

TO: BOARD OF EDUCATION

ACTION/MAJOR

12/14/06

FROM: DIANNE TALARICO

UPDATE

RE: **RESOLUTION NO. 06-05 EESTABLISHING A CITIZEN'S BOND
OVERSIGHT COMMITTEE AND APPROVING BYLAWS**

RECOMMENDATION NO. A.26

It is recommended the Board of Education establish the Citizens Bond Oversight Committee to perform its duties as outlined by Prop 39 and the Oversight Committee Bylaws. It is further recommended that the Board open the recruitment and application process for the committee in order to make appointments at the January 18, 2007, Board meeting.

COMMENT: At its informational workshop held Tuesday, December 12, 2006, the Board of Education was informed of the creation process, purpose, and responsibilities of the Oversight Committee.

An updated recommendation will be available at the December 14, 2006, meeting containing requirements and additional information as an outcome of the December 12, 2006, workshop.

Attached is a copy of the resolution and bylaws.

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Board members agreed to agendaize for a future meeting a discussion regarding the establishment of a facilities committee that is separate and has separate duties from the Prop 39 committee, as well as a discussion regarding the completion of the facilities plan.

INCLUDE RESOLUTION AND BYLAWS

MOTION MADE BY: Ms. Maria Leon-Vazquez
SECONDED BY: Mr. Oscar de la Torre
STUDENT ADVISORY VOTE: N/A
AYES: All (7)
NOES: None (0)

**SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 06-05**

RESOLUTION OF THE BOARD OF EDUCATION OF THE SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT ESTABLISHING A CITIZENS' BOND OVERSIGHT COMMITTEE AND APPROVING BYLAWS THEREFORE

WHEREAS, the Board of Education of the Santa Monica-Malibu Unified School District (the "District") previously adopted a resolution requesting Los Angeles County (the "County") to call an election for general obligation bonds (the "Bond Election") to be held on November 7, 2006; and

WHEREAS, notice of the Bond Election was duly given; and on November 7, 2006, the Bond Election was duly held and conducted for the purpose of voting a measure for the issuance of bonds of the District in the amount of \$268,000,000 (the "Measure BB"); and

WHEREAS, based on the Canvass and Statement of Results for the County, more than fifty-five percent of the votes cast on the Measure BB were in favor of issuing the aforementioned bonds; and

WHEREAS, the Board of Education of the District wishes hereby to establish such independent citizens' bond oversight committee in connection with issuance of bonds under Measure BB and to approve Bylaws governing such committee.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT DOES HEREBY FIND, DETERMINE AND CERTIFY AS FOLLOWS:

Section 1. Authorization. Measure BB was authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution in accordance with the requirements of the Strict Accountability In Local School Construction Bonds Act of 2000 (the "Act").

Section 2. Establishment of Committee. An independent citizens' bond oversight committee (the "Committee") is hereby established for the purposes set forth in the Act.

Section 3. Bylaws. The Committee shall operate pursuant to the Board approved Bylaws. The Committee shall have only those responsibilities granted to them in the Act and in the Bylaws. The Bylaws, as submitted herewith and attached hereto, are hereby approved.

Section 4. Other Actions. Officers of the Board and members of the Committee established hereunder are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officers, officials and staff are hereby ratified, confirmed and approved.

ADOPTED, SIGNED AND APPROVED this ___th day of _____, 2006:

BOARD OF EDUCATION OF THE SANTA
MONICA-MALIBU UNIFIED SCHOOL DISTRICT

President

ATTEST:

Secretary

STATE OF CALIFORNIA)
)
LOS ANGELES COUNTY)

I, _____, do hereby certify that the foregoing Resolution No. _____ was duly adopted by the Board of Education of the Santa Monica-Malibu Unified School District at a meeting thereof held on the ___th day of _____, 2006 and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

By: _____
Secretary

**CITIZENS' BOND OVERSIGHT COMMITTEE
BYLAWS**

Section 1. Committee Established. The Santa Monica-Malibu Unified School District (the "District") was successful at the election conducted on November 7, 2006 (the "Election"), in obtaining authorization from the District's voters to issue up to \$268,000,000 aggregate principal amount of the District's general obligation bonds (the "Measure BB"). The election was conducted under Proposition 39, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State ("Prop 39"). Pursuant to Section 15278 of the Education Code, the District is now obligated to establish the Committee in order to satisfy the accountability requirements of Prop 39. The Board of Education of the Santa Monica-Malibu Unified School District (the "Board") hereby establishes the Citizens' Bond Oversight Committee (the "Committee") which shall have the duties and rights set forth in these Bylaws. The Committee does not have legal capacity independent from the District.

Section 2. Purposes. The purposes of the Committee are set forth in Prop 39, and these Bylaws are specifically made subject to the applicable provisions of Prop 39 as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the *Ralph M. Brown Public Meetings Act* of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support to the Committee as shall be consistent with the Committee's purposes, as set forth in Prop 39.

The proceeds of general obligation bonds issued pursuant to the Election are hereinafter referred to as "bond proceeds." The Committee shall confine itself specifically to bond proceeds generated under Measure BB. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee's review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform only the following duties:

3.1 **Inform the Public.** The Committee shall inform the public concerning the District's expenditure of bond proceeds.

