



**SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT**  
**Bond Oversight Committee**  
**March 10, 2022 Meeting Minutes**  
**Location: Zoom Webinar**

**Members Present**

Rosanne Foust Chair  
Anne Campbell  
Michael Duncheon  
Shelley Kessler  
Maxine Terner  
Mark Waissar

**Members Absent**

James Ruigomez Vice Chair

**District Staff Present**

Michael Claire Chancellor  
Bernata Slater Chief Financial Officer  
Peter Fitzsimmons District Budget Officer  
Richard Storti Executive Vice Chancellor, Administrative Services  
Nai Saechao Capital Projects Analyst  
Marie Mejia Interim Director of Capital Projects  
Mitchell Bailey Vice Chancellor/Chief of Staff  
Arlene Calibo Facilities/Public Safety Business Manager

**Other Panelists Present**

Ann Kennedy A Kennedy Group  
Mike Chegini A Kennedy Group  
Jeff Scogin A Kennedy Group  
Chris Lynch Jones Hall  
Jack Herbert Swinerton Construction Management

**Call to Order**

Ms. Foust called the meeting to order at 3:01 p.m.

**Zoom Protocols**

Mr. Chegini reviewed the Zoom protocols with the committee.

**Roll Call / Attendance**

A quorum was established via roll call.

Members present: Ms. Campbell, Mr. Duncheon, Ms. Foust, Ms. Kessler, Ms. Terner, Mr. Waissar

Members not present: Mr. Ruigomez

### **Approval of Agenda**

A motion was made by Ms. Kessler and seconded by Mr. Waissar to approve the agenda. The agenda was approved unanimously via roll call vote.

*Ayes: Ms. Campbell, Mr. Duncheon, Ms. Foust, Ms. Kessler, Ms. Turner, Mr. Waissar*

### **Resolution Permitting Remote Meetings (AB 361)**

A motion was made by Mr. Duncheon and seconded by Ms. Campbell to approve the CBOC Resolution No. 22-01.

Ms. Turner: We have not received a response to Ms. Foust's question at the last meeting that we only meet quarterly not monthly. Chancellor Claire was going to ask legal counsel. Also, is this relevant anymore? The Board is meeting in person, I'm not sure we're under the emergency authorization now. Everything that I've been reading is saying that the County is open, so I'm just wondering if we need to move forward on this motion.

Ms. Foust: AB 361 is effective currently as emergency legislation and will sunset on January 1, 2024.

Ms. Turner: It allows it, but the motion asks us to state that we have an emergency, that meeting in person would present imminent risk to the health or safety of attendees.

Ms. Foust acknowledged that Mr. Bailey raised his hand and asked him or Chancellor Claire to respond.

Mr. Bailey: We consulted with legal counsel because this issue has been raised not only with our Board of Trustees, but also several subsidiary organizations within the organization. The fact that you haven't met in the past 30 days is fine, you can take this action upon your next available meeting which you're doing right now. Also, the governor still has a statewide emergency declaration in place. Lastly, each individual entity that is required to comply with the Brown Act can make this judgement independently. The Board of Trustees of the San Mateo County Community College District has continued to adopt a resolution at each of their meetings, as have all the subsidiary organizations. Should this committee choose not to do this, then I would advise that you couldn't proceed with your meeting today because you're all meeting virtually. If you don't adopt this resolution, the requirement when meeting virtually would be that you would have to notice the location that you're currently present at, including your address, and allow members of the public to be at that location to participate in the meeting. So, if you're attending the meeting from homes, you must put your home address on the agenda and allow members of the public to join the meeting from those locations.

Chancellor Claire: To continue the meeting today, there's no other option but to adopt the resolution. However, it's up to this committee to determine whether to continue these meetings virtually or meet in person. This committee can make the determination independently of District operations.

Ms. Turner: I would like to add that this resolution only applies for this meeting. Since we are one of the groups that most represents the public, it just seems to me that we should be available for public attendees. I will vote in favor of this resolution, but it's only for this meeting.

Ms. Foust: If we're going to continue to meet virtually, we must make the determination at every meeting. The public has every ability to sign on to this meeting from wherever they're located. Members of the public can come to this meeting whether we meet in person or not. That is the beauty of doing meetings via Zoom because more members of the public are able to attend.

Mr. Duncheon, the maker of the motion, confirmed that it is acceptable to him that the committee is approving a resolution to meet virtually specifically for this meeting.

The resolution was approved unanimously via roll call vote.

*Ayes: Ms. Campbell, Mr. Duncheon, Ms. Foust, Ms. Kessler, Ms. Turner, Mr. Waissar*

### **Approval of the December 16, 2021 Meeting Minutes**

Ms. Foust made a motion to amend the Minutes (pg. 7 of the Meeting Packet). Jack Herbert's affiliation should be "Swinerton Construction Management" not "Director, Construction Management." The motion to amend the agenda was approved unanimously via roll call vote:

*Ayes: Ms. Campbell, Mr. Duncheon, Ms. Foust, Ms. Kessler, Ms. Turner, Mr. Waissar*

### **Public Comments on Non-Agenda Items**

There were no public comments.

### **Communications Received via the Website**

Mr. Chegini informed the committee that no communication had been received via the website since the last meeting.

