



SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT
Bond Oversight Committee
March 4, 2021 Meeting Minutes
Location: Zoom Call

Members Present

Rosanne Foust
James Ruigomez
Anne Campbell
Michael Duncheon
Rocsana Enriquez
Shelley Kessler
Anna Mahoney
Bill Rundberg
Maxine Turner
Bill Collins

Chair
Vice Chair

District Staff Present

Michael Claire
Bernata Slater
Peter Fitzsimmons
Chris Strugar-Fritsch
Arlene Calibo
Jose Nunez
Marie Mejia
Nicole Wang
Jack Herbert

Chancellor
Chief Financial Officer
District Budget Officer
Director of Capital Projects
Facilities/Public Safety Business Manager
Vice Chancellor of Facilities Planning Maintenance & Operations
Project Manager II
Controller
Director of Construction Management

Other Attendees Present

Ann Kennedy
Jeff Scogin
Mike Chegini
Jennifer Richards

A Kennedy Group
A Kennedy Group
A Kennedy Group
Crowe LLP

Call to Order

The meeting was called to order at 3:01 p.m.

Approval of Agenda

A motion was made by Ms. Campbell and seconded by Mr. Ruigomez to approve the agenda. The agenda was unanimously approved as presented.

Approval of the December 3, 2020 Meeting Minutes

A motion was made by Mr. Ruigomez and seconded by Ms. Kessler to approve the minutes. The minutes were unanimously approved as presented.

Public Comment on Items not on the Agenda

There were no public comments for items not on the agenda.

Ms. Foust thanked Chancellor Claire, the Board of Trustees and everyone involved in the amazing things the college district has been doing to support the community during this pandemic.

Communications Received by Committee Members

A question was submitted by a member of the public, Mr. Reiner. Committee members Mr. Collins and Ms. Turner ([see email from Ms. Turner appended to this document](#)) also submitted questions.

Staff Reports

Chancellor Claire recognized Ms. Foust's comments on what the District has been trying to accomplish. He stated that the college made the decision to continue to offer courses online through the fall semester. He let everyone know that the decision was made to continue offering courses online through the fall because the class schedule will be released at the end of March and a direction was needed. He also stated that all of the community colleges he recently had a meeting with, are also continuing to offer online classes through the fall. Another reason for this decision was, in looking at student success in person and online, the District has found no marked difference.

Ms. Slater stated that due to historically low interest rates, there is a proposal going to the Board on March 10th to refinance some of the bonds to provide savings to the taxpayers.

Ms. Foust asked Ms. Slater to give an accurate figure of the proposed savings when able.

Ms. Slater said that when all of the closings happen, she will be able to give an accurate amount.

Mr. Duncheon asked if we're using the proceeds to cover the cost of refinancing.

Ms. Slater stated that the refinancing is the net of the cost of issuance.

Measure H Financial and Performance Audits for Fiscal Year 2019/2020

Ms. Richards reported on 2019 and 2020 Financial and Performance Audits. The Balance Sheet and Revenues and Expenditure data was reviewed. Ms. Richards stated that Crow, LLP issued a clean and unmodified opinion on the financial statements for the Measure H bond fund which are complete and accurate without material exception. The Performance audit results indicated that, in all significant respects, the bond funds were expended on specific projects developed by the Board of Trustees and approved by the voters, in accordance with the requirements of Proposition 39, with no exceptions found.

Mr. Ruigomez asked if the Measure H Bond Project List language on page 62 was on the Measure H ballot measure and recommended that the ballot language be posted on the front of the report.

Ms. Richards stated that page 23 of the packet (page 2 of the audit report) has the ballot language.

Ms. Kennedy clarified that this was the 75-word ballot statement rather than the full text ballot language.

Ms. Foust stated that the full text ballot language is listed on the Bond website. She stated that the objective is to have the ballot language front and center on the report to show what the statements cover.

Ms. Turner stated concerns about the ballot language on the ballot as being too vague for voters to understand the full scope of all of the projects being funded.

Ms. Foust stated that the ballot language is limited by a word count, that is why there is a need of supporting information. Sometime in the past the Bond Oversight attorney Chris Lynch, informed the committee as to the CBOC's roles and responsibilities. The roles and responsibilities are the tracking of the funds that are part of the bond measure of any project that is approved by the Board of Trustees. The Board of Trustees are the ones that determine the projects that then are a part of the bond. The CBOC then reviews those projects according to dollars spent. She asked Ms. Kennedy to speak more to this.

