



SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT
Bond Oversight Committee
June 3, 2021 Meeting Minutes
Location: Zoom Call

Members Present

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

District Staff Present

Michael Claire	Chancellor
Bernata Slater	Chief Financial Officer
Peter Fitzsimmons	District Budget Officer
Arlene Calibo	Facilities/Public Safety Business Manager
Jose Nunez	Vice Chancellor of Facilities Planning Maintenance & Operations
Marie Mejia	Interim Director of Capital Projects
Nicole Wang	Controller
Jack Herbert	Director of Construction Management
Nai Saechao	Capital Projects Analyst

Other Attendees Present

Ann Kennedy	A Kennedy Group
Mike Chegini	A Kennedy Group
Ben Leavitt	CWDL
John Dominguez	CWDL

Call to Order

The meeting was called to order at 3:03 p.m.

Approval of Agenda

Mr. Duncheon stated that he would like to add to the agenda regarding clarification of disclosures relating to payments made to employees. Ms. Foust noted the comment.

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

Approval of the March 4, 2021 Meeting Minutes

Ms. Foust stated that an email was received by Ms. Turner regarding some requested adjustments to the minutes.

A motion was made by Mr. Ruigomez and seconded by Ms. Campbell to approve the minutes as presented.

Ms. Kessler stated there was a correction to the previous minutes on March 4th, 2021 under agenda #10 Measure H Annual Report (January 1, 2019 through June 30, 2020) changing the reference of Ms. Kessler to Ms. Campbell.

Ms. Turner requested changes to the March 4th, 2021 minutes to add an email that Ms. Turner sent out to the members on March 3rd, 2021.

Ms. Foust stated that the meeting is recorded, and the minutes are created from the meeting recording. She stated that she is not comfortable with changing the minutes per Ms. Turner's requests.

Mr. Ruigomez stated that he would like to make sure that what Ms. Foust stated is in the minutes. He continued to say that each time Ms. Turner has raised these specific issues that the Committee has gone back to the ballot language and verified all of the projects have been legally described and the Board of Trustees have acted within the guidelines of the law and of the Bond for all of these projects.

Ms. Foust referenced the places within the March 4th meeting minutes where these points are addressing Ms. Turner's concerns. She reiterated not supporting the changing of the meeting minutes per Ms. Turner's requests but attaching Ms. Turner's email to the minutes.

Mr. Duncheon agreed to attaching Ms. Turner's email and not altering the previous meeting minutes per Ms. Turner's requests.

Mr. Ruigomez added that he hopes that at some point in time that the reoccurring discussions on what Ms. Turner has brought up to what the Boards purview is, will end. He feels that a lot of time is spent on this issue and feels that Ms. Turner is bullying the Committee members and making them feel like they are doing something inappropriate. Which in turn then requires them to seek legal counsel and to have legal counsel tell the Committee that they are not doing anything wrong. He feels the Committee is doing everything in its power to ensure that taxpayers' dollars are spent wisely and looks forward to continuing working with the Bond Oversight Committee.

Ms. Foust asked the Committee members if they agree to add Ms. Turner's email to the previous meeting minutes. Mr. Ruigomez & Ms. Campbell agreed to amend their motion if the Committee would agree.

Ms. Turner asked where the email would be placed to be as transparent as possible.

Ms. Foust stated that the email would be attached to the minutes and a note will be added to the Communications Received by Committee Members section of the minutes.

The minutes were unanimously approved with the amendments discussed.

Public Comment on Items not on the Agenda

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

Communications Received by Committee Members

- a. Ms. Foust provided an overview on how communications within the Committee should be submitted and received. She stated that if a Committee Member has an item that they would like the Committee to discuss, that item should be brought up during the “Future Agenda Items” agenda item and, if it’s the will of the Committee, that topic would be added as an agenda item for the next meeting. She also asked if correspondences could be emailed to Ms. Kennedy, Mr. Chegini and Ms. Foust, and not to all the Committee members. If it is sent to the Committee as a whole and one member replies, it could become a violation of the Brown Act.
- b. Ms. Foust informed the Committee that there were public inquiries through the Bond website relating to this current agenda. The District has answered the questions, but they are not the responsibility of the Committee. It just becomes information in the Committees’ records. She wanted to be clear to the Committee of how public questions are handled.
- c. See attached email communication sent by Committee Member Maxine Turner.

