from CLA).

But meeting notes from the 21Jan21 CAAC meeting show that Neidermuller's comments about the limitations of CLA's audit — and that it is not a performance audit — were NOT communicated by district management to the members of the CAAC. Again, why not?

7 January 2021. Jeffco Board Meeting, at which it received the regular Quarterly Report from the Capital Asset Advisory Committee. The CAAC presentation was once again given by Steve Bell rather than a citizen member of the CAAC. Bell noted that the total amount of Bond Premium that had been raised in the Capital Improvement Program's first and second bond issues was $118,474,497.

Bell also noted that construction pricing conditions were still favorable. As well he should have — the Mortenson Index of Construction Costs in Denver increased by only 2.2% in calendar year 2019, and fell by (0.7%) in 2020.

To put this in perspective, the original cost estimate for Capital Improvement Program projects in district run schools, from the 2018 5B campaign flip book, was $563 million ($705m total program cost, less $56m to charter schools, less $86m in program contingency). Applying the two annual construction inflation estimates to $563m yields an estimated cost increase due to inflation of only $8m, to $571 million. That's a long way away from more than $100 million (so far) in cost overruns and spending on projects that were never disclosed to Jeffco voters during the 2018 Prop 5B campaign.

Also on 7 January, Reed and Bell allowed Tom Murray, a CAAC member attending the meeting, to provide false information to the Board. This happened three times. Not once did Reed or Bell or CFO Nicole Stewart attempt to correct what Murray said.

On three separate occasions, Murray told the board that new projects that were not in the flipbook that voters were given during the 2018 Prop 5B campaign would only be added AT THE END OF THE SIX YEAR CAPITAL IMPROVEMENT PROGRAM IF FUNDS WERE AVAILABLE.

Murray's statements are available on the board video, and on YouTube at: https://www.youtube.com/watch?v=4h1KH8tbFK0&feature=youtu.be

Murray echoed the statement previously made to the Board by Gordon Calahan, the longest serving member of the CAAC: "This committee was formed to oversee the financial situation of bond issues…that is our primary mission…After the bond has been approved it is very important for us to make sure that each facility gets what it is promised. We cannot make changes to what was promised. Those items that are on the bond have to be followed exactly the way they are, and come in under budget."

When Murray made his three statements to the Board, was he unaware that the district delivered to the Board on 7 January 2021 a document showing $3.7 million in projects that were not in the original flipbook the district presented to voters during the Prop 5B campaign?

Project Description	Original Cost Est.	Current Cost Est.
Jefferson Jr-Sr HS FF&E	$0	$175,500
H DW Elevator Upgrades 2021	$0	$350,000
H 581 Conference Place Reopen Phase 2	$0	$518,877
H DW Modular Bldg Removal 2020 3-ES	$0	$461,516
Three Creeks K-8 FF&E	$0	$209,576
H DW Curtain Riggings 8-HS	$0	$192,582
H DW FF&E Allocation	$0	$72,373
Creighton MS FF&E	$0	$162,251
Ken Caryl MS FF&E	$0	$188,133
Pomona HS FF&E	$0	$90,913
Summit Ridge MS FF&E	$0	$192,838
Evergreen HS Storm Drain Repair	$0	$389,281
H DW Gym Divider Curtains 6-MS 1-Other	$0	$336,487
H DW Modular Bldg Removal 8-ES 1-MS 2-Other	$0	$408,390

When Murray made his statements, was he unaware of the large number of new athletic facilities that were never disclosed to the voters during the 2018 Prop 5B campaign. These include artificial turf and all-weather tracks at Columbine, Pomona, Standley Lake, Arvada West, Green Mountain, Conifer and Golden High Schools, and new tennis courts at Green Mountain High School?

[Note also that, for all the Jeffco's claims about the importance of "equity", with the exception of Pomona HS, all these new athletic facilities have been built at schools with some of the lowest percentages of free/reduced eligible students in the district.]

Finally, did Murray forget about this magnificent new artificial turf field at West Jefferson Middle School in Conifer? That wasn't in the original 2018 campaign flipbook either...

Was Murray actually unaware of all the new projects not in the original flipbook that have been added to the Capital Improvement Program?

If Murray made his statements in good faith, and really was unaware of all these projects that were never disclosed to voters in the Prop 5B campaign flipbook, what does that tell you about the quality of the CAAC's "independent oversight" of the Capital Improvement Program over the past two years?

This raises an even more important question: Who in Jeffco Public Schools was responsible for ensuring that the CAAC's independent oversight obligations created by Proposition 5B were carried out to a high standard?

Obviously, the buck stops with the Board of Education and Superintendent Jason Glass. But it also extends to Kathleen Askelson, the district's Chief Financial Officer (and later to Nicole Stewart, who replaced her), as well as Craig Hess and Chris Esher, who served as Jeffco Schools' Chief Legal Counsel during this period. Arguably, it also extends to the Financial Oversight Committee.

The bottom line is that there appear to have been multiple points of governance failure over the past two years, and many people who apparently never attempted to verify the claims made in multiple whistleblower communications. All of these are warning signs of an out-of-control organization that receives a billion tax dollars ever year.

21 January 2021. Citizens Capital Asset Advisory Committee (CAAC) Meeting. CAAC members received a copy of the Askelson Report, but, strangely, did not discuss its contents. The meeting notes (see the Evidence Appendix) state that CAAC members were falsely told that, "*The BOE requested and received an interim report on the 2018 CIP prepared by former CFO Kathleen Askelson*."

According to the meeting notes, Bell also stated to members of the CAAC that, "Analysts with the rating agencies congratulated the district on the CIP and how it was being implemented…Steve stated that the analyst pointed that given the scope of work during and what has been accomplished during these times, the management of the 2018 CIP by the Construction Management team was exceptional."

As I will show in a separate section below, these statements by Bell were very likely false.

4 February 2021. The Jeffco Board of Education, along with Tim Reed and Steve Bell, received a letter of resignation from CAAC member Jeff Wilhite. The letter was obtained via a CORA and is contained in the Evidence Appendix. It states:

"This email is to inform you that I am withdrawing as a member of the Capital Asset Advisory Committee. I have been on the Committee since 2016, specifically being appointed based on my 30 years of construction lending/finance experience and my 15 years of Jeffco charter school board(s) involvement. My decision to withdraw from the Committee is based on what I feel are significant differences between my professional experience in construction project budgeting and funds disbursements, and the processes being used by District staff that are accepted as appropriate by the Capital Asset Committee and the Board of Education."

The Kathleen Askelson Report: Spin City with Evidence of Election Fraud?

Askelson's report has many critical and damning flaws. Perhaps the most egregious is that the report exists at all.

Think about it: Why was Kathleen Askelson, the district's former CFO, who was deeply involved in the Capital Improvement Program for more than three years before her August 2020 resignation, hired by somebody at Jeffco to provide the CAAC, FOC, Board, public, and bondholders with an "independent" review of the CIP?

Was it just a coincidence that her report was requested just two days after Board directors Harmon, Mitchell, Rupert, and Schooley's rejected director Miller's motion to conduct an Independent Performance Audit of the Capital Improvement Program?

Was it just a coincidence that Askelson's report was requested after Greenawalt's repeated whistleblower emails to the Board, FOC, and CAAC highlighting growing cost overruns and spending on projects not disclosed to voters during the 2018 Prop 5B campaign?

Was it just a coincidence that Askelson's report was not conducted following the GAO's procedures for an Independent Performance Audit?

The very existence of Askelson's report appears to be nothing more or less than an attempt to whitewash of the mismanagement and weak governance of the Capital Improvement Program.

Having spent years as a consultant myself, I also found Askelson's billing records very interesting.

According to them, she spent less than 8 hours doing the data collection, analysis, and preparation of her report (2.75 hours on 9 November, and some portion of 3.75 hours on 4 December). This suggests three possibilities: (1) Askelson is the most productive consultant in history; (2) Askelson underbilled Jeffco for the actual amount of time she spent working on her report (but why?); or (3) Some other party actually wrote the report, and Askelson only reviewed and edited it.

