



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Powers</i> 4 Sept 2019		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/30/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Patricia Williams Dept: District Secretary <i>P. Williams</i> Signature/Date: 9.3.19	General Counsel <i>NP</i> 9/3/19	Controller/Treasurer <i>Jeff White</i> 9/3/19 []	District Secretary []	BARC <i>PD</i> 9/2/19 []
Status: Routed		Date Created: 8/30/2019		

Revisions to Board Rules

PURPOSE: This action will incorporate three minor administrative updates to Board Rules 3-6.2, 5-1, and 5-3.5.

DISCUSSION:

Board Rule 3-6.2 - Board Communications - Brown Act Compliance

Reference to text messages and other social media will be incorporated into Board Rule 3-6.2 as shown on the attached draft revised Rule.

Board Rule 5-1 - Annual Budget

Proposed language will clarify the name of and date of release for the Preliminary Annual Budget as shown on the attached draft revised Rule.

Board Rule 5-3.5 - Use of District Property Other than Automobiles

Subsection (d) will be revised to reflect the correct title of the Performance and Audit Department, as the Internal Audit Department has been reorganized. Draft revised Rule attached.

FISCAL IMPACT:

None.

ALTERNATIVES:

Do not adopt changes.

RECOMMENDATION:

Approve motion to update Board Rules.

MOTION:

The attached revisions to Board Rules 3-6.2, 5-1, and 5-3.5 are adopted.

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3-6.2 Board Communications - Brown Act Compliance

- (a) In all communications with each other, including face-to-face meetings, written correspondence, telephone communications, ~~and~~ e-mail communications, text messaging, and other social media communications, Directors shall comply with the provisions of the Brown Act (Government Code Section 54950 et. seq.). District business may not be discussed among a majority of members of a Board Committee, or more than any four members of the Board, without complying with Brown Act meeting requirements. For Brown Act purposes, any gathering of a majority of the members of a Board Committee or the full Board to receive information, hear a proposal, discuss an issue or take any action on an issue under the subject matter jurisdiction of the District is a meeting subject to the notice and open meeting requirements of the Act.
- (b) The following situations should be avoided:
 - (1) The Brown Act expressly prohibits serial meetings which are conducted through direct communications, intermediaries or technological devices for the purpose of developing a concurrence as to action to be taken by the legislative body. Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a quorum of the body. Therefore, although it is acceptable for a Director to write an initial letter or send an initial e-mail or text message to one or more Directors on a Board matter, subsequent communications (in any form) may have to be counted against the limit of four members of the Board or a majority of members of a Board Committee, if the purpose of the communication is to develop a concurrence as to action to be taken on that Board matter. For example, if Directors A, B and C are all members of the same Board Committee, there would be a serial meeting if Director A sends a letter or e-mail or text message on a Board matter to Director B or Director C, if the purpose of the communications is to develop a concurrence as to action to be taken. Conversations which advance or clarify a Board member's understanding of an issue, or facilitate an agreement or compromise amongst members, or advance the ultimate resolution of the issue, may all be viewed as contributing to the development of a concurrence as to actions to be taken. While the purpose of a particular serial communication may not always be clear, it is likely that a court would view substantive conversations amongst Board members concerning an actual or potential agenda item prior to a public meeting as contributing to the development of a concurrence as to the ultimate action to be taken. Therefore,

Board members should avoid serial communications of a substantive nature concerning such items.

- (2) E-mail is particularly vulnerable to potential Brown Act violations because of the reply and copy features of the e-mail system, and the ability to append previous messages. Special care should be taken with e-mail to avoid Brown Act violations. Also, because e-mail, text messaging, or other social media communications may create a record, Directors should assume that any statements on e-mail, text message, or other social media may become public.

SECTION 1. ANNUAL BUDGET

5-1.1 General Provisions

The General Manager, or a designated representative, shall prepare for the District and submit to the Board a tentative Preliminary Annual Budget by March 31 of each calendar year for the following fiscal year. The tentative Preliminary Annual Budget shall include provisions for Operating Expenses, Debt Service, and such other functional categories as the General Manager deems appropriate. The Preliminary Annual Budget will thereafter be released to the public.

5-1.2 Budget Submitted to Board

After the Preliminary Annual Budget is ~~The budget shall be~~ submitted to the Board of Directors, the Preliminary Annual Budget will be presented to and discussed by the Board at least once at a regularly scheduled meeting in April and once at a regularly scheduled ~~not later than the first regular~~ meeting in May of each calendar year. ~~The Board of Directors shall consider the proposed budget and not later than the first (1st) day of June in each calendar year shall cause to be prepared a pamphlet containing a copy of the preliminary budget.~~

5-1.3 Notice of Availability of Pamphlets Preliminary Annual Budget and Time of Hearing

On or before June fifth (5th) of each year, the District Secretary shall publish a notice once in a newspaper of general circulation in each of the counties comprising the District stating that: the Preliminary Annual Budget is available to anyone requesting a copy, and on a date stated in the notice, not less than ten (10) days after the Notice of Availability of the Preliminary Annual Budget and Time of Hearing is published, and at a time and place also stated in the notice, the Board will meet for the purpose of fixing the final budget, and anyone may appear thereat and be heard regarding the increase, decrease, or omission of any item on the budget or for the inclusion of additional items. Said hearing on the fixing of the final budget shall be held on or prior to June twentieth (20th). Said hearing shall be continued from day to day until concluded, but not to exceed a total of ten (10) days, and shall be concluded before the expiration of ten (10) days if there are no requests or applications on file with the Board for further hearings.

~~(a) the preliminary budget pamphlets are available to anyone requesting them;~~

~~(b) — on a date stated in the notice, not less than ten (10) days after the budget pamphlets are available, and at a time and place also stated in the notice, the Board will meet for the purpose of fixing the final budget, and anyone may appear thereat and be heard regarding the increase, decrease, or omission of any item on the budget or for the inclusion of additional items. Said hearing on the fixing of the final budget shall be held on or prior to June twentieth (20th). Said hearing shall be continued from day to day until concluded, but not to exceed a total of ten (10) days, and shall be concluded before the expiration of ten (10) days if there are no requests or applications on file with the Board for further hearings.~~

On or before June thirtieth (30th) of each year the Board shall, by resolution, adopt the budget as finally determined.

5-3.5 Use of District Property Other than Automobiles

(d) Not later than September 15 of each year, the ~~Internal~~ **Performance and** Audit Department shall complete an annual audit for the previous fiscal year for compliance with the requirements of this Board Rule 5-3.5, and such audit report shall be submitted to the next Administration Committee following September 15 for review and forwarding to the full Board. The audit report shall include a list of District property that is issued to each Director.