Ms. Foust asked Ms. Kennedy if she could clarify or add to the understanding. Ms. Kennedy stated that when anything comes in through the website that the Chair and the District are made aware. If it is a misdirected communication, Mr. Chegini would redirect it to the appropriate persons within the District. If there are questions that pertain to items like projects, but not directly in the purview of the Committee, they are brought to the Chair and the Committee can decide how to handle them. The Committee will always be informed if it is coming from a public member directed to the Committee. Mr. Chegini reiterated that all email correspondences within the Committee should be mindful of maintaining compliance with the Brown Act.

Ms. Kessler suggested a refresher of the Brown Act.

Ms. Turner stated that it is important to review the questions that are coming in from the public about projects that are funded by Bond funds to be followed up at the next meeting.

Ms. Foust stated that she would like to see the public questions/comments that directly relate to the Bond Oversight Committees roles and responsibilities.

Mr. Duncheon stated that the staff should screen the incoming correspondences and only send to the Bond Oversight Committee which directly relates to the Bond Oversight Committee’s responsibilities.

Ms. Foust stated that the Bond Oversight Committee will always see the answers once completed. She moved to the public comment from Mr. Reiner.

Mr. Reiner stated that he has read Board Policy 8.14, which describes the work of the Bond Oversight Committee. He brought attention to section 6E: Review efforts under District to

maximize bond revenues by implementing cost saving measures. He believes his questions that he has been asking, relate to that part of the responsibility of the Bond Oversight Committee. He stated that in the past he was a senior administrator at the district and paid great attention to Canada building 1, which he feels has been very controversial. He described what he has been watching in terms of the buildings original plans and costs and sees that it has increased over time. He pointed to the increase of soft costs and scope changes and has asked the Bond Oversight Committee if they have seen approval for those amounts to soft costs.

Ms. Foust let Mr. Reiner know that the questions that he submitted will be addressed and answers provided at a later time to the Bond Oversight Committee as well as to Mr. Reiner.

Ms. Turner asked if any questions that come to the Bond Oversight Committee that relate to bond funded projects will be included in the agenda packet with any staff responses, and if the Committee will be able to discuss them at the meeting or if they will be put on a future agenda.

Ms. Foust stated that any information that relates to the purview of the Bond Oversight Committee will be included in the packet. Any answers that are in the packet from those pertinent questions that members would like to discuss, will be voted on by the Committee to be discussed on a future meeting.

Ms. Turner wanted to clarify again as she thinks there are different understandings to what is meant by the purview of the Committee. She stated that anything that addresses expenditures from bond monies are within the purview of the Committee and asked Ms. Foust if that is her understanding.

Ms. Foust said that she will go back to the legal definitions, also stating that it seems that the Committee is going over the same things and thinks it is hard on the Committee. She directed the Committee to review the legal definition on the Bond website as well as from the packet, and to come back with any questions so they may be discussed.

Ms. Enriquez appreciates being sent the hard copy of the Bond Oversight Committee packet and how much she has learned what the staff has been doing. She expressed that some items have been discussed over and over again and wants to make sure that the Committee is moving forward.

Ms. Turner stated that she agrees that the Bond Oversight Committee do everything that it is legally required to do and no more. She referenced Prop 39 and the State Constitution and that the language within is very clear to what the responsibilities are and anything to do with Measure H Bond monies.

Ms. Foust again referred to Bond website and the information that is laid out per the Bond Oversight Committee.

Staff Reports

Chancellor Claire stated that there have been substantial changes in State guidelines, and he is looking forward to more returning to the campuses this fall.

Ms. Turner asked if there was a reason why the Zoom meeting recordings of the Bond Oversight Committee are not being posted to the website, like the Board of Trustees do.

Mr. Chegini let the Committee know that the process in place is from when the Committee was initially formed. The Zoom recordings are to accurately capture the meeting minutes but posting the recordings on the website going forward is something that could be decided by the Committee.

Mr. Collins stated that the meeting minutes were not posted on the website, and asked the district to post them.

Ms. Kennedy stated that meeting minutes are in fact posted on the bond website. Mr. Chegini showed the page of the bond website where the meeting minutes can be found.

Ms. Kennedy stated that they would have to ask the District about posting the recordings as they may have storage limitations on their account.

Mr. Collins supported that it be asked of the District and be brought back up at the next meeting.