Another interesting aspect of the Askelson Report story is that Robert Greenawalt is reported to have provided the Jeffco Board of Education (or possibly just its Chair, Susan Harmon) with at least two very detailed critiques of the many erroneous financial claims made by Askelson.

I urge readers of this report to obtain them via CORA. Whether Greenawalt's analyses of the Askelson Report have been shared in a timely manner with members of the CAAC, the FOC, the Audit Committee, and Clifton, Larson, Allen is unknown. But if it they have not been shared, it is further damning evidence. In a billion dollar public company it would get her removed from her position, and raise questions with the SEC about the timely disclosure of material information.

Reading Askelson's report, one stunning point jumped off the page for me: Her admission that Jeffco had always intended to spend $2.1 million of the planned $23 million per year of transfers from the General Fund to the Capital Fund to repay Certificates of Participation that had been previously issued to pay for construction of Three Creeks Elementary School and the Expansion of Sierra Elementary School.

Thus, the actual transfer to the Capital Improvement Program over six years that was presented to voters in the Flipbook (and to the FOC and CAAC) was overstated by $12.6 million. AND ASKELSON WAS THE CFO WHO OVERSTATED THE ACTUAL CAPITAL TRANSFER TO THE VOTERS AT THE TIME OF THE 2018 PROP 5B CAMPAIGN!

Serious as this material misstatement is, there is something much worse in the Askelson's report: The possibility that there may have been election fraud during the 2018 Prop 5B campaign (which only won by a slim margin of 0.24% of the votes cast).

Askelson makes the following damning statement:

"Central sites such as outdoor lab, stadiums and north transportation were not listed in the [2018 Prop 5B Campaign Flip Book, which is included in the Evidence Appendix]; however, the Board of Education was informed these sites were part of the bond program. Meetings with Board members and the Chief Operating Officer occurred May 4–11, 2018, to go over project scope in detail that included these central projects."

The following chronology of other evidence puts this statement into context:

· On 5 April 2018, the Jeffco Capital Asset Advisory Committee made a presentation to the Board that proposed a $647 million 5 to 7 year Capital

Improvement Program (source: Page 2 of 23Aug18 CAAC presentation to the Board; in Evidence Appendix).

** At this 5April meeting, "*Staff [was] directed to reevaluate scope, and reduce bond proposal to $567 million* (source: Page 3 of 23Aug18 CAAC presentation to the Board).

· 4–11 May, 2018. Meetings between Board members Ali Lasell, Amanda Stevens, Susan Harmon, Ron Mitchell, and Brad Rupert are held with Steve Bell. Per Askelson's report, "***Central sites such as outdoor lab, stadiums and north transportation were not listed in the [2018 Prop 5B Campaign Flip Book, which is included in the Evidence Appendix]; however, the Board of Education was informed these sites were part of the bond program. Meetings with Board members and the Chief Operating Officer occurred May 4–11, 2018, to go over project scope in detail that included these central projects."***

· THIS SECRET AGREEMENT BETWEE BOARD MEMBERS AND BELL WAS NEVER REFLECTED IN ANY BOARD RESOLUTION. NOR WAS THE PLAN TO SPEND CAPITAL IMPROVEMENT PROGRAM FUNDS ON STADIUMS, OR ON ATHLETIC FACILITIES AT COLUMBINE, POMONA, STANDLEY LAKE, ARVADA WEST, GREEN MOUNTAIN, CONIFER AND GOLDEN HIGH SCHOOLS, OR ON THE NEW ARTIFICIAL TURF FIELD AND TRACK AT WEST JEFFERSON MIDDLE SCHOOL EVER DISCLOSED TO JEFFCO VOTERS DESPITE MANY SUBSEQUENT OPPORTUNITIES TO DO SO.

· 23 August 2018 Board Meeting: Proposed resolution “to approve or amend the superintendent’s recommendation for a bond issue question raising funds for school facilities and capital needs across Jeffco Public Schools to be placed on the November 6, 2018 ballot with ballot content to be approved by the Board of Education on September 6, 2018.” The “Pertinent Facts” presented to the public regarding this resolution (see Evidence Appendix) made NO MENTION of the May 2018 meetings.

· 24 August 2018 post on former Superintendent Jason Glass’s “Advance Jeffco” blog (see Evidence Appendix):

- *“The Board also put a $567 million bond program on the [November] ballot… Jeffco would use 60% of these funds to bring all schools in the district up to a common standard of quality in terms of instructional space and building safety and security. We would also expand and add career/technical and STEM education facilities and early childhood education options.*

- *We would use 20% of these funds to reinvest in established parts of Jeffco, keeping those communities and schools attractive places for families and kids. We also have growth areas and would spend 10% of the funds to accommodate new schools and additions where needed. Charter schools would be passed through their proportionate share, 10%.*

- *Bond funds would also be monitored by a separate blue-ribbon oversight committee and be subject to an annual external audit.”*

[Note that Glass's language here about an annual "external" audit was later made even stronger in Prop 5B which promised voters an annual "independent" audit. One can argue that this implied that it would not be performed by Clifton Larson Allen, the district's external auditor, which, because of the fees it earns from its existing relationship with Jeffco would not be able to provide an "independent" view on the Capital Improvement Program.]

· 6 September 2018 Jeffco Board meeting. Resolution "to authorize the specific ballot language for Propositions 5A and 5B." Once again, the detailed "pertinent facts" about the proposed resolution provided by district management to the public did not mention the May 2018 meetings and the secret agreement board members reached with Bell (see Evidence Appendix).

· 7 September 2018 post on Jason Glass's "Advance Jeffco" Blog:

*** On the bond side (funds for construction), the ballot question states asks if the district's debt can be increased by $567 million, with total repayment costs of $997 million (or a lesser amount) for the purpose of providing Jeffco students, teachers, and staff with a safe learning environment that prepares students for college and the workforce. The ballot language specifies that the bond funds be for these purposes:*

- *Adding and expanding career/technical education facilities;*
- *Upgrading safety and security in school buildings;*

- *Repairing, renovating, equipping, or reconstructing school buildings to ensure all schools are more safe, efficient, and accessible to all students, including those with disabilities;*
- *Constructing, furnishing, equipping, and supporting needed school buildings and classrooms at all types of schools, including schools chartered by the district.*

*** The bond language goes to place these conditions on use of bond funds:*

- *The district will have a preference for hiring local construction contractors;*
- *The funds cannot be used for senior district administration;*
- *The spending of these funds is overseen by the citizens' Capital Asset Advisory Committee;*
- *The funds are subject to an annual external audit.*

Note that Glass fails to mention the other uses of bond proceeds that had been privately agreed by the Board members during the May 2018 meetings described in the Askelson Report. This raises a critical question: DID THE JEFFCO BOARD KNOWINGLY APPROVE BALLOT LANGUAGE FOR PROPOSITION 5B THAT WAS FALSE? AND WHY DID JASON GLASS NOT CORRECT THAT ERROR WHEN HE HAD MULTIPLE OPPORTUNITIES TO DO SO? WHY DIDN'T ASKELSON OR BELL? WHY DIDN'T MEMBERS OF THE BOARD? INSTEAD, DID ALL OF THEM

DELIBERATELY MISLEAD JEFFCO VOTERS ABOUT THE PLANNED USE OF TAXPAYER AND BOND FUNDS IF PROP 5B PASSED?

Note also how the original “Blue Ribbon Oversight Committee” (presumably similar to the Bond Oversight Committee used by Denver Public Schools) was changed to the district’s existing Capital Asset Advisory Committee.

The district published the original Prop 5B “Flipbook” for the 2018 Prop 5B campaign, describing how Capital Improvement Program funds will be used, including cost estimates for the projects it would fund at every school (it is included in the Evidence Appendix). Note that under the Conifer Articulation Area, on page 9, there is no “dot” in the box for “Landscaping and Field Improvements” for West Jefferson Middle School.

