

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT
Bond Oversight Committee Minutes
November 3, 2011; 3-5 p.m.
SMCCCD District Office Board Room

Members Present:

- ✓ Linda Asbury, representative of business; term limit 1/2012
- ✓ Gita Dev, community member; term limit 1/2012
- ✓ Steve Dworetzky, active in group supporting the District (Foundation); term limit 11/2014
- ✓ Gus Petropoulos, active in organization in support of District (retirees)
- ✓ Alan Talansky, representative of business; term limit 11/2014
- ✓ Victor Torreano, community member; term limit 11/2014
- ✓ Adrienne Zanini, representative of bona-fide taxpayers association; term limit 2/2015

Members Absent:

- ✓ Jeff Gonzalez, student member, term limit 6/2012
- ✓ Maritess Lagandaon, community member; term limit 11/2014
- ✓ Sylvia Merkadeau, representative of seniors; term limit 11/2014

District Staff Present: Barbara Christensen, Kathy Blackwood, José Nuñez

Guests Present: Donna Bischoff and Maxine Turner, community members

Call to order

Chairman Asbury called the meeting to order at 3:07 PM

Approval of minutes from meeting of August 4, 2011

No Discussion

	Asbury (C)	Dev	Dworetzky	Gonzales	Lagandoan	Merkadeau	Petropoulos	Talansky	Torreano	Zanini
Motion							X			
Second								X		

Ayes	7
Noes	0
Abstain	0

Motion Passed

Review/Accept cumulative report on expenditures through September 30, 2011 for Measure A expenditures (Blackwood)

Executive Vice Chancellor Blackwood presented the Bond expenditure summary. She reported that all Measure C funds and interest are fully expended. Measure A includes just under \$25M not yet encumbered or expended and is for use on projects that will be completed by August of next year. Director Christensen said that, at the request of the committee, the highlighted projects in the Measure A detailed expenditure report show projects that have changed since the June 30th report.

Chairman Asbury asked Executive Vice Chancellor Blackwood if there was anything in particular in the reporting that should be called out. EVC Blackwood said that all was going as planned. She noted that the bond financial audit is just about finished and that we have not been informed of any findings or significant issues. She also said a bond performance audit had been completed. She said that the IRS had also completed an audit of the bonds and there were no findings. Chairman Asbury suggested that this information be shared with the public. Mr. Petropoulos asked if any of the other local school districts have gone through IRS audits but EVC Blackwood did not know of others at this point. Director Christensen asked EVC Blackwood to explain how a performance audit is done. EVC Blackwood explained that a random sample of transactions, based on a percentage of the total bond dollars, are pulled and all backup related to that transaction such as purchase orders, contracts and receipts, etc. are traced back to a particular bond project to ensure the funds were spent and documented appropriately. Mr. Talansky asked if the auditor also looks at bids, and Vice Chancellor Nuñez said they did to a certain extent. Mr. Petropoulos asked if actual spending is matching budgeted spending or if there are savings on projects that will be reallocated. Vice Chancellor Nuñez noted that at the moment there are savings of \$1M to be redirected. He explained that at end of project there is a reconciliation of expenditures and the monies are reallocated. Mr. Talansky asked about the line item for commitments for building 10. Mr. Nuñez indicated that the funds were primarily for project closeout and that it normally it takes about a year or two to close out a project after the reconciliation is completed.

Mr. Talansky asked about bond money lost as a result of the Lehman collapse and how much and when the District will be reimbursed. EVC Blackwood said she doesn't have any firm information on this yet but believes that the District will receive between \$4 and \$5M. These monies will go back into the capital program.

	Asbury (C)	Dev	Dworetzky	Gonzales	Lagandoan	Merkadeau	Petropoulos	Talansky	Torreano	Zanini
Motion			X							
Second							X			

Ayes	7
Noes	0
Abstain	0

Motion Passed

Update on construction projects; discussion of District Master Plan and Measure H (Nuñez)

Vice Chancellor Nuñez noted that since his update at the August 4th meeting, there had not been any significant change or activity. He reported that there are currently 5 or 6 active projects. A bid for the Cañada building 5 dining room remodel, a \$1M project, was awarded at the last Board meeting. The Cañada electrical infrastructure project is ongoing and scheduled for completion in February or March of next year. The project involves the complete replacement of all electrical infrastructure on campus and will require a campus wide closure for approximately 8 days. A similar project is underway at Skyline College and will require a 5-day campus closure.

Mr. Torrealano asked if the Cañada building 5 project included a kitchen. Vice Chancellor Nuñez said that the project only involved the dining room and that the kitchen had already been renovated as part of a state funded project. He explained that state funding cannot be used for dining areas, roadways, bookstores and other enterprise functions which is why a bond project was included for the dining room remodel.