Measure H Performance Audit for Fiscal Year 2020/2021

Ms. Slater introduced the new auditors, Ben Leavitt and John Dominguez of CWDL, and let the Committee know that every 5 years the auditing company is changed.

Mr. Leavitt and Mr. Dominguez spoke to the specialization of their firm, the team, provided high level info on Prop 39 and gave a brief historical look at Measure H, projects, ballot language, along with reporting on the procedures and testing that goes into completing 2020 - 2021 Financial and Performance Audits. Then opened to questions from the Committee.

Mr. Collins asked why Building 1 had no state matching funds.

Mr. Nunez stated that Building 1 was locally funded and an application for state funds was not submitted for this project.

Mr. Collins asked Mr. Leavitt about the state constitution and how Measure H states that no funds are to be applied to salaries, yet Measure H funds have been applied to salaries, and asked Mr. Leavitt if the audit references that.

Mr. Leavitt stated that this is a clarification that they detail out in the performance audit, including Article 13a which states that no teacher or administrator's salaries can be paid for out of the bond funds. He also referenced Attorney General's Opinion No, 04-110 which relates to the broader interpretation of that language to focus on the extent of what those individuals are working on in regard to building projects that are to be paid out of bond funds.

Ms. Foust reminded the Committee that the Attorney General's Opinion No. 04-110 is located on the bond website under the Measure H menu tab.

Ms. Turner followed up in terms of the Attorney General's Opinion No. 04-110 and hopes that the audit firm looks closely at this. She also asked if the Committee could get examples of the audit company performance audits of other Districts to have a sense of what to expect.

Mr. Leavitt responded that bond salaries are one of the most critical areas they focus on. He stated that he would be happy to provide the Committee a template and examples of previous audits and provide additional detail or sections that would be of value from the Committee.

Mr. Ruigomez asked Mr. Leavitt if the auditors gave opinions on the current audit regarding the administrator salaries.

Mr. Leavitt stated that the 2020-2021 audit is ongoing, and no opinions would be made until the after the fiscal year close.

Mr. Duncheon stated that there hasn't been clarification why some bond funds are paid to some District employees and would like to get clarification.

Mr. Dominguez stated that in the performance audit they will make sure to speak to those specifics by area or title in the performance report based on the Attorney General's Opinion No. 04-110.

Mr. Duncheon and Ms. Foust expressed that the hope would be that there would be clarity to the taxpayers in the reports and on the bond website that ties together the legal statements and the audits.

Ms. Foust asked the auditors when the audits would be ready for review.

Mr. Dominguez answered that the statutory due date would be March of 2022, but they may have a draft ready by the fall.

Ms. Foust asked the Committee if they agree that CWDL provide a template of the audits by the next meeting in September. The Committee all stated they are in agreement.

Ms. Foust asked the auditors if they could provide links to other District's websites with audits to Mr. Chegini and Ms. Kennedy, so they could be provided in the meeting minutes. She also asked how the auditing firm was chosen and the cost.

Mr. Dominguez answered that the way they were chosen was from a standard RFP that was put out to all firms by the District and the costs were public knowledge and can be provided.

Ms. Foust asked that the links be directed to Mr. Chegini and Ms. Kennedy only and reminded the Committee members to not respond to the emailed links in the interest of remaining in compliance with Brown Act.

Ms. Slater provided, in the Zoom chat, a link (<https://bit.ly/3m4YQFI>) to the January 27, 2021 Board of Trustees packet containing the approval of contract award for District audit services.

Mr. Ruigomez asked the auditors if they have and can send, examples of Districts that have found misappropriations of funds?

Mr. Leavitt said that they could provide examples of reports with various types of exceptions.

Chancellor Claire posted to the chat that the auditors were approved by the Board of Trustees within a public meeting.

Ms. Foust asked if the date of the meeting and link to the minutes could be provided as there is still the question of cost. She thanked Mr. Leavitt and Mr. Dominguez for their presentation.

Ms. Slater posted to the chat that the contracted cost of the 2020-2021 audits is \$7,000; \$3,500 for the Performance Audit and \$3,500 for Financial Audit.