Ms. Turner stated her concerns again to make sure the voters were getting what they voted for.

Mr. Ruigomez called for point of order and stated that this agenda item is to ask questions about the financial and audit info.

Mr. Duncheon stated that if voters reviewed the ballot language and they were not specific enough to the projects, they can vote against the measure. Those who voted on the measure rely on the scope of the language.

Ms. Foust stated that everything has been laid out legally.

Ms. Turner asked the auditor did they compare the projects they reviewed to the ballot language or did they just review the list of projects that the board had adopted.

Ms. Foust stated that 75 words is what is allowed in the ballot language. The additional supporting documents exist for the voters to view and listed some examples.

Ms. Richards spoke to the question of Ms. Turner and stated that they look to the projects that were board approved and to the ballot language, but not in the specifics, only to the expenditures.

Ms. Foust clarified that the project list that Ms. Richards was referring to was the project list that the elected Board of Trustees approved based on the ballot language and the supporting documents.

Mr. Ruigomez thanked Ms. Richards and Crow, LLP for their work.

Ms. Foust reiterated that the outcomes of the Financial and Performance Audits were clean reports.

Measure H Annual Report (January 1, 2019 through June 30, 2020)

Mr. Chegini stated that the annual report is required as part of the CBOC board policy. This Annual Reports is transitional as the reports are being shifted from calendar year to fiscal year. He also thanked Mr. Ruigomez, Ms. Foust, Ms. Turner and Mr. Duncheon for being a part of the working group to review the report. He proceeded to go through the report pointing out specific details in each section.

Ms. Kennedy spoke to links on the Committee page in the annual report for the ballot language, financial and performance audits, and the committee meetings page on the website.

Mr. Ruigomez made a motion to pass the annual report and Ms. Kessler seconded the motion.

Mr. Duncheon stated that the purview of the committee is narrow, Board of Trustees decides on what projects to vote on in accordance with the bond measure and the CBOC reviews them according to the financials.

Ms. Turner spoke to her letter that she sent out in advance, that she feels that it's the job of the CBOC to bring items to the Board of Trustees attention if committee feels they have not approved something with adequate information. She stated that the Board had not received adequate information to base their decisions from the previous Chancellor. She feels that the CBOC is a fall back to the BOT and bring things to their attention.

Ms. Foust spoke to the letter from Ms. Turner and stated that if the Board of Trustees is looking for something above and beyond the CBOC's legal duties, she would like to hear it directly from the BOT members. She stated that the items in the letter should be discussed with the BOT directly as the CBOC is doing their job.

Mr. Ruigomez called for point of order. Speaking that the discussion between Ms. Turner and Ms. Foust in regard to Ms. Turner's letter is not part of the CBOC's duties and there are many other items on the agenda to discuss. He also stated that Ms. Turner's actions of raising the same issues time and time again were unbecoming of a CBOC member.

Ms. Foust called out Mr. Collins question of "Is this the best use of the committees time?" and she answered "no". She stated on the record that there is a process, and the committee has followed it.

Ms. Campbell thanked Ms. Turner for sending the letter for raising those issues to prompt her to do more in-depth research. She spoke to the report that is being asked to be approved at this current meeting, which does a good job of summarizing what has happened in the time period that it covers. She thanked all those involved that put the report together.

Mr. Duncheon stated that he did not feel that Ms. Turner's actions were unbecoming as a CBOC member.

Ms. Foust called for the roll call vote to approve the annual report. 8 Yes – 2 No. (Nays-Ms. Turner, Mr. Collins)

Mr. Chegini stated that the annual report will be posted to the bond website and presented to the Board of Trustees at the next BOT meeting.

Ms. Foust thanked the committee for the robust discussion. She apologized for the discussion getting heated due to the fact that we all care about our community, the students and best use of taxpayer money.

Update on Measure H Website

Mr. Chegini spoke to the request at the last meeting to break out the financial reports, so they are more accessible and walked the committee through the update to the website.

Ms. Turner thanked AKG for the improvements they have made for the CBOC information. She spoke to her opinion on the Gavilan Community College District annual report and would like an opportunity to present ways to improve the information before the next CBOC meeting.