· 27 September 2018. Watch this “informational video” featuring Jason Glass discussing Proposition 5B. Ironically, he notes that one of the arguments opponents were making against Prop 5B: “Transparency on where these dollars would be spent and how they are accounted for is weak.”

· 5 October 2018. On his “Advance Jeffco” Blog, Jason Glass published “Digging into Ballot Questions: A Look at the Bond (5B)” (copy in Evidence Appendix).

- *“Question 5B would allow Jeffco Public Schools to go to the bond market and sell bonds to generate $567 million for construction and other capital improvements (such as furniture or technology). The*

$567 million would be repaid over a period of 20 years (with interest) through a property tax increase.

- *That property tax increase comes to about $1.81 per month, per hundred thousand dollars of residential value. For non-residential property, it's about $7.28 per month, per hundred thousand dollars of value. The bond's total repayment (over the 20 years) will be less than $997 million based on language in the ballot question.*
- *5B has specific uses written into the ballot question. These include:*
- *Adding and expanding career/technical education facilities;*
- *Upgrading safety and security in buildings;*
- *Ensuring all schools are more safe, efficient, and accessible; and*
- *Constructing, furnishing, and equipping schools with classrooms of all types in the district.*

5B also has some restrictions written into the ballot language. These include:

- *Funds cannot be used for senior district administration;*
- *The spending is overseen by a citizen advisory committee; and*
- *The funds are subject to an annual external audit."*

Once again, there is no mention of the stadiums, athletic fields and other uses of bond proceeds that had been privately agreed at the May 2018 meetings and were not included in the Prop 5B Flipbook.

·18 October 2018. Colorado Community Media (publisher of the *Lakewood Sentinel* and other local papers in Jefferson County) endorses Prop 5B:

"*Jeffco Public Schools, many parents and educators say, is at a crisis point: It needs money to repair and renovate aging buildings so that all students enjoy an optimum learning environment…Toward that end, Colorado Community Media urges Jefferson County voters to support Ballot Question 5A, a $33 million mill levy override, and Ballot Question 5B, a $567 million bond…*

"The bond — which also provides money for charter schools — will pay for renovations and repairs, build new facilities to meet population growth, upgrade security measures, and expand career and technical and early childhood education…

"We applaud the district's commitment to transparency: A citizens financial oversight committee and independent audit of expenditures will make sure money from the measures is spent as intended. We also commend the district for listening to criticism from its failed bond attempt in 2016, which cited a lack of clarity in how the money would be used. This time, the district has prepared a detailed booklet and website of exactly where the money will go at each school."

Once again, after reading this endorsement, apparently neither board members Harmon, Lasell, Mitchell, Rupert, and Stevens, nor Glass, Bell, or Askelson attempted to correct the statements made to the public by Colorado Community Media.

In her new report on the Capital Improvement Program, Kathleen Askelson claims that, “The flip book was developed as a marketing tool to enable the community to find their respective schools to see what work was planned and the estimated budget. The flip book was not a comprehensive list of projects.”

But did Harmon, Lasell, Mitchell, Rupert, Stevens, Glass, Bell, or Askelson ever make that clear to Jeffco voters ? Or to the groups advocating for passage of Prop 5B? Or to the editorial board members at Colorado Community Media before they publicly praised “the district’s commitment to transparency” and stressed that “the district has prepared a detailed booklet and website of exactly where the money will go at each school”?

I could find no evidence that they ever did.

When you weigh the available evidence, it raises the very troubling possibility that Harmon, Lasell, Mitchell, Rupert, and Stevens, along with Glass, Bell, Askelson, and possibly other individuals, were engaged in an ongoing conspiracy from May 2018 to the day of the November 2018 election, to deprive the citizens of Jefferson County of their right to honest public service by repeatedly using the district’s flipbook (that they knew to be an incomplete list of the agreed upon CIP projects) to persuade Jeffco voters to pass Prop 5B.

If this is what happened, it goes far beyond poor management and weak governance.

Did the Rating Agencies Really Say What Steve Bell Claims They Did?

The notes to the 21 January 2021 meeting of the Capital Asset Advisory Committee state that, "Steve Bell told members of the CAAC that, "*Analysts with the rating agencies congratulated the district on the CIP and how it was being implemented…Steve stated that the analyst pointed that given the scope of work during and what has been accomplished during these times, the management of the 2018 CIP by the Construction Management team was exceptional*."

Based on my ten years of experience at Chase Manhattan Bank, my subsequent experience as a corporate executive, and my wife's experience as a rating officer at Standard and Poor's, and later as a public finance banker at Kidder, Peabody, these alleged comments immediately struck me as highly unusual language coming from a credit analyst.

There is a logical reason for this. When you make a loan or purchase a bond and hold it to maturity, your upside is limited to the interest you earn. In contrast, if the issuer defaults, you can forgo interest and lose all your principal. In contrast, when you purchase an equity (i.e. a share of stock), your upside is unlimited (e.g., just ask early investors in Amazon), while if the company goes out of business your downside is limited to losing the price you paid for the stock.

As a group, credit analysts are therefore a much more sober and less enthusiastic lot than equity analysts. More specifically, credit analysts (which include analysts at credit rating agencies like Standard and Poor's and Moody's) are not given to congratulating issuers on the management of their capital improvement programs.

And so I filed a CORA asking Steve Bell to name the credit rating agencies and analysts he quoted in his comments to the CAAC. Unsurprisingly, Jeffco refused to answer my question (included in the Evidence Appendix).

I also reviewed the Credit Reports published by S&P and Moody's after their meetings with Bell and Nicole Stewart. Both are included in the Evidence Appendix. Neither contains the comments about the Capital Improvement Program that Bell claims they made.

Finally, I reached out to S&P and Moody's to see if they had issued any other reports that contained the statements that Bell claimed they made. Both said there were no other reports. S&P also stated "there is no commentary regarding 'congratulations'." This correspondence is also included in the Evidence Appendix.

The weight of evidence suggests that Steve Bell either grossly misrepresented or fabricated the statements he claims the rating agencies made about Jeffco's management of a Capital Improvement Program that was already more than $100 million over budget at the time Jeffco met with them.

Bell's claims about the rating agencies' comments were made to both the CAAC and, possibly, to the FOC (it is hard to definitively tell from the latter's meeting notes), both of which are advisory committees to the board of a billion dollar school district. The notes from the CAAC meeting are also available to the public and to investors in Jeffco's bonds.

In a billion dollar public company, concerns about the truthfulness of statements made to these parties by the Chief Operating Officer would, at minimum, cause the board to retain outside legal counsel to investigate what happened. And if the statements were found to be false, Bell would be fired for cause.

But in the billion dollar school district that is Jeffco? So far, nothing.

Conclusion

The title of this report says it all. Since my last report was published on 7 October 2020, the scandal enveloping Jeffco Schools' out of control $705 million Capital Improvement Program has widened and worsened.

It also seems that possible efforts to cover up this scandal have grown more desperate and brazen, even as the Capital Improvement Program's cost overruns and spending on projects not disclosed to voters in 2018 have increased exponentially, to more than $100 million today. On the horizon is the complete squandering of $118 million in Bond Premium funds the district received.

For me, by far the most shocking statement in Kathleen Askelson's report was her description of the May 2018 private meetings between Steve Bell and Board members Harmon, Lasell, Mitchell, Rupert, and Stevens in which they agreed to include in the Capital Improvement Program spending on projects that were never disclosed to voters during the 2018 Proposition 5B campaign.

Prop 5B barely passed by the thinnest of margins, only 1,047 votes, or 0.24% of the total votes cast.

If plans to use bond funds for stadiums, tracks, artificial turf fields, and tennis courts at a number of affluent schools had been disclosed to Jeffco voters in 2018, does anybody reading this doubt that Prop 5B would have failed?

