



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
December 17, 2008**

TO: Mayor and City Council

FROM: Joann Tool, Deputy Community and Economic Development Director –
Recreation, Community Services & Marina

SUBJECT: Bond Oversight Committee

DATE: December 3, 2008

RECOMMENDATION:

Approve the recommendation of the Park and Recreation Commission on the formation, structure, and membership of the Bond Oversight Committee and discuss and/or adopt the application process.

BACKGROUND:

At the last Park and Recreation Commission meeting the formation, structure, and proposed membership of the Bond Oversight Committee was discussed. Staff provided the Commission draft bylaws provided by Bond Counsel on how to structure the Oversight Committee.

The Park and Recreation Commission agreed that the Bond Oversight Committee would be formed pursuant to the Measure H Bond language and would oversee only the financial aspects of the bond. The Commission recommends that it oversee the implementation of other projects funded by Measure H. The commissioners agreed recommendations on formation and bylaws of the oversight committee with a few modifications are based upon recommendations from Bond Counsel. (Final draft with changes attached).

The Commission recommends that the membership of the Oversight Committee should be as follows:

- (1) Member active in a youth sports group, such as: Little League, Youth Football, AYSO Soccer, Martinez Baseball club, Heritage Soccer or any other youth sports group within Martinez
 - (1) Member from the Martinez Community Swim Team
 - (1) Member from the Friends of the Library
 - (1) Member from the Park and Recreation Commission
 - (1) City Treasurer
 - (2) Members at large
- For a total of seven (7) members

FISCAL IMPACT:

None.

ACTION:

Motion to accept the recommendation from the Park and Recreation Commission regarding the formation, structure, and membership of the Bond Oversight Committee.

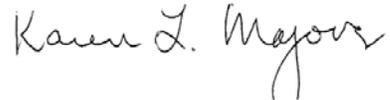
ATTACHMENT:

1) Proposed By-laws



APPROVED BY:

City Manager



APPROVED BY:

Assistant City Manager Community &
Economic Development

CITY OF MARTINEZ
CITIZENS' BOND OVERSIGHT COMMITTEE
BYLAWS

Section 1. Committee Established. The City of Martinez (the "City") was successful at the election conducted on November 4, 2008 (the "Election"), in obtaining authorization from the City's voters to issue up to \$30,000,000 aggregate principal amount of the City's general obligation bonds, pursuant to a two-thirds vote. The election was held and conducted as provided by law for holding municipal elections, and bonds will be issued pursuant to Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code (the "Bond Law"). The City is not obligated under the Bond Law to establish the Oversight Committee, but the City has voluntarily chosen to do so to provide enhanced accountability to the citizens of the City. The City Council of the City (the "City Council") 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 independent legal capacity from the City.

Section 2. Purpose. The purpose of the Committee is to inform the public regarding the expenditure of bond proceeds, as further set forth in these Bylaws, to ensure that bond proceeds will be used only for the purposes specified in the ballot measure. Such purposes include financing the costs of acquiring and constructing parks, library improvements and pool and safety improvements.

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 from the issuance of bonds under the ballot measure. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee review.

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 City shall provide necessary administrative support at City expense to carry out the purpose of the Committee.

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 City's expenditures of bond proceeds.

3.2 Review Expenditures. The Committee may review quarterly expenditure reports produced by the City to ensure that (a) bond proceeds are expended only for the purposes set forth in the ballot measure; and (b) no bond proceeds are used for any administrative salaries of City employees or other operating expenses.

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

(a) A statement indicating whether the Committee has determined that the City has expended bond proceeds only for the purposes set forth in the ballot measure; and

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

3.4 Duties of the City Council. The City Council 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 Plan, 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 City has not charged the Committee with responsibility for:

(a) Projects financed through sources other than the 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 City Council in its sole discretion.

(c) The selection of architects, engineers, soil engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on City criteria established by the City Council 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 City Council in its sole discretion and shall report to the Committee on any cost saving techniques considered or adopted by the City Council.

(e) The selection of independent audit firm(s), 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 activities set forth herein.

(g) The adoption of a plan for publicizing the activities of the Committee and the determination as to whether a mailer, a newspaper notice or website materials would best suit the distribution of the Committee's findings and recommendations.

(h) The amendment or modification of the Bylaws for the Committee as provided herein.

(i) The appointment or reappointment of qualified applicants to serve on the Committee and based on criteria adopted in the City Council's sole discretion.

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 City's annual independent audit of expenditure of bond proceeds.

(b) Inspect City facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by the City Manager of the City.

Section 5. Membership.

5.1 Number. The Committee shall consist of seven (7) members appointed by the Mayor from a list of candidates submitting written applications, and based on criteria established by the City, to wit:

- One (1) member active in a youth sports group within the City of Martinez, for example, Little League, Youth Football, AYSO Soccer, or any other youth sports group

- One (1) member active in the Martinez Community Swim Team
- One (1) member active in the Friends of the Martinez Library
- One (1) member of the Park and Recreation Commission
- One (1) City Treasurer
- Two (2) members at large from the Martinez Community

(a) There shall be a sunset clause for the Martinez Community Swim Team and Friends of the Library members. Upon completion of the swimming pool project, the Martinez Community Swim Team member will be excused from the committee to be replaced by a member active in a youth sports group. Upon completion of the Library project the Friends of the Martinez Library member will be excused from the committee to be replaced by a member at large. The final configuration of the committee will then be:

- Two (2) members active in a youth sports group within Martinez
- One (1) member of the Park and Recreation Commission
- One (1) City Treasurer
- Three (3) members at large

5.2 Qualification Standards.

(a) To be a qualified person, he or she must be at least 18 years of age and reside within the State of California, in accordance with Government Code Section 1020.

(b) The Committee may not include any employee, City Council member or any vendor, contractor or consultant of the City.

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 and the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and to complete the Form 700 as required by all “designated employees” of the City. Additionally, each member shall comply with the Committee Ethics Policy attached as “Attachment A” to these Bylaws.

5.4 Term. At the Committee’s first meeting, members will draw lots to select a minimum of two (2) members to serve for an initial one (1) year term, and the remaining members for an initial two (2) year term. No member may serve more than two (2) consecutive terms.

5.5 Appointment. Members of the Committee shall be appointed by the Mayor through the following process: (a) appropriate local groups will be solicited for applications; (b) the Mayor or his designee will review the applications; (c) the Mayor will make recommendations to the City Council.

5.6 Removal; Vacancy. The City Council may remove any Committee member for any reason, including failure to attend two (2) 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 Mayor, 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 City. (b) Individual members of the Committee retain the right to address the City Council as an individual.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee is required to meet at least once a year including an annual organizational meeting.

6.2 Location. All meetings shall be held within the City.

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 except adjournment.

Section 7. City Support.

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

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

(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 City.

7.2 City staff 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 City support to the Committee.

Section 8. Reports. In addition to the Annual Report required in Section 3.2, the Committee may report to the City Council at least semi-annually in order to advise the City Council on the activities of the Committee. Such report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Mayor 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 (2) consecutive terms.

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

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 following Ethics Policy Statement provides general guidelines for Committee members to perform 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 City 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 City 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 City 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 City 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 and all other applicable government entities, and the policies, procedures, rules and regulations of the City of Martinez;

- **COMMITMENT TO CITY.** A Committee member shall place the interest of the City above any personal or business interest of the member.

The undersigned acknowledges he or she has received a copy of this Ethics Policy Statement, understands the provisions of this policy and agrees to adhere to its requirements.

Date

Member, Oversight Committee