Ms. Foust spoke to Ms. Turner on working with her on the next annual report for more transparency as everyone's goals are aligned. She also thanked AKG for their work. She then addressed Mr. Collins' emailed question about 'state law statute and constitution requirement of the bond project list and at what point it is in the process'.

Ms. Kennedy spoke to Mr. Collins' question and stated that Prop 39 is embodied now in the education code in the State of California. She spoke to the paragraph in the auditor's report; Article 13A, Section 1(b) of the California Constitution which speaks to the types of projects. "...bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county...". She spoke to the fact that the CA constitution is where you would go first and then to the education code.

Update on Capital Improvement Program (CIP3)

Mr. Nunez stated that there are no significant updates. He plans on presenting a full report on the next quarterly meeting. He did announce that Mr. Strugar-Fritsch will be retiring April of 2021. Project manager Ms. Mejia will be assuming some of Mr. Strugar-Fritsch's responsibilities.

Program Financial Reports

a. Mr. Scogin walked the Committee through a review of the Financial Reports for Measures H as of 12/31/20.

Ms. Turner spoke to previous reports showing a breakout of the consultant and project management fees and would like to see that info on one of the financial reports.

Mr. Scogin brought the committee's attention to the Bond List Revision report which shows the project associated with District-wide overhead and project management fees.

Ms. Turner stated that this info provided did not answer the question and referred to previous larger printed submittals, which noted "These projects include CIP management and support services and also these projects include Swinerton construction management fees". She stated that it's impossible to track those costs in the District-wide Project Requirements/Compliance and would like to see a separate category for project administration costs.

Ms. Kennedy spoke to Ms. Turner and her statement of previous reports stating management fees and will report back at the next meeting.

Ms. Foust asked Ms. Turner to forward what she is referencing to the committee and would also go back through the previous reports.

A motion was made by Mr. Ruigomez and seconded by Ms. Kessler to approve to accept the Program Financial reports. The reports were unanimously approved as presented.

Mr. Chegini notified the committee that committee member Rocsana Enriquez had left the meeting.

b. Mr. Scogin walked the Committee through a review of the Fiscal Year 2020-2021 2nd Quarter Bond List Revisions.

Ms. Foust asked if the new projects were brought by the Board of Trustees. Mr. Scogin said he would have to defer to the District to the specific process but mentioned the District's project initiation form that is used to inform the creation of the project as part of the BLR process.

Ms. Turner stated that she feels that the project titles are not clear for what buildings are being discussed and asked for more clarification on what the B9 project is and what projects are listed as repairs. Along with the differences between repairs that deal with annual operating budgets and repairs that end up being funded by bond funds.

Mr. Nunez responded and asked Ms. Mejia to respond to Ms. Turner's question. Ms. Mejia explained the need for relocations of various programs to Building B9. Mr. Nunez added support to Ms. Mejia's explanation along with stating that he will provide specific language to the building names to AKG.

Ms. Foust thanked Mr. Nunez for adding in more specific language including repair information.

Mr. Ruigomez stated that the college district is under a community workforce agreement for numerous projects with the build and trade council. Which supports the workers and the community during the pandemic.

Mr. Nunez stated that the governor's office deemed construction essential work. Also stating there has been a slight cost increase due to the pandemic.

c. Mr. Scogin walked the Committee through a review of the Master Project List Update.

Ms. Turner commented that it's good to have the original budget information but doesn't know how much that helps with significant changes or how budget money has been spent. Along with the descriptions not being defined enough to get to the total budget.

Ms. Foust suggested taking the footnote of 'Current Budget includes Funding Sources: Measure H' and 'Original budgets listed are as of 12/31/2019' and put that in the Master Project List Report heading.

Proposed Next Meeting Date

Mr. Ruigomez pointed out the next meeting date of Thursday, June 3, 2021.

Future Agenda Items

Mr. Duncheon mentioned the controversy over the prior chancellor and it having any bearing over the work the committee is currently doing and felt the committee should keep an eye on it.

Ms. Foust called on Chancellor Claire to respond. Chancellor Claire stated that the work that is being continued with, is separate from the investigation and does not think it has any bearing on the current work. In the future he may give a full report on what, if any, practices may have changed as a result of the investigation and an inward look at the internal processes and procedures.

