

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT
Bond Oversight Committee Minutes
December 3, 2015
SMCCCD District Office Board Room

Members Present:

- ✓ Frank Pagliaro, community member
- ✓ Gus Petropoulos, active in organization in support of District (Retirees and Foundation)
- ✓ Victor Torreano, community member
- ✓ Adrienne Zanini, representative of bona-fide taxpayers association
- ✓ Dennis Zheng, student representative (by phone)

Members Absent:

- ✓ Alan Talansky, Chair, business representative
- ✓ Steve Dworetzky, Vice Chair, community member

District Staff Present:

- ✓ Raymond Chow, Chief Financial Officer
- ✓ Barbara Christensen, Director of Government & Community Relations
- ✓ José D. Nuñez, Vice Chancellor, Facilities Planning, Maintenance & Operations
- ✓ Karen D. Powell, Executive Director, Facilities Planning & Operations
- ✓ Chris Strugar-Fritsch, Director of Capital Projects
- ✓ Carina Warne, Executive Assistant
- ✓ Jessica Pulido, Administrative Assistant

Guests Present:

- ✓ Donna Bischoff, community member/student
- ✓ Maxine Turner, community member
- ✓ Keith Weber, community member
- ✓ Gohar Momjian, community member
- ✓ Chris Lynch, Jones Hall, A Professional Law Corporation, Legal Representation

Call to order

Mr. Petropoulos called the meeting to order at 3:03pm

Public Comments on Non-Agenda Items

None

Approval of Minutes from Meeting of September 3, 2015

	Dworetzky	Pagliari	Petropoulos	Talansky	Torreano	Zanini	Zheng
Motion					x		
Second		x					

Ayes	5
Noes	0
Abstain	0

Motion passed

Review of Roles and Responsibilities of the Bond Oversight Committee

District Bond Counsel Chris Lynch reviewed the role and responsibility of a Bond Oversight Committee, which is required under the implementing legislation for Proposition 39 (which amended the California Constitution to authorize community college districts to issue general obligation bonds with a 55% vote of District registered voters). Mr. Lynch explained that the Committee shall consist of 7 members appointed by the District’s Board of Trustees. Members may not be employees or officials of the District; no vendors, contractors or consultants can sit on the Committee. The term of office is two years and a member can serve no more than three consecutive terms. Members are volunteers and do not receive compensation. The purpose of the Bond Oversight Committee, which holds public meetings, is to review building fund expenditures and submit an annual report to the community. Meetings should be held at least once a year, require a quorum (majority of total members), are open to the public, follow an agenda, have a secretary to take minutes which are approved at the next meeting and posted on the District website. Members are advised to refrain from discussing business among themselves outside of the meeting, including email or phone calls.

The Bond Oversight Committee reviews bond expenditures to ensure that bond proceeds are spent on voter-approved projects as contained in the Bond Projects List. The Committee is not a decision-making board. District staff attend meetings to report on spending and the progress of projects. The District’s Board of Trustees must provide the Committee with responses to all findings, recommendations, and concerns addressed in the annual, independent financial and performance audits within three months of receiving the audits. Bond proceeds cannot be used for teacher or administrative salaries, school operating expenses, or staff costs for providing technical or administrative assistance to the Committee.

Mr. Pagliaro asked about the Foothill De Anza case mentioned in Mr. Lynch’s letter in response to Ms. Turner’s questions to the Committee. Mr. Lynch explained that, in the Foothill De Anza case, the California Court of Appeal reviewed a challenge that the list of projects in a Proposition 39 ballot measure was not specific enough to meet the requirements of Proposition 39. Mr. Lynch explained that San Mateo County Community College District chose not to include a reference to its Master Plan to identify projects to spend bond proceeds on. Foothill De Anza did reference its Master Plan to define projects. Ms. Turner asked for clarification between a list of “purposes” and “projects”. Mr. Lynch looked up the requirements for a Proposition 39 ballot measure in the Constitution and read Article 13A Section 1(b)(3)(A) (“A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses”) and Section 1(b)(3)(B) (“A list of the specific school facilities projects to be funded ...”). Mr. Lynch pointed to the Foothill De Anza ruling, and read an excerpt from the decision in that case: “...The critical factor in assessing whether the project

list complied with Proposition 39 is whether it allows for meaningful approval and oversight of the bond expenditures' Thus, if the list defines or identifies the projects in a manner that clearly apprises the voters, the auditors, and the public oversight committees of the types of projects for which the money is intended to be used, that is sufficient...”).

The Committee may (but does not have to) receive and review District performance and financial audits, inspect facilities and grounds, review deferred maintenance plans, and review efforts by District to implement cost savings measures.

Response to Questions from previous meeting

Ms. Terner discussed her concerns with the bond language. She said she believes the bond language is broad and vague. In her opinion, the voter's do not know what specific projects they are voting for. Mr. Pagliaro said Ms. Terner's comments should be directed to the Board of Trustees, not the Bond Oversight Committee. Ms. Christensen said the District put a lot of thought into how to demonstrate that expenditures are made for items in the bond projects list. The District links every single expenditure in the financial report to the Bond Project List; sometimes with multiple listings.