Update on Capital Improvement Program (CIP3)

Mr. Nunez reviewed the CIP3 presentation with the Committee. He noted that kinesiology personnel have moved into the 1st floor of Canada Building 1. The fitness floor of the building was to be a for-profit center which is no longer part of the scope. Canada Building 13 - Multiple Program Instructional Center bid has come in \$4mil under budget. Canada Building 22 - Swing Space was initially a swing space project, however during the design it was decided to permanently house certain programs. See the presentation for further details.

Ms. Foust thanked Mr. Nunez and commented on how much activity that is going on and work being continued.

Ms. Terner concurred and was happy to see improvements that are serving the students that are not extravagant.

Ms. Kessler addressed a concern with lack of ADA access on College of San Mateo Building 3 - Theater AV/Lighting/Seats Upgrade.

Mr. Nunez stated that there was ADA access from the back of the facility to the stage but not from the front. He stated that he will have his team look into it.

Ms. Foust stated that she has been in conversations about the importance of the community college district and workforce training that will be needed as we are coming out of the pandemic, and community college districts are front and center in every single conversation. She stated her thankfulness for all the work that is continually being done.

Ms. Enriquez thanked Mr. Nunez and is happy to see all the upgrades and new buildings for all the persons utilizing these facilities.

Mr. Ruigomez thanked Mr. Nunez for the hard work that he and his staff are doing.

Mr. Nunez addressed a question from the public, Ms. Quijano, that was submitted via Zoom chat during the presentation. Mr. Nunez stated that the District is still in a Shelter-In-Place format. There is restricted access to all buildings on all 3 campuses and the District offices. The kinesiology faculty have moved into Canada Building 1 - Kinesiology and Wellness, but it is not an open facility for anyone to use.

Program Financial Reports

a. Ms. Kennedy presented the Financial Reports for Measure H as of March 31, 2021, highlighting key information and projects with significant quarter expenditures.

b. Ms. Kennedy presented the Fiscal Year 2020-2021 3rd Quarter Bond List Revision and reminded the Committee that the Master Project List Report is updated and can be found on the Bond website.

Ms. Turner requested clarification on the remaining balance amounts shown on the Whole Program Report and the Project Summary Report.

Ms. Kennedy explained that the remaining balance amounts represent dollars that have been budgeted to the projects but have not yet been spent, encumbered, or committed.

Mr. Nunez concurred with Ms. Kennedy and gave some additional examples.

Ms. Turner asked what report to look at to get a better understanding of expenditures and scope of work completed.

Mr. Nunez stated that it would be the Project Summary Report. Ms. Kennedy concurred.

Ms. Foust asked for confirmation that it is the purview of the Board of Trustees to make decisions on what projects are to be completed or revised.

Mr. Nunez stated, yes it would be the purview of the Board of Trustees and stated an example. Ms. Kennedy concurred regarding the Board of Trustees' purview.

Ms. Turner asked for clarification on project DW-002 - DW Project Requirements/Compliance to understand where project consultant fees are located. She has noticed for the past 2 years money moving in and out of this project and wanted to understand what project management costs are staff-related, what are project related, and to identify staff expenses clearer along with what is in Project DW-002.

Ms. Kennedy gave an overview of program management and construction management costs and stated that sometimes they are done by the same firm, but they are different types of costs. Construction management costs are direct expenses to the project. Program management costs are considered overhead, which impacts all active projects on a periodic basis. This project is reviewed regularly for distribution where it is allowable to be distributed to specific projects for the purposes of capitalization on the District books. The Bond List Approval Request report is more of a visual aid for movement of funds between projects including overhead. In terms of the detail of expenditures, Ms. Kennedy stated that we do have access to that, and it does get vetted and reviewed, and asked if the Committee would like additional details.

Ms. Turner asked for a list of consultants, District staff and other personnel that is paid from the bond regarding managerial/administrative costs, to better understand where those monies are being spent.

Ms. Kennedy asked for clarification on Ms. Turner's request, and if she is asking for summary level information of Swinerton as a whole, District staff as a whole and by major category.

Ms. Turner confirmed the format for major category on where that total figure came from and what projects they were charged to for specific periods.

Ms. Foust stated to be sensitive on calling out one specific vendor as the district uses multiple vendors.

Mr. Ruigomez stated that he feels that Ms. Turner does not speak for all Committee members about her request for all of the details but will defer comments to future agenda items. He also added that everything that Ms. Turner is asking for is raising professional services costs. It takes time for staff, District and is taking away from the bond monies.