Vice Chancellor Nuñez reported that the CSM North Gateway project is on hold due to pending litigation. He said that the low bid on this project was \$9M and the bid was valid for 60 days. However, it is now 120 days since the bid was received and, due to the litigation, the bid was not awarded. Once the litigation is settled, the project will be re-bid. Another project on hold due to litigation is the \$2.5M demolition of building 20/greenhouse at CSM and the creation of a parking lot.

Update on B20 and trees litigation (Christensen)

Director Christensen reminded the committee that there are two lawsuits pending. One is regarding tree removal and pruning around the perimeter of CSM and the other regarding CSM's building 20 and garden. On Friday there was a hearing in the tree removal case. The district is asking for dismissal of the case because it believes that the statute of limitations for filing the lawsuit was missed. We are waiting for the judge to make a ruling. If the ruling is in our favor we will go ahead with the North Gateway projects. Otherwise, the case will go to trial in February or March.

Regarding CSM's Building 20/Garden, Barbara reminded the committee that the district's master plan and initial study originally called for renovation of building 20 which housed the horticulture program. State funding for the project was approved and committed however, that funding did not materialize. Subsequently, due to an increasingly unfavorable budget situation and reduction of operating funds, the Board set its policy to focus on transfer education, career/technical education and remedial education. At the same time, the faculty, as part of their ongoing program review process, reviewed the Horticulture program and on recommendation from the academic senate, the program was eliminated along with several other programs. Building 20 was then scheduled for demolition.

Because of the change in the project from renovation to demolition, the district contracted with a scientific firm to produce an addendum to the original Initial Study, analyzing the environmental impact of remodeling the building vs. demolishing the building. The conclusion was that the impact would not be significant. The board then adopted a plan to demolish the building. A lawsuit was filed and the district and the suing party met to discuss concerns about the addendum. The board rescinded the addendum and it was rewritten to address all of the items that the suing party thought were not addressed in the original addendum. The board approved that second addendum and adopted a plan to demolish and a second lawsuit has been filed. The first lawsuit was dismissed.

Linda Asbury asked where funds for legal fees related to this suit come from. EVC Blackwood believes that the fees come out of bond monies. Vice-chairman Dev asked whether it is appropriate to use bond funds for legal fees. EVC Blackwood said that the fees are part of

managing the project. Director Christensen noted that, due to the complex nature of CEQA law, an attorney specializing in the subject was hired.

Ms. Dev asked for clarification about the trees that had been removed and the lawsuit that had been filed. Director Christensen explained that trees had been pruned and removed from the perimeter of the campus for fire mitigation and other reasons and that some of the neighbors have since been concerned about lights from the parking lot and loss of privacy and have sued the District.

Election of officers for 2012

Chairman Asbury noted that the chair and vice-chair positions will be vacated after this meeting because her term and vice-chair Dev's terms will have ended. She asked for nominations from the floor for a new committee chair and vice-chair. Mr. Dworetzky nominated Mr. Talansky as chair and Mr. Petropoulos seconded the nomination. Mr. Talansky accepted the nomination. There was no further discussion. After a vote by the committee, Mr. Talansky was elected chairman with all members voting "Aye".

Mr. Petropoulos nominated Mr. Dworetzky as vice chair. Mr. Talansky seconded the nomination. There was no further discussion. After a vote by the committee, Mr. Dworetzky was elected as vice-chairman with all members voting "Aye".

Discussion of new members of BOC

Ms. Dev suggested Ann Edminster who is with the Green Building Council and has helped design green building standards. Ms. Asbury brought forward the name of Cory Geiger who leads the Economic Development Growth Enterprise (EDGE) program which is an affiliate under the San Mateo Chamber of Commerce. The potential members' information has been forwarded to Director Christensen. Ms. Christensen reminded the committee that members are appointed by the Board of Trustees. She said that, by law, the committee must have a business member, a senior, a student, a representative from a bona fide taxpayer association and an organization affiliated with college district. Other members of the committee are general members. She asked committee members if there were organizations that they would like her to check for potential new members. In the past she has asked the San Mateo Chamber, Senior Focus, Jarvis/Gann, Silicon Valley Taxpayers and Tax Reform for suggestions for potential members. It was suggested that Director Christensen contact SAMCEDA, the Sierra Club and other area chambers of commerce. Ms. Christensen said that potential members will be interviewed by a small committee of district staff and recommendations will be taken to the Board.

Director Christensen said that she will ask the associated students to appoint a new member to the committee since Mr. Gonzales, the current student member, has missed three meetings and thus is ineligible to continue as a student representative.

Committee members' comments/requests for future agenda items

Ms. Dev suggested that all new members be informed about committee procedures and Robert's Rules of Order. Director Christensen said that information about how the public can make

comments and information about the purview of the bond oversight committee could be added to the top of the meeting agenda. Members Dwoertzky and Talansky indicated that this issue would be discussed at the next meeting.