Ms. Foust asked the committee if there were any future agenda items that come up, to email both Ms. Kennedy and Mr. Chegini and she will work with AKG to get them onto the agenda. She also encouraged the committee to look at the website and review all the legal background for the Bond Oversight Committee, review the minutes of the Board of Trustees, because they have spent quite a bit of time discussing the numerous projects at the District, and to gather insight that helps the Bond Oversight Committee. She thanked the committee for the robust discussion. She mentioned the help of the maps, from Chancellor Claire, that each of the colleges have, which has helped her cross reference the projects. She also asked the committee to understand that items discussed need to have the majority of committee members in agreement. She has asked AKG to think about how the committee needs to determine time and scope and other items for the committee.

Adjournment

Ms. Foust adjourned the meeting 4:34 PM.

Email communication from Committee Member Maxine Turner, submitted to the Bond Oversight Committee on March 3, 2021, included below:

Dear BOC Colleagues,

I have long questioned whether the two recent SMCCCD bond measures adequately described the projects that would eventually be built with bond money. Given my knowledge about the flawed process for identifying bond projects, I cannot vote to approve the 2019-2020 Annual Report because nothing in the ballot language “clearly apprises the voters, the auditors, and the public oversight committees” about the costly Canada B1 Kinesiology & Wellness building.

It is the job of the Bond Oversight Committee to ensure the voters and taxpayers that bond money is spent in accordance with ballot language and only for the specific projects identified on the ballot as required by Proposition 39 and state law. For the BOC to do its job, we need to confirm that the voters were able to know what they were voting for. As Chris Lynch of Jones Hall consultants stated at our 12/5/19 meeting: “...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** (emphasis added) 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....”

My reasons for not being able to support the Annual Report follow:

1) The language on the actual ballot stated: *“To prepare College of San Mateo, Cañada College, and Skyline College students for universities and high demand jobs; modernize math and science classrooms and labs; upgrade computer, biotechnology and job training facilities; upgrade access for disabled students; ensure classrooms meet earthquake, fire and safety requirements; and replace aging infrastructure with energy efficient systems, shall San Mateo County Community College District be authorized to issue \$388,000,000 in bonds at interest rates within legal limits, with annual independent audits, Citizens’ Oversight and all proceeds benefiting your local community colleges?”* A facility with a significant portion devoted to a privately run, members only, health club and not the educational needs of students does not fit into any of these categories.

2) I cannot confidently assert that the four Project List references for CAN B1N on the Master Project List report (p.42) in our packet clearly apprises voters about this expensive gym replacement costing almost 1/3 of the Measure H bond money.

3) The Skyline Environmental Center and the Canada B1 Kinesiology and Wellness building are two of the most expensive projects built with Measure H funds (utilizing 41% of the bond money). Voters could not have known about them at the time the bond measures were authorized as they were not identified in the then current 2011 Facility Master Plans (FMP).

The District prepares Facility Master Plans to *“provide a roadmap for future development, including recommendations for modernization/renovation and replacement of facilities as well as a number of site improvements for each campus.”* As a result of losing a lawsuit challenging the Edison parking lot project, the administration knew that they would have to update the FMP to add the unidentified projects before construction could begin. **Changing the FMPs AFTER the bond measures passed to add projects that would use bond funding, is a classic bait and switch technique. This was done after both the 2005 Measure A and 2014 Measure H bond elections.**

4) It is not clear whether the Performance Audit reviewed bond projects to determine if they conformed to the ballot language or if they only relied on the list of projects provided by staff. In fact, it is not clear how the Performance Audit differs from the Financial Audit.

5) The format of the Annual Report does not help the public understand how funded projects relate to the ballot language. I suggest that the report should list the active projects under the categories from the ballot language listed on the Committee page as About Measure H. The actual ballot language should be included somewhere in the report, possibly at the beginning, as that is the core reason for preparing the report.

I am taking this position because of my strong support for public education and my strong belief in public agency transparency and accountability. The public deserves to know how the District's legitimate capital needs transitioned into the costly membership and rental country club facilities that were actually built. While we cannot correct the misrepresentations that were made on prior bonds, the BOC can identify them and do its part in addressing improvements for future bond measures.