



Santa Barbara SCHOOL DISTRICTS

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Date: April 2, 2009
To: Dr. J. Brian Sarvis, Superintendent
From: Eric D. Smith, Deputy Superintendent
Subject: Approval of Resolutions 2008/09-36 and 2008/09-37 Authorizing and Directing Application of Bond Proceeds

Action Agenda: (10 minutes)

Background:

On June 20, 2007, the board approved resolutions 06/07-37 and 06/07-38 authorizing the "cash out" refunding of existing general obligation bonds in both districts. On January 9, 2009, the State Attorney General's Office issued an opinion that invalidated this form of debt financing. In summary, the Attorney General found that:

1. Absent specific approval from the district's electors, a school district may not issue refunding general obligation bonds at a price or an interest rate that will generate proceeds in excess of the amount needed to retire the designated outstanding bonds.
2. Without voter approval, a district may not use proceeds from a refunding general obligation bond to provide supplemental funding for unfinished projects, even if the projects were previously approved by the electorate, or for any other purpose except to pay off the designated outstanding bonds.
3. Because a school district lacking voter approval may not issue refunding general obligation bonds to generate more proceeds than are necessary to refinance the district's targeted debt, the district is likewise prohibited from setting or maintaining ad valorem property tax rates at a level higher than necessary to refinance that targeted debt.
4. A school district's application of proceeds from the sale of refunding general obligation bonds to purposes not authorized by law may result in litigation to invalidate the bond issue or to restrain unauthorized expenditures, if timely filed; taxpayer lawsuits; or actions by the Attorney General.
5. Because the proposed arrangement between a school district and a joint powers authority would result in a refunding bond issuance in excess of that needed to merely refund the district's designated outstanding bonded indebtedness, both the refunding bond issuance

Adams Elementary School
Cesar Chavez Charter School
Cleveland Elementary School
Franklin Elementary School

Harding Elementary School
McKinley Elementary School
Monroe Elementary School
Open Alternative School

Peabody Charter School
Roosevelt Elementary School
Santa Barbara Charter School
Santa Barbara Community Academy
Washington Elementary School

Goleta Valley Junior High School
La Colina Junior High School
La Cumbre Junior High School
Santa Barbara Junior High School

Dos Pueblos High School
La Cuesta Continuation High School
San Marcos High School
Santa Barbara High School

and the higher tax required to support it are constitutionally impermissible without specific voter approval.

Results

At the time the bonds were refunded, a provision was inserted in the recording documents that allowed the owner to “call” the bonds in the event that the Attorney General rendered an opinion that was adverse toward “cash out” refunding financings. Bond counsel has advised us that, in order to comply with current tax regulations, we will need to yield restrict the funds in the savings account until the call date (i.e. 8/1/2010) and then call the bonds as set forth in the District’s original resolution. Attempts to apply the savings as a credit to taxpayers through the County Tax Collector may conflict with current federal tax regulations. A call provision is a clause in a bond’s indenture granting the issuer to buy back all or part of an issue prior to the maturity date.

Fiscal Impact

Loss of capital project funding of \$950,510.75 in the elementary district, and loss of capital project funding of \$1,999,339.30 in the secondary district.

Recommendation

That the board approve resolution 2008/09-36, for the elementary district, and resolution 2008/09-37 for the high school district, Authorizing and Directing Application of Bond Proceeds from the prior refunding of general obligation bonds.

RESOLUTION NO. 2008/09-36

**RESOLUTION OF THE BOARD OF EDUCATION OF THE
SANTA BARBARA ELEMENTARY SCHOOL DISTRICT AUTHORIZING
AND DIRECTING APPLICATION OF BOND PROCEEDS**

WHEREAS, the Santa Barbara Schools Financing Authority issued its 2007 General Obligation Revenue Bonds, Series A (Santa Barbara Elementary School District General Obligation Bond Refunding) (the "Authority Bonds") on August 2, 2007, to provide funds to purchase an issue of 2007 General Obligation Refunding Bonds (the "District Bonds") issued by the Santa Barbara Elementary School District (the "District") and to finance the acquisition and construction of public capital improvements; and

WHEREAS, a portion of the bond proceeds has been held unspent pending the release of an opinion by the Attorney General of California, which opinion has now been released; and

WHEREAS, the District has determined that it is prudent and appropriate to use such unspent proceeds to reduce the burden of property taxpayers within the District by causing the redemption of outstanding Authority Bonds and District Bonds or by another appropriate procedure; and

WHEREAS, the first available redemption date for the Authority Bonds is August 1, 2010;

NOW, THEREFORE, IT IS RESOLVED, DETERMINED AND ORDERED by the Board of Education of the Santa Barbara Elementary School District, as follows:

1. The portion of Authority Bond proceeds designated to accomplish school improvement projects shall instead be used to reduce the burden of property taxpayers of the District in the most legally appropriate manner at the earliest possible date.

2. The Superintendent and/or designee is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to redeem outstanding Authority Bonds and District Bonds on August 1, 2010, or to take alternative actions to reduce taxpayer burden, and otherwise carry out, give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

3. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED this ____ day of April, 2009, by the following vote:

AYES:

NOES:

ABSENT:

President of the Board of Education
Santa Barbara Elementary School District,
Santa Barbara County, California

ATTEST:

Clerk of the Board of Education
Santa Barbara Elementary School
District,
Santa Barbara County, California

RESOLUTION NO. 2008/09-37

**RESOLUTION OF THE BOARD OF EDUCATION OF THE
SANTA BARBARA HIGH SCHOOL DISTRICT AUTHORIZING AND
DIRECTING APPLICATION OF BOND PROCEEDS**

WHEREAS, the Santa Barbara Schools Financing Authority issued its 2007 General Obligation Revenue Bonds, Series B (Santa Barbara High School District General Obligation Bond Refunding) (the "Authority Bonds") on August 2, 2007, to provide funds to purchase an issue of 2007 General Obligation Refunding Bonds (the "District Bonds") issued by the Santa Barbara High School District (the "District") and to finance the acquisition and construction of public capital improvements; and

WHEREAS, a portion of the bond proceeds has been held unspent pending the release of an opinion by the Attorney General of California, which opinion has now been released; and

WHEREAS, the District has determined that it is prudent and appropriate to use such unspent proceeds to reduce the burden of property taxpayers within the District by causing the redemption of outstanding Authority Bonds and District Bonds or by another appropriate procedure; and

WHEREAS, the first available redemption date for the Authority Bonds is August 1, 2010;

NOW, THEREFORE, IT IS RESOLVED, DETERMINED AND ORDERED by the Board of Education of the Santa Barbara High School District, as follows:

1. The portion of Authority Bond proceeds designated to accomplish school improvement projects shall instead be used to reduce the burden of property taxpayers of the District in the most legally appropriate manner at the earliest possible date.
2. The Superintendent and/or designee is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to redeem outstanding Authority Bonds and District Bonds on August 1, 2010, or to take alternative actions to reduce taxpayer burden, and otherwise carry out, give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.
3. This Resolution shall take effect from and after the date of its passage and adoption.

* * * * *

PASSED AND ADOPTED this _____ day of April, 2009, by the following vote:

AYES:

NOES:

ABSENT:

President of the Board of Education
Santa Barbara High School District, Santa
Barbara County, California

ATTEST:

Clerk of the Board of Education
Santa Barbara High School District,
Santa Barbara County, California