A review of the evidence shows that there were many opportunities for board members and district leaders to rectify the failure of the district to disclose all planned Capital Improvement Program spending, to include what Board members and Steve Bell had agreed at their private May 2018 meetings. Time and again these opportunities were ignored (e.g., in the flipbook, Jason Glass's repeated statements, and following Colorado Community Media's endorsement of Proposition 5B).

This suggests that something much darker than anybody previously suspected may have been afoot in Jeffco.

The most recent evidence, in combination with the previous evidence in my 7 October 2020 report, provides further support for the claim that multiple management and governance processes have repeatedly failed in Jeffco over the past three years. It also provided further evidence of the district's deeply dysfunctional culture, and, it would seem, rot at the top.

And don't forget that the crisis in the Capital Improvement Program has emerged while the district's overhead costs were increasing by $48 million, and academic achievement results were in an accelerating decline, in my view due to the same underlying root causes.

In a billion dollar public company, multiple failures like this would trigger a crisis, including media investigations, inquiries and possible action by the Securities and Exchange Commission, and possible litigation by shareholders against the board of directors.

But in Jeffco? An apparent coverup.

Jeffco's voters and bond investors have been badly let down — to put it mildly.

It is therefore long past time for the Jeffco Board of Education (whether the current one or a new one elected in November 2021) to retain outside advisors to conduct:

(1) An independent performance audit of the Capital Improvement Program, in compliance with Government Auditing Standards, with detailed recommendations and implementation plans to fix any problems found (including the potential replacement of members of the FOC, CAAC, the district management team, and CLA as the Jeffco's independent auditor);

(2) An independent review of Jeffco's financial controls, and management decision, whistleblower, and governance processes, to identify failures in these areas as they relate to the Capital Improvement Program, as well as detailed recommendations and implementation plans to fix any problems found (including the potential replacement of members of the FOC, CAAC, the district management team, and CLA as the Jeffco's independent auditor).

Doing nothing ensures that the consequences of Jeffco's poor management, weak governance, and dysfunctional culture will only grow worse. And our children will pay the price.

DOWNLOAD THE EVIDENCE APPENDIX

Tom Coyne is a business executive, former member of the Jeffco District Accountability Committee, and former Chair of the Wheat Ridge High School Accountability Committee. His writing about Jeffco Schools, Colorado, and national K12 education issues can be found at https://tcoyne.medium.com. His wife, Susan Miller, was elected to the Jeffco Board of Education in November 2019. These are solely Coyne's views.

April 2021: Using $17m in Jefferson County School Funds to Build an Olympic Natatorium for the City of Arvada is a Horrible Idea

With little or no public awareness, a proposal has been making its way through Jeffco schools to have the district use somewhere between $17 and $35 million in county taxpayers' money (more with interest) to build an Olympic Natatorium in West Arvada to replace the current Meyers Pool. This proposal will be up for a vote on the May 6thschool board agenda. Let me explain why this is a horrible idea and you should immediately contact school board members to voice your opposition to it.

First, what's an Olympic Natatorium? While lanes at your local recreation center's pool are 25 meters long, this one will have 50 meter lanes. It will also have a separate diving well, and spa pool for divers to warm up in — just like you see on the Olympics, along with locker rooms and separate seating areas for fans and competitors. If Arvada bids for the summer Olympics, they'll be in good shape.

The district claims that swim teams from nearby high schools will use the facility ten percent of the time (which seems high, given the school year is only 37 weeks and men's and women's swimming seasons take up only two thirds of the school year).

But despite the school district paying half the cost of the Olympic Natatorium, those teams will still have to pay a fee to use it. Just like every resident of Jefferson County who will be paying for it with their (school) tax dollars.

The district claims that Arvada will pay half the cost of the pool, even though in 2018 its city council already refused to put a bond issue on the ballot to replace the Meyers Pool.

Jeffco further claims that the school district will pay its half the cost (or perhaps more, if Arvada can't raise the funds) by issuing Certificates of Participation (a form of debt that doesn't have to be approved by voters) and repaying their principal and interest out of the Capital Fund.

Let me explain what that really means.

Every year, Jeffco receives a billion dollars in revenue from various sources. Most of them go into the General Fund, which is used to compensate teachers and other staff, and buy curriculum and instructional resources for classrooms, and pay for extraordinary expenses related to recovering pandemic related learning losses and mental health issues.

However, funds are transferred every year from the General Fund to the Capital Fund. Over the past decade, this annual transfer has averaged $22 million. The $705 million Prop 5B Capital Plan approved by voters in 2018 was supposed to be paid for with $567 in bond funds and annual transfers to the Capital Fund of $23 million per year for six years.

Except Jeffco forgot to diclose that of this $23 million, $2.1 million per year was already committed to repaying Certificates of Participation (COPs) that Jeffco had previously issued. So the planned transfer to the Capital Fund available for the Capital Improvement Program is already $12.6 million short.

Steve Bell, Jeffco's Chief Operating Officer, now wants to further increase the annual transfer from the General Fund to the Capital Fund to pay for the Olympic Natatorium. Not just for one year, but for the twenty required to pay off the COPs. That means less General Fund money for employee compensation, curriculum, and instructional resources for our kids.

Of course, Bell could change his mind and decide to pay for the Natatorium out of the proceeds of the bonds issued for the Capital Program. That would truly be ugly.

Members of the Capital Asset Advisory Committee have repeatedly assured the Board of Education that no projects not disclosed to voters during the 2018 Prop 5B Campaign would be added to the Capital Program until all the originally promised projects had been completed.

But that's not scheduled to happen until the end of 2024.

That very sensible policy was put in place to ensure that the original scope of work promised to Jeffco voters when Prop 5B was approved in 2018 will be completed before any Capital Improvement Program funds are spent on any other projects.

But $55 million has already been spent on athletic facilities that weren't disclosed to voters in 2018 during the Prop 5B campaign, including this magnificent new turf field for the affluent students at West Jefferson Middle School. Does your kids' middle school field look like this? Does your kids' high school field even look like this?

It seems clear that the original (prudent) policy has been abandoned. Was Capital Advisory Committe member Tom Murray aware of this change when he assured the Board of Education that no projects not disclosed to the voters during the 2018 Prop 5B campaign would be undertaken until all the promised projects had been completed?

When will Jeffco citizens be told that there is now a risk that some projects promised to the voters in 2018 will never be completed?

And who approved this critical policy change? Not the Jeffco Board of Education. And the Capital Asset Advisory Committee has no authority to approve such a policy change. So who approved the change? Steve Bell, perhaps?

The original Capital Program budget included an $86 million contingency for cost overruns in excess of the 10% contingency on each project. That $86 million has been exhausted by cost overruns and over $50 million in spending on athletic facilities that were never disclosed to voters during the Prop 5B campaign (remember, the 2016 bond issue failed in part because voters objected to more than $30 million of proposed spending on athletic facilities).

The current Capital Program's cost overruns and spending on undisclosed projects now total more than $107 million after just two years of a six year plan. They are now being paid for out of the $118 million in bond premium the district received (in addition to the planned $567 million) because of the sharp fall in interest rates since 2018. $21 million in bond premium has already been used, and $97 million remains.

This is money that has many other possible uses (like making the planned upgrades to schools with a high percentage of free/reduced lunch eligible students that the district has delayed, or building school additions to eliminate the need for modular classrooms).

In most other districts, the use of any bond premium (which represents an unexpected inflow of cash for capital projects) is logically decided by the board. But in Jeffco, Steve Bell decides — and he may decide to use it to build an Olympic Natatorium in affluent West Arvada.

If they could vote on it, I don't believe for a second that Jeffco citizens who don't live in Arvada, who have all paid for their own recreation districts' pools and other facilities, would agree to have the taxes they pay to the school district taken out of our children's classrooms and used to build an Olympic Natatorium for the people of Arvada.

