

# The Oldham Era

May 13, 2010

## Audit finds schools paid 'reasonable' price in \$2.7 million land deal

By Brent Schanding, Landmark News Service

A state auditor's report concludes that Oldham County Schools paid a reasonable price — and did not offer kickbacks to developers — when members of the school board negotiated a nearly \$2.7 million deal in October 2009 to acquire 112 acres of Brownsboro farmland for a future school site.

The report issued April 29 by state auditor Crit Luallen suggests board members should've shopped around for other deals and filed a written report with the Kentucky Department of Education before proceeding with the acquisition. While the auditor's report found board members largely complied with existing real estate state regulations, Luallen recommends school board members be more transparent in future land deals.

"We feel good about it overall," said Superintendent Paul Upchurch of the audit, which he hopes will appease critics of the land deal. "It shows some of the concerns that were brought forward during their initial talks weren't really valid."

Upchurch agreed with auditors who found the board should examine several potential sites before purchasing land — but he said desirable property is often scarce in Oldham County.

"We get excited if any site becomes available," Upchurch said. "Anytime we can find property in a critical area where we need schools, it's usually the only thing."

### **"BUILDING A 'DYNASTY'"**

Earlier this year, Upchurch rebuked critics who claimed a lack of transparency has bred secretive real estate pacts, deliberately designed to erect a "dynasty" of school-controlled land.

In a January interview with The Oldham Era, Upchurch defended the multi-million dollar Brownsboro land deal.

"We cannot prevent our facilities vision because it looks puzzling in someone's mind," he said. "We have to make every decision based on what's best for the district."

In October 2009, Oldham County Schools paid a developer more than \$2.7 million for several tracts of land, totaling about 112 acres at Ky. 329 and 1817 near Brownsboro. An

elementary school will likely be built there within the next five years, Upchurch said, primarily to ease crowding at Goshen Elementary.

“All we wanted was to buy some land out there to address our growth,” Upchurch said. But some critics say the proposed site is too close to existing schools – seven within a six-mile radius of the tracts. Student populations also seem to be stabilizing, they say, and building another school at this time is farsighted.

This year the district saw a small decline in overall enrollment, according to projections provided by board officials. But county planners suggest the Brownsboro area could double in population by 2030.

## **LANDING THE LAND DEAL**

In early 2008, district officials entered a bidding war against Brownsboro conservationists who apparently wanted to buy the land and integrate it into a master plan focused largely on rural preservation.

Both deals collapsed when the economy bottomed out.

Several months later, school officials collaborated with local developer Bob Jones to acquire the land for about \$27,500 per acre. Jones bought the sites — most of which had served as a landscape nursery — then sold it to the district for face value. District officials said they’d prepared to spend as much as \$32,000 per acre for the property before reaching a deal.

Asking price for the land peaked at about \$40,000 for the land, Upchurch said.

A 2009 PVA record valued the land at \$9,112 per acre zoned for agricultural use. The value skyrocketed when the land was rezoned for commercial use.

State auditors found that price “fair and reasonable” in its recent report and indicated an appraiser found comparable sales in the area to assess that value.

While Upchurch maintains the district offered no incentives to Jones, the developer did retain a few acres near the site of the proposed school. It’s unclear what he plans to do with that land.

District officials previously cut a similar deal with the Jones to purchase 50 acres near Buckner.

“Now, [critics] act as if we’ve done something inappropriate,” Upchurch said.

While the auditor’s report seemed to vindicate Upchurch, it recommended that board members carefully document future real estate deals — especially when working with

third-party brokers who could have outside proprietary interests. That documentation should be included in the transcripts of public-meeting minutes, the audit recommended. Upchurch contends those details were documented in the minutes of closed board meetings.

## **LET'S MAKE A DEAL**

Hours before Upchurch and board members signed the deal in an Oct. 7, 2009 closed-session, Doug Wampler, president of Oldham Ahead — one of two Brownsboro-based non-profits that advocates for strategic growth and rural preservation in the area — sent an email to Joyce Fletcher, chairperson of the Oldham County Board of Education. Wampler urged the board to take no action until conducting a public hearing on the land purchase.

But school officials forged ahead because such hearings aren't required under Kentucky's Open Meetings laws — a stipulation designed partly to prevent outsiders from driving-up prices before government agencies can acquire land.

"It's all confidential until it's approved," said Anne Coorsen, general counsel for the school board. "A lot of time, people don't know about these deals until the property transfers are in the paper."

In previous letters to school and planning officials obtained by The Oldham Era, Wampler wrote that the proposed Brownsboro school site ignored an aesthetically-sensitive master plan for the area — as well as existing state and local zoning regulations. "Brownsboro area citizens expect and demand that all aspects of any potential real estate deal by the Oldham County School Board for a school campus...comply with the applicable Kentucky Administrative Regulations," Wampler wrote in a letter dated July 26, 2009. "...There has been little transparency in any of the school board's meetings and related actions in this matter."

But Upchurch refutes those allegations.

School officials were actually excluded from talks by Brownsboro preservationists in their efforts to develop a master plan, he said.

"The Brownsboro Area Master Plan task force members were aware of the district's needs and desire for a school site in the Brownsboro area prior to finalizing their plan,"

Coorsen wrote in a letter to Wampler in about a month before the district closed its deal. "The task force chose to ignore this information and proceed with a plan that included their desires for the area rather than a plan setting realistic expectations for citizens in the Brownsboro area."

Now that the deal is finalized, the district doesn't intend to be a "bad neighbor," Coorsen told The Oldham Era earlier this year.

## **COMMON SENSE vs. COMMON CENTS**

Despite a relatively benign state audit and reconciliation attempts from school officials, many south-enders still reject the plan to construct new district facilities in the Brownsboro area.

Earlier this year, Pewee Valley resident George Farmer accused school leaders of trying to build a district-wide dynasty.

He told The Oldham Era it's difficult for the district to claim it's bankrupted when it spends \$177,675 annually on a superintendent's salary and \$2.7 million on farmland. "There's no common sense anymore, it's all nonsense. With tough economic times, the superintendent should probably forego a pay raise," Farmer said. "If that man hadn't taken a pay raise, that money could've gone to teachers. Compared to the superintendent, teachers work their butt's off."

Similar complaints prompted state auditors to investigate the school's Brownsboro land acquisition. After reviewing records submitted by concerned citizens and the Kentucky Department of Education and interviewing education officials, board members and third-parties involved with the real estate transaction, state auditors released a six-page summary.

Visit [OldhamEra.com](http://OldhamEra.com) to read the report.

E-mail us about this story at: [bschanding@lcni.com](mailto:bschanding@lcni.com).