Public Comments

Donna Bischoff expressed concerns about receiving information in a timely fashion. In particular she referenced her request for the operating expenses for the Athletic club which she received two months after the end of the fiscal year and also the availability of a report which was referenced by CSM's president Claire at a board meeting related to the decision to close the horticulture as well as other programs. Ms. Bischoff also asked Director Christensen about the term "outdated programming" which was mentioned earlier in the meeting related to the horticulture program discontinuance. Ms. Christensen said that the term was not directed at the horticulture in particular rather that, in general, lack of student interest, lack of jobs in the community and out-of-date programming can be among the reasons that programs are discontinued. Ms. Bischoff said that she believes that community members articulated a huge demand for the horticulture program and that if the program were resurrected the classes should be reviewed to make sure that they are what the community wants.

Ms. Bischoff said that she had met with Mr. Nuñez regarding the science building. She understood that this building had been leaking. Mr. Nuñez said that McCarthy is completing a warranty repair on the building. He said that the building has been water tested and the leak is fixed. Ms. Bischoff asked whether the BOC has any control over whether or not McCarthy absorbed that cost or whether they passed it on to another project that they are working on and who is checking to make sure the costs aren't being added to another project. Mr. Nuñez said that he believes the cost is covered by the builder's insurance company.

Ms. Bischoff reviewed a report that Ms. Turner had received regarding expenditures on Building 10. She asked about a line item titled "other equipment" which is about \$3M. Vice Chancellor Nuñez said that it covers items such as digital and computer equipment, dining equipment, equipment for the student services areas and the like. Ms. Bischoff asked if the line item could be broken down. Ms. Christensen explained that the document that is being discussed had just been emailed to Ms. Turner prior to the meeting. Ms. Christensen and Mr. Nuñez offered to meet with both Ms. Turner and Ms. Bischoff to discuss the report in detail and indicated that she would arrange a meeting time next week.

Ms. Turner noted that earlier in the meeting it was indicated that the district had given a disc to the IRS auditors and she wondered whether that information was available to her as a member of the public. Ms. Blackwood said that it is not online and that it was not a trivial expense to create the disc. However she said if there was information that Ms. Turner wanted to know that it could be provided.

In response to Ms. Dev's question about information that is online, Mr. Nuñez explained that the District's web page contains a lot of information on facilities and available directly to the public. The Bond Oversight Committee's webpage also has a wealth of information available to the public.

Chairman Asbury requested that Ms. Bischoff state her additional questions and that Director Christensen would prepare a written response.

Regarding BOC committee membership, Ms. Bischoff had concerns about student participation in the group and cited the meeting time as a possible problem. She also was concerned that she believed the group did not have a member from a bona fide taxpayer organization and asked for clarification on BOC committee membership.

Ms. Turner stated that she believes the BOC should be made aware of the concept of public trust and what it means to represent the citizens. She is frustrated with having supported the bond issues and then finding that the things she thought she had voted on were actually not built. She said that her concern is not whether expenses for building 10 were charged to the right accounts, but rather where the decision are made to tear down buildings and build something like building 10 and where that decisions fits in to the bond ballot language such as “remodeling”, “updating”, “student safety”, and “classrooms”. She said that these are the questions she expected the BOC would be asking. She referenced the trees that had been cut down and asked when the discussion took place about whether the proper environmental work had been done and whether the BOC has asked the right questions about this matter. She believes the BOC needs to think more broadly about the questions that they are asking and should be referring back to the bond language. She said she believes that the BOC is here to help and to perform a public service and doesn’t believe that there is evil doing going on. However she believes the public trust has been lost.

Chairman Asbury said that during her 4-year tenure there was always adequate and timely information for any question that was asked. She said that she believes that some community members do not like the decisions being made even if they have been made properly and with transparency and that it is not a matter of the BOC not doing the right thing. Mr. Talansky said that the Board of Trustees makes the decisions on the projects that are carried out. The BOC makes decisions on whether the bond money is spent on items listed in the projects list. It is not the BOCs charter to make decisions about the nature of the projects. Rather, it is their role to make sure that bond money is not being misspent. He reiterated that the Board of Trustees is an elected body and makes the decisions about projects to be built and courses to be continued or discontinued. The BOC reviews the financial information and processes. Mr. Dwoertzky suggested that information be distributed before each BOC meeting which explains the purview of the Bond Oversight Committee.

Ms. Turner added that she wonders why the BOC needs to be in existence if they are only an oversight body. Ms. Christensen and Ms. Asbury said that the law requires a Bond Oversight Committee.

Ms. Dev said that she believes there is a disconnect between what the public thinks the bond oversight committee is doing and what it is actually doing. She said she believes the facilities department is well organized and well run but believes that the committee’s role is not understood.

Schedule of future meetings: February 2, 2012, May 3, 2012, August 2, 2012 (1st Thursday, every 3 months)

Motion to Adjourn

Discussion: None

	Asbury (C)	Dev	Dworetzky	Gonzales	Lagandoan	Merkadeau	Petropoulos	Talansky	Torreano	Zanini
Motion			X							
Second								X		

Ayes	7
Noes	0
Abstain	0

Motion Passed.

Meeting adjourned at 4:30 p.m.