Ms. Foust noted that Ms. Campbell was no longer present.

A motion was made by Mr. Collins and seconded by Mr. Ruigomez to approve the Financial Reports and they were unanimously approved as presented.

c. Ms. Slater gave an update on the General Obligation Bond Refunding. On April 14th, 2021 there was a successful closing of the refunding, saving the tax payers \$19.4 million. She thanked the Board of Trustees and the District staff that worked hard to get this to completion.

Ms. Foust thanked Ms. Slater and all the persons that worked on this.

Proposed Next Meeting Date

Ms. Foust pointed out the next meeting date of Thursday, September 2, 2021.

Future Agenda Items

Review of Brown Act (Cliff Notes version)

Information on the possibility of posting Bond Oversight Committee Zoom meeting recordings to Bond website

Summary level report providing Program Management and Staff Salaries paid for by Measure H Bond Program

Review of template and sample audit reports

Mr. Duncheon asked if there can be clarification on the spending of Bond funds on salaries in the next Annual Report.

Mr. Ruigomez stated that he believes in total transparency for the Bond Oversight Committee as well as the taxpayers. He supports the clarification on transparent reports and wants to remind everyone that these report requests add to the staff's workload as well as taking away soft costs from the bond allocated to current projects. The more information the Committee asks for, the more the staff gives, but the Committee does not take anything off their plate. When they deliver on what has been asked, then something else gets asked of them to produce, which creates more time in meetings that go past the allotted time. He expressed that the Bond Oversight Committee is doing a fine job and is looking forward to the audit and samples audits so they can be aware of what to look for.

Ms. Turner agrees with Mr. Ruigomez in regard to not increasing costs with these requested reports.

Mr. Duncheon stated to be aware of the Brown Act regarding sending out emails.

Ms. Foust asked Ms. Kennedy if she could please put these items on the agenda to be discussed at the next meeting.

Ms. Mahoney asked, is there was a way to quantify how much extra time and money it would be to add these reports.

Adjournment

A motion was made by Ms. Kessler and seconded by Ms. Mahoney to adjourn.

Ms. Foust adjourned the meeting 5:44 PM.

Email communication from Committee Member Maxine Turner, submitted to Mike Chegini (AKG) on June 3, 2021, regarding March 4, 2021 meeting minutes corrections below:

Mike - I am sending this to you in advance so that you can screen share with the BOC to make it easier for them to follow the amended Minutes language I am proposing. Thank you.

I know how hard it is to prepare minutes and I appreciate the effort involved, but I do not think the minutes adequately describe the points made in the letter I submitted to the committee prior to our March 4th meeting. I respectfully request that the following language be added to amend the minutes to better reflect the main points of my letter. I again request in the interest of transparency that my entire email/letter be added to the publicly accessible, on-line meeting documents (redacted for privacy), either as an attachment to the minutes or to the staff packet for the agenda item.

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

Add new Paragraph 5: Ms. Turner spoke to her letter that she sent out in advance which discussed the reasons she would not be able to vote to approve the Annual Report. The primary reason was her concern that the voters were not clearly apprised about costly projects that were built with bond funds. In particular, she did not believe that the Canada B1 Kinesiology and Wellness building project conformed to the bond language. Her letter also noted that Facility Master Plans were changed after bond measures were passed and that two of the most expensive Measure H projects were not identified in the 2011 Facility Master Plan that was current when the Measure H bond was approved. [See attached letter.] *Note: No letter was attached to Ms. Turner's email.*

Discussion about changes to Paragraph 5: The existing language appears to misrepresent my main point which is that the BOC is a public oversight committee that represents the voters & taxpayers; we are not a rubber stamp for the administration or Board of Trustees. A key point in my letter noted, "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." I believe this is the fundamental responsibility of BOCs, and not the narrow interpretation of only tracking expenditures. Chris Lynch's presentation to the committee never said that fund tracking was the only responsibility of BOCs. I have never suggested that the CBOC should do anything beyond their legal duties.

Amend existing Paragraph 5:

~~**DELETE:** 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.~~

ADD: Ms. Turner believes that the CBOC should bring items to the BOT if the committee has concerns about whether projects are in compliance with bond language as required by Proposition 39 and state law. She expressed concerns that the Board had not received adequate information from the previous Chancellor.

Amend Paragraph 6: 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.~~