Moreover, if the Natatorium is approved by the Jeffco Board of Education, no recreation district (e.g., Foothills and Evergreen) or city (e.g., Golden, Lakewood, and Wheat Ridge) will ever again be able to pass a rec facilities bond issue, as voters will reasonably demand that the school district pay for half the cost, just as it did in the sweet deal they gave Arvada. In effect, Jeffco Schools will become the permanent funding partner for every recreation facility in Jefferson County, with a growing stream of money coming out of our classrooms for this purpose.

These are the foreseeable negative consequences that will occur unless the people of Jeffo tell the school board "No Way!"

Time will tell whether they'll listen.

PS: If you'd like another perspective on why the Olympic Natatorium is a bad idea, Bob Greenawalt has written about it on his website (ImproveJeffcoSchools.org), and posted this excellent YouTube video). Bob is a retired Army Colonel, West Point grad (engineering), University of Pennsylvania grad (Masters in engineering and business administration), Project Management Certificate holder from the Project Management

Institute (equivalent to a CPA for accountants) and former chief technology officer of a number of companies.

Tom Coyne is a business executive, former member of the Jeffco District Accountability Committee, and former Chair of the Wheat Ridge High School Accountability Committee. His wife, Susan Miller, was elected to the Jeffco Board of Education in November 2019. These are solely Coyne's views.

April 2022: Has Jeffco's $705 Million Capital Program Really Spent $173 Million on Cost Overruns and Undisclosed Projects?

At last night's Jeffco Schools Board meeting, Director Mary Parker tried to argue that Jeffco's Capital Program was doing just fine, and that claims it had overspent by more than $170 million were false.

Let's look more deeply at this claim.

In 2018, Jeffco voters were asked to approve the issuance of $567 million in bonds to fund a $705 million Capital Improvement Program (CIP). The remaining $138 million was to be provided by the annual transfer of $23 million to the district's Capital Fund from its General Fund for six years.

Voters were issued a "Flipbook" which detailed how much of the $705 million would be spent at every school in the district. The total added up to $563 million. Of the remaining $142 million, $56 million was transferred to Charter Schools and $86 million was for "Program Contingency".

The budget every project at a district run school contained a 10% "Project Contingency" for possible cost overruns. This is a normal contingency percentage for capital program projects (note, in the past I was the CEO of an engineering firm that constructed large units as part of new LNG projects around the world).

Jeffco's "Program Contingency" was in theory an extra level of protection against cost overuns on individual projects over the six year life of the Capital Improvement Program. If a project had cost overruns in excess of its 10% Project Contingency, the excess would be charged to the CIP's Program Contingency.

When they passed Prop 5B (by a scant 0.24% of the total votes cast), Jeffco voters approved a total amount of money that could be spent to repay bond principle and interest. Because interest rates dropped between when Prop 5B was approved in November 2018, and when Jeffco later issued bonds, it received more bond proceeds than $567 million. Specifically, it received an additional $118 million. This is known as “Bond Premium”.

As an aside, state laws treat bond premium differently. Some states don’t allow it, and require that, even if interest rates have declined, only the amount of bonds approved by the voters (i.e., $567 million) can be issued. Other states require that any bond premium be contributed to the debt service fund, which reduces the amount of taxes that must be imposed to repay bond principle and interest. Colorado has no such provisions, nor any laws that specify who must decide how the bond premium will be used (e.g., a school board).

Back to our story.

Following questioning by Jeffco Board Director Susan Miller, the district transferred about $12 million of bond premium to Charter Schools (technically, 11.8, given Charters’ 10% share).

Finally, Jeffco has earned $12 million in interest on bond proceeds.

So what was the total amount of money that Jeffco had available to spend on district-run schools?

- Start with the total $705 million Capital Program that was described to Jeffco voters when they approved Prop 5B ($567 million in bond funding, and $138 million in funding from transfers from the General Fund to the Capital Fund for six years).

- Add to that $118 million in Bond Premium and $12 million in interest earnings.
- That gives you $835 million to spend.
- Of that, $56 million went to Charters from the Bond Proceeds, and a further $12 million from the Bond Premium (charters didn't get any of the interest earnings.
- That left $767 million for Jeffco to spend on district-run schools.

Based on the latest district data, how much of that $767 million has not yet been spent or committed (including the $30 million plus that was recently set aside to cover anticipated cost increases driven by rapidly increasing inflation)?

- **An estimated $31 million.**
- You read that right.
- With three years still left on its six year Capital Improvement Program, Jeffco has already blown through through not only the 10% contingency on the projects it has completed, but also the $86 million in Program Contingency that was supposed to cover the full six year program, as well as nearly all the $130 million in Bond Premium and interest earnings it received.

The original Capital Improvement Program budget presented to Jeffco voters in 2018 showed original project budgets totaling $563 million.

Contrary to what Director Parker believes, Jeffco's Capital Improvement Program really has spent or committed $173 million more that its original $563 million budget (767 minus 563 minus 31).

That is both shocking and depressing.

To be sure, some of the scheduled projects to which funds have been committed but not spent could be cancelled in the future, which would increase the amount of unspent funds. But given the information available today Parker's claim is clearly wrong.

So where has $173 million gone? It appears to have disappeared down three holes:

- **The first hole was cost overruns**. For example, the Alameda High School project had overruns of more than $10 million, or at least 70% of the original budget (it is hard to calculate the actual overrun, because Jeffco has started to spread Alameda costs across multiple projects — e.g., multischool constracts for asbestors removal and paving).
- District management would like the public to believe that all these cost overruns were due to inflation. But CIP spending started in 2019, and inflation didn't take off until this year (2022). Many times since 2018, Jeffco management has bragged to the Board and the Capital Asset Advisory Committee about the great pricing they were getting

from suppliers in a market where construction labor and materials demand had been severely reduced by COVID (it's all on the videos of Jeffco Board meetings). In point of fact, inflation is not the reason for all the cost overruns.

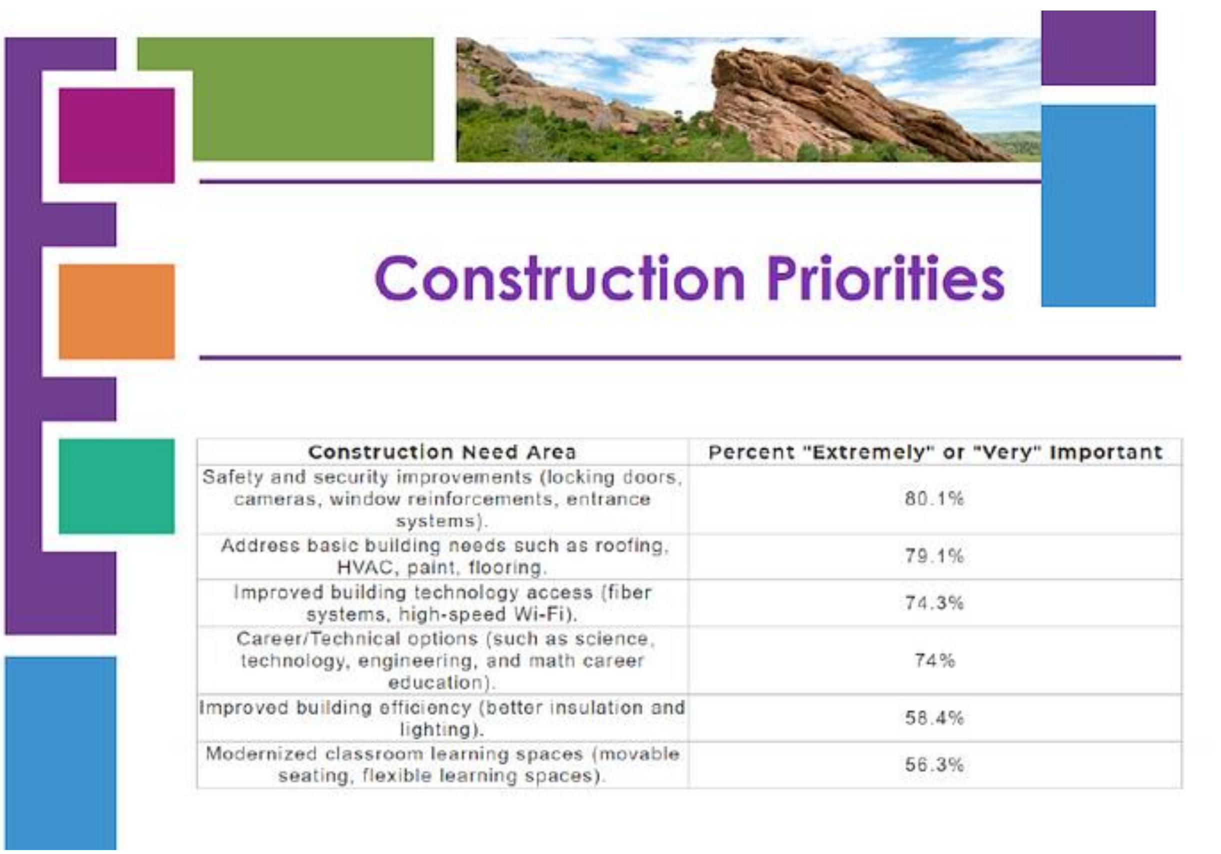
- What then is? When she took over, new Superintendent Tracy Dorland ordered an independent review of the CIP by by Moss Adams, which is a leading provider of Independent Performance Audits of school bond programs in California, where they are required by law.