Mr. Weber discussed his concerns with the College of San Mateo Aquatic/Athletic Facility. He said the Bond Projects List included “plumbing improvements” and then a \$6.7M Aquatic/Athletic Facility was built. Mr. Nuñez said that the facility also houses interior and exterior instructional facilities. Ms. Christensen said she did a study recently and there are more student visits than member visits on days when school is in session. Ms. Christensen also said the building would be vacant almost half a year if it were not for the members. The revenue from the members helps to maintain the facility.

Mr. Weber said he is concerned and frustrated with what the voters are told they are paying for. Mr. Petropoulos said the issue is really with the bond language and these concerns need to be taken to the Board of Trustees. Ms. Bischoff said these vagaries do not meet the intent of what the voters approved. Mr. Pagliaro said the District has been given this bond language by the Court of Appeals and we have to work with it. Mr. Petropoulos said the sense of trying to protect the public's interest exists within the Bond Oversight Committee within the limits of what they can do. Mr. Torreano said whether we agree or not, the voters have put their faith in the District to do what they determine is in the best interest of the students.

Ms. Terner said, in her opinion, the District's Facilities Master Plans was created after the Bond passed as “wish lists”. She said, also in her opinion, theaters and Creative Arts facilities are not what the students need.

Information on Environmental Impact Report (EIR) for Campus Projects – Public Comment Period

Ms. Christensen showed the Committee the Draft Environmental Impact Report (EIR) which includes projects on all three campuses and the residential project at Skyline College. Ms. Christensen also showed the Committee the Addendum which contains the technical reports. The final EIR includes responses to seven comments, findings for all three colleges and the Mitigation and Monitoring Program (MMP). The Board of Trustees is scheduled to approve the FEIR next Wednesday, December 9th. When the Board adopts it, Ms. Christensen will file a notice with the County Clerk the next day, and that starts a 30 day period for anyone who has commented on the Draft or Final EIR to bring action to stop the District from moving forward.

Ms. Terner asked if there have been any expenditures from Measure H. Ms. Christensen answered yes; no construction has occurred, just planning.

Review/Accept Cumulative Report on Expenditures through September 30, 2015 for Measure A and Measure H

Mr. Chow explained that the Oversight Board will receive the Annual Performance and Financial Audit at its next meeting. The Performance Audit analyzes expenditures to make sure they are consistent with the voter approved projects list. The auditors will check our expenses one by one. Ms. Christensen said that the auditors pull out actual expenditures and match them to the project list. During the last audit, the auditors reviewed 25% of our expenditures. They do a very thorough job. They send letters to vendors to confirm what is spent. The Financial Audit makes sure that project expenses are not spent on Administrator or Faculty salaries, operating costs or costs associated with the Bond Oversight Committee.

Mr. Raymond Chow reported Measure A projects are projected to be completed by June 2016. Total Measure A budget is \$468M. Total expenditures to date are \$463,758,348 or 99%. Total commitments to date are \$1,270,438 or 0.028%. Balance available to date is \$2,971,214, which is less than 1%.

For Measure H, voters approved \$388,000,000 and the first issuance was \$127,000,000 in May 2015. Total expenditures to date are \$1,826,104 or 1.44%. Total commitments to date are \$1,251,328 or 0.99%. Balance available to date is \$123,922,568 or 97.58%.

Districtwide Projects Measure A budget is \$65,844,630. YTD expenditures are \$62,795,488 or 95.37%. Commitments are \$307,744. Balance available is \$2,741,398. The top three unfinished projects are the Project Requirements/Compliance (CEQA, Legal representation, etc.); Computer Lab Replacement Project; and Contingency. Districtwide Projects Measure H budget is \$47,349,001. YTD expenditures are \$1,568,876 or 3.32%. Total of 11 projects. Available balance is \$45.8M.

Cañada College Projects Measure A budget is \$36,246,557. YTD expenditures are \$36,083,092 or 99.55%. Commitments are \$101,590. Balance available is \$61,875. There is only one unfinished project: Emergency Building Repairs. Cañada College Projects Measure H budget is \$23,860,000. YTD expenditures are negative due to the plan to spend down Measure A, and transfer those expenditures from Measure H to Measure A. Total of 4 projects. Balance available is \$24.4M.

College of San Mateo Projects Measure A budget is \$269,738,714. YTD expenditures are \$268,802,981 or 99.66%. Commitments are \$836,348. Balance available is \$99,385. The top three unfinished projects are Emergency Building Repairs, North Gateway and Small Projects. College of San Mateo Projects Measure H budget is \$15,520,999. YTD expenditures are \$140,719 or 0.91%. Total of 7 projects. Balance available is \$14.8M.

Ms. Terner asked about the North Gateway project being completed. Ms. Powell responded that the project is completed and occupied but there is still some punch list work to complete. Ms. Terner asked if there are fewer parking spaces and Ms. Powell responded that there are more than 100 additional parking spaces.

