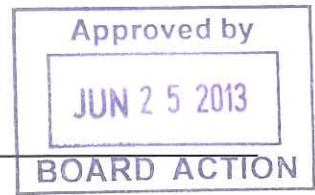


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Board of Education
LONG BEACH UNIFIED SCHOOL DISTRICT



2013 JUN 28 AM 8:03

SUBJECT:

Resolution 062513-A

Enclosures: Yes

CATEGORY:

New Business

Reason for

Board Consideration: ACTION

Facilities Development & Planning

Date: June 25, 2013

Background:

The Board of Education has established an independent citizens' bond oversight committee in connection with the issuance of bonds under Measure K, a \$1,200,000,000 measure passed by the electorate on November 4, 2008 pursuant to Education Code Section 15264 et seq. The Board previously adopted Resolution No. 020309-E on February 3, 2009 authorizing the establishment of the committee and thereby approved its governing bylaws.

The Board of Education desires to amend *Section 1, 3, 3.2, 3.4, 3.5 (f), 3.5 (g), 5.3, 5.4, 5.5, 5.6, 5.8, 8, 9, and 11 of the Citizens' Bond Oversight Committee Bylaws*. The following changes are being proposed for Board consideration: renaming Independent Citizens' Bond Oversight Committee; clarifying duties of Committee in accordance with Attorney General Opinion issued on November 9, 2004; clarifying duties of the Board and/or Superintendent; clarifying task that the Committee is not responsible for; clarifying requirements for ethics and conflict of interest; increase number of consecutive terms to three (3); clarifying appointment by Superintendent or his or her designee; increase vacancy fill requirement to 180 days; clarifying authority of members; clarifying appointment of initial Chair; clarifying election of officers and term limits; and clarification to termination.

RECOMMENDATION:

Adopt Resolution 062513-A

A RESOLUTION OF THE GOVERNING BOARD OF EDUCATION OF THE LONG BEACH UNIFIED SCHOOL DISTRICT APPROVING AMENDED AND RESTATED GOVERNING BYLAWS OF THE CITIZENS' BOND OVERSIGHT COMMITTEE (COC) FOR THE MEASURE K BOND PROGRAM.

Approved and Recommended:

James Novak
Chief Business & Financial Officer

Approved:

Christopher J. Steinhauser
Superintendent of Schools



RESOLUTION NO. 062513-A

A RESOLUTION OF THE GOVERNING BOARD OF EDUCATION OF THE LONG BEACH UNIFIED SCHOOL DISTRICT APPROVING AMENDED AND RESTATED GOVERNING BYLAWS OF THE CITIZENS' BOND OVERSIGHT COMMITTEE (COC) FOR THE MEASURE K BOND PROGRAM.

WHEREAS, the Board of Education of the Long Beach Unified School District (the "District") previously adopted a resolution requesting Los Angeles County and Ventura County (the "Counties") to call an election for general obligation bonds (the "Bond Election") to be held on November 4, 2008; and

WHEREAS, notice of the Bond Election was duly given; and on November 4, 2008 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 \$1,200,000,000 ("Measure K"); 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 K were in favor of issuing the aforementioned bonds; and

WHEREAS, the Board of Education of the District has established independent citizens' bond oversight committee (the "Committee") in connection with issuance of bonds under Measure K; and

WHEREAS, the Board of Education has previously approved Bylaws governing such Committee but now desires to amend and restate such Bylaws, in whole, to make them applicable to Measure K.

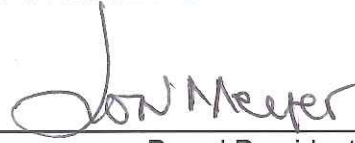
NOW, THEREFORE, THE BOARD OF EDUCATION OF THE LONG BEACH UNIFIED SCHOOL DISTRICT DOES HEREBY FIND, DETERMINE AND CERTIFY AS FOLLOWS:

Section 1. Authorization. Measure K 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. Bylaws. The Committee shall operate pursuant to the Board approved Amended and Restated Bylaws. The Committee shall have only those responsibilities granted to them in the Act, in the resolutions calling for the election for Measure K and in the Amended and Restated Bylaws. The Amended and Restated Bylaws, as submitted herewith and attached hereto, are hereby approved. The previous Bylaws relating to Measure K are rescinded and of no further force and effect.

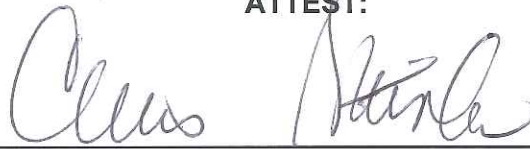
ADOPTED, SIGNED AND APPROVED this 25th day of June 2013:

**BOARD OF EDUCATION OF THE LONG BEACH
UNIFIED SCHOOL DISTRICT**



Board President

ATTEST:



Superintendent

STATE OF CALIFORNIA)
)
LOS ANGELES COUNTY)

I, Christopher J. Steinhauser, do hereby certify that the foregoing Resolution No. 062513-A was duly adopted by the Board of Education of the Long Beach Unified School District at a meeting thereof held on 25th day of June, 2013 and that it was so adopted by the following vote:

AYES: 5
NOES: 0
ABSENT: 0
ABSTENTIONS: 0

By: 
Superintendent

INDEPENDENT CITIZENS' BOND OVERSIGHT COMMITTEE BYLAWS

Section 1. Committee Established. The Long Beach Unified School District (the "District") was successful at the election conducted on November 4, 2008 (the "Bond Election") in obtaining authorization from the District's voters to issue up to \$1,200,000,000 aggregate principal amount of the District's general obligation bonds ("Measure K"). 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 Long Beach Unified School District (the "Board") hereby establishes the Independent 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 K. 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 duties set forth in Section 3.1, 3.2 and 3.3 and shall refrain from those activities set forth in Sections 3.4 and 3.5:

3.1 **Inform the Public.** The Committee shall inform the public concerning the District's expenditure of bond proceeds. In fulfilling this duty, all official communications to either the Board or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the consensus view of the Committee.

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 K; and (b) no bond proceeds were used for any teacher or administrative salaries or other operating expenses, in accordance with Attorney General Opinion 04-110 issued on November 9, 2004.

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:

- (i) Approval of contracts,
- (ii) Approval of change orders,
- (iii) Appropriation of bond funds,
- (iv) Handling of all legal matters,
- (v) Approval of project plans and schedules,
- (vi) Approval of deferred maintenance plans, and
- (vii) Approval of the sale of bonds.

3.5 Measure K 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.

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. Members of the Committee, are not subject to Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code and the Political Reform Act (Gov. Code §§ 81000 et seq.), and are not required to complete the Form 700. However, each member shall comply with the Committee Ethics Policy attached as "Attachment A" to these Amended and Restated 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 three (3) 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. Members whose term has expired may continue to serve on the Committee until a successor has been appointed.

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 or his or her designee will review the applications; and (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. Vacancies shall sought to be filled within 180 days of a 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) Committee and its members shall have the right to request and receive copies of reports and records relating to Measure K projects which have been prepared for the Board and which have become 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 Long Beach 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, translation 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.

Section 8. Reports. In addition to the Annual Report required in Section 3.3, 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 Board, upon the recommendation of the Superintendent shall appoint the initial Chair of the Committee. Thereafter the Committee shall elect the Chair and a Vice-Chair who shall act as Chair only when the Chair is absent. No person shall serve as Chair for more than two consecutive one-year 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 concurrently with the Committee's submission of its final Annual Report which reflects the final accounting of the expenditure of all Measure K monies

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 Long Beach 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.