- Moss Adams findings (and note that they only did a review, not a more thorough performance audit, as they do in California) hint at some possible explanations for the CIP's cost overruns.

- For example, bids received by Jeffco for different CIP projects were not retained by the district (which is a legal requirement in other states), nor were the criteria used for the award of the bids specified. Moss Adams also found that on many projects the low bidder later submitted change orders (which raise the project cost if the district agrees to them) in amounts that were unusually high percentages of the original bid. All these change orders were approved by district management. In other cases, contractor bids came in well above Jeffco's budgeted cost for projects.

- **The second hole was spending on projects that had not been disclosed to the voters in the Flipbooks they received ahead of the November 2018 election**. Perhaps the most egregious example was an estimated $50 million in spending on expensive new athletic fields and facilities for the districts' affluent high schools.

- Jeffco's own polling ahead of the 2018 election showed that one of the reasons the 2016 bond election failed was because of the large amount of proposed spending on athletic fields. The poll found that these were voters' top priorities for the proposed capital improvement program (source: "*2019 NSPRA Gold Medallion Entry Bond/Finance Campaign*" produced by Tammy Schiff, Communications Director for Jeffco Public Schools):



Construction Priorities

Construction Need Area	Percent "Extremely" or "Very" Important
Safety and security improvements (locking doors, cameras, window reinforcements, entrance systems).	80.1%
Address basic building needs such as roofing, HVAC, paint, flooring.	79.1%
Improved building technology access (fiber systems, high-speed Wi-Fi).	74.3%
Career/Technical options (such as science, technology, engineering, and math career education).	74%
Improved building efficiency (better insulation and lighting).	58.4%
Modernized classroom learning spaces (movable seating, flexible learning spaces).	56.3%

Findings from 2018 Jeffco Poll on Voters' Capital Program Priorities

Defenders of Jeffco's Capital Improvement Program (including some current and former Board members, who had a fiduciary duty of care to effectively oversee its activities) have lately taken to claiming that the original Flipbook distributed to voters in 2018 (and the displays in each district school showing how much Capital Program money would be spent on it) were "just marketing documents" that didn't provide the full picture of all the projects on which money would be spent.

There are two responses to this:

If that was the case, then why did the budgets for the projects in the original flip book add up to $563 million?

Second, the claim is contradicted by Jeffco's "Gold Medallion" entry to the National School Public Relations Association's contest for best 2018 Bond/Financing Capaign, which includes these statements:

- *"The flipbook…summarized what every school was going to receive in terms of renovations or new construction from the bond program".*
- *"In all, we estimate over 150 "Mill Levy and Bond Factual Information" presentations where made morning, noon and night over the eleven weeks between the board vote to approve the questions and election night. These presentations were fact-based."*
- *"The efforts to build a collection of targeted, transparent, and comprehensive materials positioned the district as a trustworthy resource of election information — the published and online materials became the "truth" all supporters referenced, the schools'*

and district's community outreach efforts spoke those truths, and the community responded positively."

The third hole was overstatement of the actual size of the transfers from the General Account to the Capital Account.

- The $23 million/year for six years failed to deduct $2 million per year from the Capital Account that was already committed to repay Certificates of Participation (COPS) that were issued in the past to pay for the construction of new schools.
- The annual capital transfer was further reduced by an additional $2.5 million, which is the amount that will be deducted from the Capital Account over the next three years of the Capital Improvement Program for payments related to Jeffco's decision to pay for half the construction cost of a new "Olympic Natatorium" for the City of Arvada. The district will not end up with any ownership interest in this facility, which is a scandal in itself (for more on this, see my article here).
- Thus, $4.5 million of the planned $6 million annual transfer from the General Fund to the Capital Fund will not be available to pay for the Capital Program, as Prop 5B voters were originally told in 2018. The missing money must come out of bond premium.

There is one final outrage related to Jeffco's Capital Improvement Program that should not be overlooked. In other Colorado school districts, the Board of Education decides how bond premium should be spent. But not in Jeffco, where the Chief Operating Officer and district facilities management team made these decisions.

There were plenty of worthwhile district projects that could have been built with Bond Premium funds.

For example, Fletcher Miller School is Jeffco's facility for severely disabled children. Today, it is in decrepit condition, and badly in need of replacement. That would have been a great use for bond premium funds.

Another possible use of bond premium funds (and another scandal in itself) would have been to construct new elementary schools to facilitiate the closure and consolidation of Jeffco's large number of schools that are operating far below their capacity (which drives up district costs). Jeffco's enrollment has been declining for years:

- In 2011/12, Jeffco enrolled 78,997 non-charter students. Overall capacity utilization of district-run schools was 83%. District projections forecast declining student enrollment in future years.
- At the 10 January 2011 board meeting, district staff recommended closing 10 elementary schools: Campbell, Glennon Heights, Kullerstrand, Parr, Pleasant View, Red Rocks, Martensen, Stober, Thompson, and Zerger. Since then, only two of these have been closed (Martensen and Zerger). Pleasant View was briefly closed (and its students sent to Welchester and Shelton), then quickly reopened

to accomodate a charter that had agreed to convert to Innovation status and become a district-run school.

- In 2014/15, Jeffco had three schools operating at less than or equal to 50% Capacity Utilization, a cumulative six schools at 60% or less, and twelve at 65% or less. Moreover, the district forecasted continuing enrollment declines in district-run schools.

- At the time of the Prop 5B Bond Election in November 2018, 16 schools were operating at less than or equal to 65% capacity utilization, which is the district's standard for "Low Utilization" schools. Yet the Capital Program included no provision for constructing larger and more efficient new elementary schools to facilitate the closure and consolidation of the districts' small, underutilized, and ineffcent schools.

- Since Prop 5B was passed, capacity utilization has continued to worsen. by 2020/21, Jeffco had 12 schools operating at less than or equal to 50% capacity utilization, 32 at or below 60%, 50 at or below 65%, and a whopping 87 below the industry standard for low utilization, which is 80% or less of capacity.

- Since January 2011, only four elementary schools have closed, even as enrollment in district-run schools fell by 8,376 students between 2011/12 and 2020/21 (to 70,621students). Overall capacity utilization of district run schools fell over this period from 83% to 72%, in part because, despite falling enrollment, Jeffco kept building new schools!

- Millions of dollars in Capital Program funds have been spent on schools that district management knew, or should have known, were destined to close (note that since 2011 Jeffco's annual enrollment projections, which are publicly available, have continued to forecast a falling number of students in district-run schools).

