

Board of Education Meeting
May 4, 2004

FISCAL ACCOUNTABILITY. THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS IS SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. BY LAW, PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND SPECIFIED. THE CITIZENS' OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAXPAYERS ASSOCIATION, A BUSINESS ORGANIZATION AND A SENIOR CITIZENS ORGANIZATION. NO DISTRICT EMPLOYEES OR VENDORS ARE ALLOWED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE.

NO ADMINISTRATOR SALARIES. PROCEEDS FROM THE SALE OF THE BONDS AUTHORIZED BY THIS PROPOSITION SHALL BE USED ONLY FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, OR REPLACEMENT OF SCHOOL FACILITIES, INCLUDING THE FURNISHING AND EQUIPPING OF SCHOOL FACILITIES, AND NOT FOR ANY OTHER PURPOSE, INCLUDING TEACHER AND ADMINISTRATOR SALARIES AND OTHER OPERATING EXPENSES. BY LAW, ALL FUNDS CAN ONLY BE SPENT ON REPAIR AND IMPROVEMENT PROJECTS.

- 10.42 Resolution of the Board of Education of the San Bernardino City Unified School District Establishing a Citizens' Bond Oversight Committee and Approving Form of Bylaws Therefor
(Prepared by Business Services Division)

WHEREAS, the Board of Education of the San Bernardino City Unified School District (the "District") previously adopted a resolution requesting San Bernardino County (the "County") to call an election for general obligation bonds (the "Bond Election") to be held on March 2, 2004; and

WHEREAS, notice of the Bond Election was duly given; and on March 2, 2004, the Bond Election was duly held and conducted for the purpose of voting on Measure T for the issuance of bonds of the District in the amount of \$140,000,000.00 ("Measure T"); and

WHEREAS, based on the statement of results for the County, more than fifty-five percent of the votes cast on Measure T were in favor of issuing the aforementioned bonds; and

WHEREAS, Section 15278 of the Education Code of the State of California provides that the governing board of a school district shall establish and appoint members to an independent citizens' oversight committee, within 60 days of the date that the governing board enters the election results on its minutes; and

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WHEREAS, the Board of Education of the District wishes hereby to establish such independent citizens' oversight committee in connection with issuance of bonds under the Bond Measure.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT DOES HEREBY FIND, DETERMINE AND CERTIFY AS FOLLOWS:

Section 1. Bond Election Results. The Board of Education of the District has entered the results of the Bond Election results on its minutes within 60 days of the date of this Resolution.

Section 2. Authorization. Measure T 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 3. Establishment of Committee. An independent citizens' oversight committee (the "Committee") is hereby established for the purposes set forth in the Act.

Section 4. 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 the Bylaws. The Bylaws, as submitted herewith and attached hereto, are hereby approved.

Section 5. 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.

CITIZENS' BOND OVERSIGHT COMMITTEE BYLAWS

Section 1. Committee Established. The San Bernardino City Unified School District (the "District") was successful at the election conducted on March 2, 2004 (the "Election"), in obtaining authorization from the District's voters to issue up to \$140,000,000.00 aggregate principal amount of the District's general obligation bonds ("Measure T"). 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 San Bernardino City Unified School District (the "Board") hereby establishes the Citizens' Bond Oversight Committee (the "Committee") which shall have

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the duties and rights set forth in these Bylaws. The Committee does not have independent legal capacity 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 T. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform 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 may review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in Measure T; (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 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:

- (i) Approval of construction contracts,
- (ii) Approval of construction change orders,
- (iii) Appropriation of construction funds,

- (iv) Handling of all legal matters,
- (v) Approval of construction plans and schedules,
- (vi) Approval of deferred maintenance plans, and
- (vii) Approval of the sale of bonds.

3.5 Voter-Approved 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 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) by the Board in its sole discretion and shall report to the Committee on any cost saving techniques considered or adopted by the Board.

(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 allocation of State School Building Program grant funds to projects in the order and in the amount determined by the Board in its sole discretion.

(g) The amendment or modification of the Bylaws for the Committee as provided herein, subject to the legal requirements of Proposition 39.

(h) 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, required by Article XIII A of the California Constitution.

(b) Inspect District 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 proposal 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 a minimum of 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 who is a parent or guardian of a child enrolled in the District.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizen's organization.
- One (1) member active in a bona-fide taxpayers association.
- One (1) member who is both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization, such as the Parent-Teacher Association or a school site council.
- 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.

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(b) The committee may not include any employee, union representative, 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, beginning as of the date of appointment. No member may serve more than two (2) consecutive terms. At the Committee's first meeting, members will draw lots to 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 or persons will be solicited for applications; (b) the Superintendent or his or her designee will review the applications; (c) the Superintendent or his or her designee 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.

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.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee is required to meet at least once a year but may meet more often as the committee shall determine.

6.2 Location. All meetings shall be held within the San Bernardino City Unified School District, located in San Bernardino County, California.

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

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number of Committee members shall constitute a quorum for the transaction of any business except adjournment.

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, keeping of the minutes of all Committee meetings, 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 all 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. Thereafter, the Committee shall elect a chair and a vice-chair who shall act as chair only when the chair is absent, which positions shall continue for two (2) year terms. No person shall serve as chair for more than two consecutive terms.

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 at the earlier of the date when (a) all bond proceeds are spent, or (b) all projects funded by bond proceeds are completed.

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

This Ethics Policy Statement provides general guidelines for Committee members to follow carrying out their roles. 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 the Brown Act) and all other applicable government entities, and the policies, procedures, rules and regulations of the San Bernardino City 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.