Skyline College Projects Measure A budget is \$96,170,099. YTD expenditures are \$96,076,787 or 99.91%. Commitments are \$24,757. Balance available is \$68,555. The top two unfinished projects are Small Projects and Emergency Building Repairs. Skyline College Projects Measure H budget is \$40,270,000. YTD expenditures are \$704,206 or 17.5%. Total of 6 projects. Balance available is \$39.2M.

Cumulative bond interest earned as of 9/30/15 for Measure A is \$33,493,140. Expenditures are \$21,109,557 or 63.03%. Commitments are \$3,583,794. Balance available is \$8,799,789. Measure H cumulative interest earned is \$1,084,873. Interest is holding in Measure H interest reserve account and will be released when the construction budget is finished. Estimated FY15-16 interest income is \$1.2M. The County Pool current interest rate is 0.9%.

Mr. Pagliaro asked about Architect, Surveyor and Engineering fees. Mr. Nuñez said those expenses are spread out throughout the project. Each project has three phases, the phases are Preliminary Phase, Construction Phase, and the last phase is installation of Furniture, Fixtures and Equipment (FF&E). Each phase has a specific account to link with relevant expenses. Ms. Powell said in the Preliminary Phase, there are often macro level explorations, for example, we had to survey all boundary lines at Skyline College and this is considered a “campus wide” initiative, not project specific. Mr. Nuñez said one project will have several hundred line items per fund number in BANNER. Ms. Terner asked if you can also look up by vendor. Mr. Nuñez answered yes.

Approve Report to the Community for 2015

Ms. Christensen presented the Annual Report to the Community. The Report was completed early this year because the Committee does not meet again until March 2016. Final expenditures are not entered until December 31st. Ms. Christensen said if it is approved today, she will wait until we have final expenditures, present to the Board of Trustees and then send to press and post on webpage. Mr. Pagliaro abstained. He also said the report uses editorial words that are not necessary for a report that is supposed to be factual. Ms. Christensen said it is the Bond Oversight Committee’s report and they may decide to change the wording if they wish. Mr. Pagliaro said there seems to be more detail in this report than there has been in the past and he appreciates that. Ms. Christensen said she will make the changes discussed, present it to the Board of Trustees, and then bring it back to the Bond Oversight Committee on March 3rd.

Update on CIP3 Projects, Rollout and Timing

Mr. Nuñez discussed CIP3 planning efforts that are currently underway. The Scheduling Consultant and Cost Estimating Consultants selection processes are completed. The California Environmental Quality Act (CEQA) is being submitting for Board approval in December 2015. Construction Management services are in contract negotiations. The Design Standards revisions are completed. Swing Space Planning (ONUMA) is in progress. Architect and Engineer (A&E) Selection for design of First Wave Projects is completed. The 2016 Annual General Contractor and Major Subcontractor Prequalification process is in progress.

Mr. Pagliaro asked about Swinerton’s \$25M Contract. Mr. Nuñez said the \$25M Swinerton contract is Board approved, and for Construction Management Services over a period of 7-9 years. Mr. Pagliaro asked what percentage of the total program cost is Construction Management services. Mr. Nuñez said we anticipate our program to be a total of \$450M which includes redevelopment funds, state funding, Prop 39 and general fund 4 funding. Swinerton’s contract is 4-6% of the total program cost.

Ms. Powell said that the \$25M contract represents a scope of services that the District requested through a Request for Qualifications (RFQ) process. The District will have Swinerton Project Managers oversee the Pre-Construction phase and Construction phase for each project. \$10M of the contract amount has been allocated to specific projects; the balance of the \$25M will be allocated to specific projects as plans solidify and the required level of construction / project management effort can be determined.

Mr. Pagliaro asked about the bidding process for Construction Management Services. Ms. Powell said the District completed a competitive RFQ selection process. The District interviewed a short list of three firms. The other two firms were GLEEDS and Harrison & Associates. Swinerton's hourly rates were significantly lower than the other two firms.

Mr. Torreano asked how much is set aside for contingency per project. Mr. Nuñez responded that the norm is ten percent.

Communication from Maxine Turner

Ms. Turner sent a letter to the Board of Trustees and requested the letter be shared with the Bond Oversight Committee as well. The letter is included in the Bond Oversight Committee's packet.

Committee Members' Comments/Requests for Future Agenda Items

Ms. Christensen will revise the Report to the Community and it will be reviewed at the next meeting.

Mr. Torreano requested a Schedule of the First Wave Projects.

Mr. Pagliaro requested to see the Bond Project List and the Bond References for upcoming projects.

Schedule of Future Meetings: March 3, 2016, June 2, 2016 and September 1, 2016 (first Thursday every three months)

Motion to Adjourn

	Dworetzky	Pagliaro	Petropoulos	Talansky	Torreano	Zanini	Zheng
Motion					x		
Second			x				

Ayes	5
Noes	
Abstain	

Motion passed
Meeting adjourned at 4:40 pm.