A fair and painful question to ask — which must be answered — is how could this excess spending happen, in spite of all the checks and balances and controls that the district claimed were in place. These include:

- Jeffco's Facilities Management Group, which managed the CIP;
- Jeffco's Chief Operating Officer, to whom Facilities reports;
- Jeffco's Internal Audit group;
- Jeffco's Chief Financial Officer;
- Jeffco's Superintendent (i.e., Chief Executive Officer);
- Jeffco's Citizen Capital Asset Advisory Committee (the 'independent citizens committee" that former Superintendent Jason Glass assured voters would review all CIP spending);
- Jeffco's Financial Oversight Committee (which provides, among other things, independent oversight over the district's internal controls);
- Jeffco's external auditor, Clifton Larson Allen;
- Jeffco's Board and Directors;

- And last but not least, the Jeffco, Colorado, and national K-12 media, some of whom have been aware of this story for a long time (to its credit, the Jeffco Transcript did attempt an investigative series, but it was inexplicably cut short). As investigative reporting into the failure of Colorado's READ Act by Chalkbeat Colorado's Ann Schimke has shown, the K-12 media can play a critical role in improving district performance when it chooses to do so.

To be sure, Jeffco isn't the only district where massive cost overuns have occured on school bond programs. For example, that is why California changed its state constitution to requite annual independent performance audits (not just financial audits) of all bond-funded school capital programs.

But that doesn't excuse all the apparent failures that have allowed it to happen here too.

At this point, the most important questions are whether anyone will be held accountable for this debacle, and whether anything will change.

The fact that the key players are still employed by Jeffco, and that neither district management nor a majority of the school board has yet to take any action to implement the recommendations in the Moss Adams report provides — for now at least — the depressing answer.

Tom Coyne is a business executive, former member of the Jeffco District Accountability Committee, and former Chair of the Wheat Ridge High School Accountability Committee. His wife, Susan Miller, was elected to the

Jeffco Board of Education in November 2019. These are solely Coyne's views.

November 2022: Should Jeffco Leaders Be Blamed for Spending More than $20 Million of Bond Funds on the 16 Schools They're Closing?

During the meetings the Jefferson County Board of Education held with sixteen elementary schools that had been identified for closure, one angry question came up again and again: "If the district knew it was going to close our schools, why did you spend millions of bond funds upgrading it?"

The district has studiously avoided directly answering this question. Did this represent a gross management and governance failure, or was the fall in enrollment at these schools a "black swan" that could not have been foreseen?

A fair analysis begins with a look at the evidence that was available to Jeffco management and the Board of Education at various points in time.

Jeffco's 2014/2015 "Facilities Condition Assessment" Report found that:

12 of 17 district-run high schools were operating at less than 80% capacity (the threshold many districts used to signify "low utilization), and 5 were operating at less than 65%

· 14 of 19 middle schools were operating at less than 80% capacity, and 7 were at less than 65%.

· 12 of 92 elementary schools (which housed students in kindergarten through sixth grade) were operating at less than 80%, and 2 at less than 65%.

In response to this, members of the Republican majority that then controlled the Jeffco Board of Education suggested that charter schools be encouraged to co-locate in underutilized middle schools, as had been done in Denver.

This was opposed the Democratic minority, which regained control of the Board in November 2015.

In 2016, the Jeffco Board of Education rejected the district's proposal to consolidate 10 underutilized or old elementary schools into five new schools. Instead, it proposed a $568 million bond issue for school improvements and to build new schools. It was soundly defeated by a 54% to 46% margin.

The 2017/2018 Facility Condition Assessment Report found that:

- 6 of 17 district-run high schools were operating at less than 80% capacity, and 2 were operating at less than 65%
- 2 newly created 7/12 schools (Alameda and Jefferson) were operating at less than 80% of capacity

- 12 middle schools were operating at less than 80% capacity, and 5 were at less than 65%
- 26 elementary schools were operating at less than 80%, and 8 at less than 65%.

In 2017, the district proposed closing five elementary schools.

After public outcry, only one, Pleasant View, was closed, and its students sent to Shelton and Welchester elementary schools. Unfortunately, while Pleasant View was a Title 1 school with a high percentage of at-risk students, that was not true of either Shelton or Welchester. But the district did not make up the Title 1 funding loss by increasing either Shelton or Welchester's budget.

After this painful experience, Superintendent Jason Glass unilaterally imposed a two-year moratorium on further school closings. At the same time, the Board of Education requested that Glass prepare a new District-Wide Facilities Master Plan, and deliver it to the Board.

This was never done — and the Board never complained.

Instead, to reduce middle school underutilization, the district proposed, and the Board approved, moving sixth graders out of elementary schools and into middle schools, despite research that this could have negative impacts on their student achievement results.

The district's 2017/2018 Enrollment Projections Report found that over the previous five years, Jeffco's district-operated neighborhood schools had lost 2,174 students. Over the next five years, the report forecast a further decline of 1,773 students.

As you can see below, by 2018 it was very clear that enrollment losses in Jeffco's neighborhood schools had been ongoing since 2012, and were accelerating.

Jeffco Neigborhood Schools equals All District Schools less Option Schools less Charter Schools (source: District Enrollment Reports)											
Yr to Yr Enrollment Change	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	
Pre-K		59	(92)	(3)	(32)	23	(78)	(108)	(666)	212	
K		(132)	(18)	(297)	(82)	(1)	(3)	89	(784)	253	
1		230	(40)	(179)	(313)	(37)	(114)	(26)	(198)	(433)	
2		(94)	264	(103)	(214)	(244)	(38)	(122)	(317)	(101)	
3		(77)	(41)	169	(52)	(215)	(270)	4	(443)	(182)	
4		(115)	(64)	(83)	201	(101)	(225)	(263)	(281)	(366)	
5		246	(212)	(91)	(49)	202	(106)	(189)	(572)	(88)	
6		(66)	307	(236)	(83)	(43)	(136)	(83)	(488)	(456)	
7		(85)	(120)	314	(192)	(60)	(107)	119	(318)	(371)	
8		(40)	(31)	(92)	221	(202)	(74)	(113)	(18)	(266)	
9		(8)	38	(96)	(104)	238	(225)	(2)	(149)	(86)	
10		(74)	(5)	64	(99)	(58)	111	(77)	(92)	(233)	
11		37	(30)	(34)	51	(107)	(185)	206	(86)	(127)	
12		22	(22)	(19)	(79)	132	(114)	(118)	221	(228)	
											Cumulative
Total		(97)	(66)	(686)	(826)	(473)	(1,564)	(683)	(4,191)	(2,472)	(11,058)
Key Academic Results											
Did Not Meet State Stds		*TCAP*	*TCAP*	*CMAS*	*CMAS*	*CMAS*	*CMAS*	*CMAS*		*CMAS*	
Grd 3 ELA		20%	21%	56%	58%	55%	53%	54%	N/A	52%	
Grd 6 Math		30%	31%	58%	59%	59%	61%	65%	N/A	70%	

The 2018/2019 Facility Condition Assessment Report found that:

- 9 of 17 district-run high schools were operating at less than 80% capacity, and 2 were operating at less than 65%
- Both 7/12 schools (Alameda and Jefferson) were operating at less than 80% of capacity
- 8 middle schools were operating at less than 80% capacity

- Following the move of 6th grade to middle school, 45 elementary schools were operating at less than 80%, and 20 at less than 65%.

The 2018/2019 Enrollment Projections Report showed that over the previous five years, Jeffco's neighborhood schools had lost 3,615 students. Yet over the next five years, they were projected to lose only 1,171.

Despite evidence of continued enrollment declines and worsening overcapacity, and even without a Facilities Master Plan to guide the proposed Capital Improvement Program, in 2018 Jeffco district management recommended, and on a 5–0 vote the Board of Education approved, putting a $567 million bond issue on the November 2018 ballot that included new investments in all district-run schools, along with a 10% allocation to charter schools.