3.2 **Review Expenditures.** The Committee shall review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in the Measure BB; and (b) no bond proceeds were used for any teacher or administrative salaries or other operating expenses.

3.3 **Annual Report.** The Committee shall present to the Board, in public session, an annual written report which shall include the following:

(a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and

(b) A summary of the Committee's proceedings and activities for the preceding year.

3.4 Duties of the Board and/or Superintendent. Either the Board or the Superintendent, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (a) Approval of contracts,
- (b) Approval of change orders,
- (c) Expenditure of bond funds,
- (d) Handling of all legal matters,
- (e) Approval of project plans and schedules,
- (f) Approval of all deferred maintenance plans, and
- (g) Approval of the sale of bonds.

3.5 Measure BB Projects Only. In recognition of the fact that the Committee is charged with overseeing the expenditure of bond proceeds, the Board has not charged the Committee with responsibility for:

(a) Projects financed through the State of California, developer fees, redevelopment tax increment, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without bond proceeds shall be outside the authority of the Committee.

(b) The establishment of priorities and order of construction for the bond projects, which shall be made by the Board in its sole discretion.

(c) The selection of architects, engineers, soils engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria established by the Board in its sole discretion.

(d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) which shall be determined by the Board in its sole discretion.

(e) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee.

(f) The approval of an annual budget for the Committee that is sufficient to carry out its activities.

(g) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its function under Prop 39.

Section 4. Authorized Activities.

4.1 In order to perform the duties set forth in Section 3.0, the Committee may engage in the following authorized activities:

(a) Receive and review copies of the District's annual independent performance audit and annual independent financial audit as required by Article XIII A of the California Constitution.

(b) Inspect school facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by the District's Superintendent.

(c) Review copies of deferred maintenance proposals or plans developed by the District.

(d) Review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

Section 5. Membership.

5.1 Number.

The Committee shall consist of at least seven (7) members appointed by the Board of Education from a list of candidates submitting written applications, and based on criteria established by Prop 39, to wit:

- One (1) member shall be the parent or guardian of a child enrolled in the District.
- One (1) member shall be both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization, such as the P.T.A. or a school site council.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizens' organization.
- One (1) member active in a bona-fide taxpayers association.
- Two (2) members of the community at-large.

5.2 Qualification Standards.

(a) To be a qualified person, he or she must be at least 18 years of age.

(b) The committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3 Ethics: Conflicts of Interest. By accepting appointment to the Committee, each member agrees to comply with Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code. Additionally, each member shall comply with the Committee Ethics Policy attached as "Attachment A" to these Bylaws.

5.4 Term. Except as otherwise provided herein, each member shall serve a term of two (2) years, commencing on the date of the first meeting of the Committee. No member may serve more than two (2) consecutive terms. At the Committee's first meeting, members will draw lots or otherwise select a minimum of two members to serve for an initial one (1) year term and the remaining members for an initial two (2) year term.

5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) appropriate local groups will be solicited for applications; (b) the Superintendent will review the applications; and (c) the Superintendent will make recommendations to the Board.

5.6 Removal; Vacancy. The Board may remove any Committee member for any reason, including failure to attend two consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee. Vacancies shall be filled within 90 days from the initial date of each such vacancy.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District, (b) individual members of the Committee retain the right to address the Board, either on behalf of the Committee or as an individual, and (c) the Committee may only receive copies of reports and documents which have been previously presented to the Board and which are a public record.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee shall meet at least once a year but no more frequently than quarterly.

6.2 Location. All meetings shall be held within the boundaries of the Santa Monica-Malibu Unified School District.

6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business of the Committee.

Section 7. District Support.

7.1 The District shall provide to the Committee necessary technical and administrative assistance as follows:

(a) preparation of and posting of public notices as required by the *Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the District Board;

(b) provision of a meeting room, including any necessary audio/visual equipment;

(c) preparation and copies of any documentary meeting materials, such as agendas and reports; and

(d) retention of all Committee records, and providing public access to such records on an Internet website maintained by the District.

7.2 District staff and/or District consultants shall attend Committee proceedings in order to report on the status of projects and the expenditures of bond proceeds.

7.3 No bond proceeds shall be used to provide District support to the Committee.

Section 8. Reports. In addition to the Annual Report required in Section 3.2, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. The Annual Report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Superintendent shall appoint the initial Chair to serve for an initial two (2) year term. The Committee shall elect an initial Vice-Chair. Thereafter, the Committee shall elect a Chair and a Vice-Chair who shall act as chair only when the Chair is absent.

Section 10. Amendment of Bylaws. Any amendment to these Bylaws shall be approved by a majority vote of the Board.

Section 11. Termination. The Committee shall automatically terminate and disband 180 days after all Measure BB bond proceeds are spent.

**CITIZENS' BOND OVERSIGHT COMMITTEE
ETHICS POLICY STATEMENT**

This Ethics Policy Statement provides general guidelines for Committee members in carrying out their responsibilities. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

POLICY

- **CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds or (2) any construction project which will benefit the committee member's outside employment, business, or a personal finance or benefit an immediate family member, such as a spouse, child or parent.

- **OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

- **COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Santa Monica-Malibu Unified School District;

- **COMMITMENT TO DISTRICT.** A Committee member shall place the interests of the District above any personal or business interest of the member.