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Role and Duties of the Independent Citizens' Oversight Committee

July 7, 2017

N U S D

NOVATO UNIFIED
SCHOOL DISTRICT

Presented by:
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Some Background

- Measure G passed November 2016
 - Resolution, Summary and Full Ballot Text with Project List comprise the full Measure
 - \$222M in total authorization
- Board Appointed ICOC
 - Tasks to be completed
 - Set meeting schedule;
 - Designate officers;
 - Consider Bylaws
- First Bond Sale (Series A & A-1)
 - Closed on March 30, 2017: \$47,000,000 Series A & \$4,000,000 Series A-1
- Construction Program - Will get program overview tonight

Measure G

- Measure G is a “Proposition 39” Bond Measure
 - Passage at 55%+ of the electorate, in exchange for accountability features and strict conformity with legal requirements, including:
 - Independent annual financial and performance audits
 - Conformity to tax rate limits on repayment of bonds
 - Specific bond project list and strict accountability for expenditures
 - Appointment of independent Citizens' Oversight Committee to safeguard and report to public

ICOC Structure

- Required to have seven (7) Members, representing constituencies
- Currently have six (6) appointed members, 1 vacancy
 - Still seeking member to fill taxpayer representative slot
- Serving up to three two-year terms (except initial terms)
- No NUSD vendors, employees, contractors
- Committee exists until bond proceeds are fully expended

Purposes of the ICOC

(Ed Code 15264 & 15278)

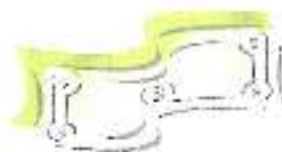
- To inform the public concerning the expenditure of bond revenues
 - Actively review and report on proper expenditure of taxpayers' money for school construction and "to promptly alert the public to any waste or improper expenditure" of funds;
 - Advise public re: whether District has met CA Constitutional requirements – which are . . .



CA Constitutional Requirements

1. Ensuring bond revenues are expended only for construction, reconstruction, rehabilitation, or replacement of school facilities.
2. Ensuring no funds are used for any teacher and administrative salaries or other school operating expenses.

(CA Const., article XIII A, Section 1(b)(3).)



Other Sources of ICOC Authority

- Education Code Sections 15264; 15278-15282
 - Purpose; composition; terms; duties; accountability; reports
- NUSD Board Policy/AR No. 1220 (Committees)
- ICOC Bylaws (Proposed)
 - Consistent with law and policy but addressing details:
 - Officer selection and duties, agenda preparation, minority viewpoints, Code of Conduct, member removal, subcommittees, attendance
 - Amendments subject to NUSD review

Permissible ICOC Activities

(Ed. Code 15278)

- ✓ Review annual, independent financial and performance audits performed by an independent consultant.
- ✓ Inspect school facilities and grounds to ensure that bond revenues are expended in compliance with law.
- ✓ Review any deferred maintenance proposals or plans.
- ✓ Review efforts by District to maximize revenues by implementing cost saving measures.



ICOC Activities (cont.)

- ICOC has an audit, not advisory, function, with responsibility to report to the public.
- Powers reserved for the District:
 - ✓ Determining how bond funds may be spent (within the parameters of Bond Project List)
 - ✓ Determining project implementation, timing, terms, priorities
 - ✓ Timing/details for issuance of bonds

Technical Assistance to ICOC

- District's Board/Staff to provide technical and administrative assistance to ICOC, such as:
 - ✓ Website information posting
 - ✓ Brown Act agendas and minutes
 - ✓ Financial and progress reports
 - ✓ Submit independent financial and performance audits at same time as to District, no later than March 31st.
 - ✓ Respond to findings, recommendations and concerns addressed in audits within 3 months

Recommended Schedule/Topics

■ Suggested Schedule

- Meeting approx. 4 times annually
- 1-2 site visits per year
- Project/Program updates at every meeting
- Receive NUSD performance and financial audits in February-March time frame
- ICOC prepares Annual Report
 - Tentative: presentation to NUSD Board and community in June/July to cover prior fiscal year (?)
 - First report: Due in 2018 for January-June 2017