In October 2018, all of Colorado Community Media's Jeffco newspapers (e.g., the Arvada Press, Golden Transcript, Jeffco Transcript) ran this editorial endorsement:

"*We commend the district for listening to criticism from its failed bond attempt in 2016, which cited a lack of clarity in how the money would be used. This time, the district has prepared a detailed booklet and website of exactly where the money will go at each school… We also applaud the district's commitment to transparency: A citizens financial oversight committee and independent audit of expenditures will make sure money from the measures is spent as intended."*

The district's commitment to spend bond funds in every school was part of its strategy to pass the bond issue in the face of opposition that noted extent of low capacity utilization and declining enrollment in many district-run schools.

The proposed bond issue only passed by a scant 1,286 votes — less than 1/2 of 1% of the total votes cast.

The 2019/2020 Facility Condition Assessment Report should have rung alarm bells for district management, the Capital Asset Advisory Committee, and the Board of Education about the wisdom of continuing to invest bond funds in schools with declining enrollment and worsening overcapacity.

- 9 of 17 district-run high schools were operating at less than 80% capacity, and 2 were operating at less than 65%
- Both 7/12 schools (Alameda and Jefferson) were operating at less than 80% of capacity
- 8 middle schools were operating at less than 80% capacity
- Despite the move of 6th grade to middle school, 49 elementary schools were now operating at less than 80%, and 28 at less than 65% — a sharp increase over the previous year's report.

The Projected Enrollment Report also should have rung alarm bells:

- Over the next five years, district staff projected a further decline of 1,171 students in Jeffco's neighborhood schools.

- Much more worrisome was evidence of large and worsening errors in Jeffco's five year enrollment projections.

- Jeffco's 2014 five-year enrollment projection had overestimated enrollment in district run schools by 4,170 students.

- Jeffco's 2015 five-year enrollment projection had overestimated enrollment in district run schools by 9,020 students.

But no alarm bells were sounded, and Jeffco continued to invest millions in district-run neighborhood schools.

Even worse, there is evidence that the district has not disclosed to the public an accurate total of the amount of bond funds that have been spent to improve the condition of the 16 elementary schools that will now be closed.

And the Capital Improvement Program is now $173 million (and still counting) over budget, due to cost overruns and spending on projects that were never disclosed to the public (e.g., more than $50 million on athletic fields and facilities at affluent schools).

Moreover, management and governance of the Capital Improvement Program was heavily criticized after an independent review by Moss Adams, the leading provider of school capital program audits in California, where they are required by law.

To conclude, let’s go back to our original question:

Does the district’s decision to spend millions on 16 elementary schools that will be closed (and more schools that will almost certainly be closed next year) represent a gross failure of Jeffco’s management and governance, or was the fall in enrollment at these schools a “black swan” that could not have been foreseen?

The evidence leaves no room for argument.

But despite this, nothing has been done in Jeffco.

Millions of dollars continue to be spent on schools that will almost certainly be closed in next year’s round of consolidations (e.g., Arvada High School is projected to have just 646 students in the 2028/2029 school year, which means the building will be only 37% utilized), and none of the Moss Adams report’s recommendations for management and governance improvements have been implemented.

In Jeffco Schools, business as usual continues, and gross management and governance failures in the nation’s 39th largest school district, a $1.9 billion organization, remain unaddressed.

Tom Coyne is an executive at Britten Coyne Partners, and a former member of Jefferson County School District Accountability Committee. For more than 20 years, he has invested all his volunteer time in K-12 performance improvement, in New England, Alberta, and Colorado. He is *married to Jeffco Public Schools Board Director Susan Miller. The opinions in this column Coyne's alone.*

December 2024: Key Developments and Final Reflections

Jeffco Board Director Susan Miller advises school districts across the country on Facilities Planning, capital planning, and capital project execution. She also knows a few things about large capital projects in general, having been part of the team that built the first gas pipeline over the Andes Mountains from Argentina to Chile.

After inflation rates began to increase, she kept asking Jeffco District management for the inflation assumptions that were used when formulating the program's original capital budget (e.g., Steve Bell, the COO who was responsible for both the capital program's operational execution and its financial management – unlike other districts where the CFO is in charge of the latter).

For the longest time, they refused to give her a straight answer. When they finally did, it was a shocker: (a) there were no inflation assumptions built into the original project budgets, and (b) when inflation began to increase, Jeffco simply increased every project budget by 5%.

Let me explain why this is about as unprofessional and irresponsible as I've ever seen. For projects that will be completed the year after the 5% was added to their budget, 5% might be reasonable. But for projects that weren't even going to start until more than one year in the future, given rising inflation, this approach was wildly unrealistic – or, more to the point, financially reckless.

Assume the cost of a project starting in three years was budgeted at $1,000. And assume that inflation turned out to be 5% per year. In three years, the cost of the project would have increased to $1,158 (because of the compounding effects of inflation). But Jeffco only increased its budget to $1,050. No wonder the Jeffco Capital Program suffered so many "unanticipated" cost overruns on multiple projects. It wasn't bad luck. It was due to stunning managerial incompetence.

On February 24th, 2023, the Jeffco Board held a pivotal meeting on the Capital Program. Superintendent Dorland told the board that the district had again retained Moss Adams to perform a "reconciliation" of the Capital Program. When asked what this would include, she said Moss would examine the program's invoices and payments to see if they reconciled.

Note that this "reconciliation" would say nothing about whether those invoices were justified. This was NOT a Performance Audit, as described in Chapters 6 and 7 of Government Auditing Standards. The "reconciliation" was a much weaker and far less informative analysis.

At the February 24th meeting, the board discussed whether a more rigorous forensic or performance audit should also be performed. Director Reed made some very critical points:

- There were two very different narratives about the Capital Program in the community: that it was performed perfectly, and that it was a disaster;
- If Jeffco wanted to retain the community's trust, which would be critical to the approval of future Mill Levy Overrides and bond issues, it was critical to do an audit of the Capital Program to clarify the extent to the evidence supported these (or other) narratives.
- As she noted, "we can tell the public that we cared enough to find out what went right and what went well and what didn't, so voters will trust us in the future."
- At the end of this discussion, the Board directed Superintendent Dorland to return to them with a proposal for this type of forensic or performance audit.

Sensible, right?

BUT DORLAND NEVER CAME BACK TO THE BOARD WITH A PROPOSAL FOR A PERFORMANCE AUDIT.

Some might say it slipped her mind. Others might say it was part of a coverup, because a lot of people working for Jeffco (including contractors) never want the truth to come out.

And let's not forget the district has never implemented most of the first Moss Adams report's recommendations.

The video of the February 24, 2023 Jeffco Board meeting can be found here (the audit discussion begins at 1hour and 21 minutes into the video):

https://www.youtube.com/watch?v=ZP2rMBe1YUk&list=PLj8mTJYg0twgcFkrdLCVZjVPPJAUjGjX0&index=21

In August, 2023, Robert Greenawalt published an analysis showing that $21.6 million cost of the JeffcoNet technology (network upgrade) project had been transferred to the Capital Improvement Program budget without Board approval.

He brought this to the attention of the district's Financial Oversight Committee, which refused to take action.

Read his analysis here:
https://improvejeffcoschools.org/index.php/2023/08/

In November 2023, the Board approved taking $17.5 million out of Jeffco classrooms to GIFT a new Olympic Natatorium to the City of Arvada. The project experienced significant cost overruns, for which the City of Arvada has requested an additional $5 million from Jeffco under the terms agreed by Jeffco and Arvada under their Intergovernmental Agreement (at a time the district is running a three-year budget deficit estimated to reach $140 million). The Board has kept pushing off action on this request.

Finally, at the end of 2024, the CIP is over, and Fletcher Miller School – Jeffco's decrepit school for the district's most severely disabled students – has not been rebuilt.

Ralph Waldo Emerson once said, "Your actions speak so loudly, I cannot hear what you are saying." Since we moved to Jeffco in 2010, Jeffco Schools' leaders and board directors have repeatedly referred to the district's clear values and strong leadership.

Unfortunately, the history of the district's 2018 – 2024 Capital Program tells a very different story.