Permissible Uses of Bond Proceeds

- **Two Sources of Authority**

1. California Constitution – Art XIII A

- Construction, reconstruction, rehabilitation or replacement of school facilities
- Furnishing and equipping of school facilities
- Acquisition or lease of real property

2. NUSD Bond Project List/Ballot Measure

Measure G Summary

"To update aging Novato schools and protect quality education with local funding that cannot be taken by the State, shall Novato Unified School District upgrade classrooms, science labs, libraries and facilities to meet current academic/safety standards; provide dedicated space for science, math, engineering, arts and music instruction; and improve student access to modern instructional technology by issuing \$222 million in bonds at legal rates, with independent citizens' oversight, no money for administrators, and all funds staying local?"

Operating vs. Capital Expenses

- Capital expenses may include:
 - ✓ District employee salaries to the extent employees are engaged in construction-related services for bond-funded projects.
 - ✓ Overseeing construction progress.
 - ✓ Performing overall project management.
 - ✓ Accounting that facilitates timely completion of the construction project.
 - ✓ "Costs incidental, but directly related, to bond-funded projects."



Operating vs. Capital Expenses

- Other permissible expenditures:
 - ✓ Cost of issuance of bonds;
 - ✓ Construction labor and materials costs;
 - ✓ Professional fees (e.g. architects, construction managers, attorneys) and
 - ✓ Other costs directly connected to real property acquisition and improvement (e.g. environmental review, relocation costs, temporary moves/dislocation)

ICOC Meeting Requirements

The Ralph M. Brown Act
(Gov. Code, § 54950 et seq.)

Intent of the Brown Act

- To keep the public informed of the actions, debates and views of locally elected representatives.
- To provide the procedural framework for local legislators to meet, debate, act and listen collectively to their constituents.

The Brown Act: “Meetings”

- Definition of Meeting:

“Any congregation of a **majority** of members of a legislative body at the **same time and place**, including teleconference locations, **to hear, discuss, or deliberate** upon any item within the subject matter jurisdiction of the legislative body.”



The Brown Act: “Meetings” (continued)

- A majority of the members of a . . . body shall not, outside a noticed meeting, use a **series of communications** of any kind, directly or through **intermediaries** or **technological devices**, to discuss, deliberate, or take action on any item of business that is within the [board's] jurisdiction. (Gov. Code, § 54952.2.)
- “Direct communication, personal intermediaries, or technological devices” include:
 - ✓ Telephone, e-mail, internet, instant messaging, texts
 - ✓ Social media, blogs

The Brown Act: “Meetings” (continued)

- Definition of meeting specifically excludes:
 - Individual contacts, communications or telephone conversations between an ICOC member and “any other person” (including another ICOC member) “if that person does not communicate to members of the [ICOC] the comments or position of any other member or members of the [ICOC].”

The Brown Act: “Meetings” (continued)

- Meetings are open to the public with a posted agenda and minutes
 - ✓ 72 hours’ notice
- Teleconferencing must be from a publicly accessible location.
 - ✓ At least a quorum must be within District boundaries.
 - ✓ Agenda must be posted and public able to address ICOC at each location.

(Gov. Code, §54953(b)(3).)

The Brown Act: Public's Rights

- Any person attending may videotape unless disruptive.
- Agenda must allow public comment on items of interest that are within ICOC's jurisdiction, whether on the agenda or not.
- Public must be allowed to comment on agenda items before or during consideration of the item.
- The ICOC may place reasonable time limitations on particular topics or speakers.



Ethics Compliance

- ICOC is subject to ethics doctrines:
 - ✓ No participation in NUSD decision making, or attempt to use influence on construction program contracts in which member has a financial or personal interest or prospective interest
 - ✓ No bidding on construction project by company of ICOC member
 - ✓ Place District interests above personal interests
 - ✓ Notify District if conflict concern arises

Questions?





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Thank you!



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