### **Staff Reports**

Chancellor Claire thanked the committee for their service. He reported on the following four items:

- The Annual Report was presented to the Board of Trustees by Ms. Foust. It was an excellent report and was well received. Chancellor Claire thanked Ms. Foust for presenting and everyone on the committee for their work on the report.
- Chancellor Claire informed the committee that he is unable to discuss the news item about former Vice Chancellor Jose Nunez and that the District continues to cooperate fully with the District Attorney's Office. He will inform the committee if anything comes to light between now and the next meeting.
- Chancellor Claire provided a little background information on the San Mateo Athletic Club whose operations were originally sourced to a vendor. The Board gave direction last year to transition the operation from the vendor to the District. Chancellor Claire shared that he returned to the gym, and it is running smoothly. He thanked Executive Vice Chancellor Storti and other District staff for a smooth conversion. Chancellor's Claire informed the committee that the Cañada site is looking to use the same model as the San Mateo Athletic Club, and the District will be working with the Cañada faculty to develop a workforce development program.
- The news continues to get better and better about COVID, and students are coming back to our campuses. The District will continue to open more for the fall semester and are open for the spring. We'll be working with our stakeholders to reimagine our institution. We all know that post-pandemic institutions will be different. We're going to take our time thinking about design and discuss how we need to change our services in view of how they're delivered in the long term.

Ms. Foust thanked Chancellor Claire for the updates and asked for questions or comments from the committee. Hearing none, she thanked Chancellor Claire, the Trustees, and the rest of the Team. She also gave another welcome to Executive Vice Chancellor Storti. She informed Chancellor Claire that everyone at the community college district is wonderful to work with.

### **Member Training**

Mr. Lynch of Jones Hall provided the member training. The presentation that he reviewed was provided to the committee after the meeting and can be accessed on the bond website. Mr. Lynch reviewed the following:

- Legal Background – Before/After Proposition 39 (Prop 39)
  - Prop 39 requires accountability
  - Lawmakers' Stated Intent
  - Composition of Citizens' Oversight Committee (COC)
  - Meetings
    - At least one meeting per year
    - Requires a quorum: majority of total members
    - Open to the public and follow an agenda
    - Secretary takes minutes which are approved at the next meeting and posted on District website after approval
    - Members are advised to refrain from discussing COC business among themselves outside of a COC meeting, including via e-mail or through phone calls
  - Prohibited expenditures
    - No teacher or administrative salaries
    - No school operating expenses
    - No costs incurred by the district for providing technical or administrative assistance to the COC
  - Additional non-mandatory review functions of the COC
    - Receive and review District performance and financial audit
    - Inspect facilities and grounds
    - Review deferred maintenance plans
    - Review efforts by District to implement cost saving measures
- Statutory role of the Citizens' Oversight Committee
  - High level purpose of Citizens' Oversight Committee
    - Meet in public
    - Review building fund expenditures for consistency with the project list in the ballot measure
      - District staff attend meetings and report on spending
      - District board provides COC with response to all findings, recommendations, and concerns addressed in the annual, independent financial and performance audits within three months of receiving the audits
      - Expenditures must be for the purposes permitted under Prop 39 and of the type approved by District voters on the ballot
        - A project list is sufficient if it defines or identifies the projects in a manner that clearly apprises the voters, auditors, and COC of the types of projects for which the money is intended to be used

- Construction projects generate many types of costs that would not occur ‘but for’ the construction project—materials, equipment, architectural, engineering design work, construction work, building permits, bond issuance costs, permits, EIRs, project administration, etc. These are incidental but directly related to construction and proper bond expenditures
    - Issue an annual report on the district’s compliance with Prop 39, specifically a report to the community on the proper expenditures of taxpayers’ money for school construction
    - Not a decision-making commission or board
  - Issues related to conflicts of interest in compliance with open meeting laws
    - No employees or officials of the district may serve on the committee
    - No vendors, contractors or consultants for the district may serve on the committee
    - Members are volunteers: no compensation or financial interests

Ms. Foust thanked Mr. Lynch for the overview.

Ms. Turner: Are there any litigations or language from the legislature about what is a maintenance project versus a capital project? It was my understanding that bonds were only for capital projects. If this is not addressed today, I would like this to be included in the next meeting’s agenda. Also, Mr. Lynch mentioned that County Council may have more to say on conflict of interest. Can you elaborate more on that?

Mr. Lynch: Mr. Bailey asked me to describe, at a high level, some of the rules that govern conflicts of interest and the Brown Act open meeting, in the context of the COC. My understanding is that other counsel who is more an expert on those issues would come and address them at a later date.

Ms. Foust reminded the committee that the slides will be a part of the Minutes, the Minutes will be approved at the next meeting, and once the Minutes are approved, they’re posted on the bond website.

Ms. Foust asked Mr. Lynch to go to Slide 9 of his presentation, and she re-read the first and second bullets.

Ms. Foust: It is the responsibility of the Board of Trustees of the San Mateo County Community College District to vote on and decide how the bond funds are spent in compliance with the voter approved bond measure. We are entrusted by the Board of Trustees to review their decision making and how the bonds are spent, that the Board is in compliance. The Board of Trustees is the decision-making body for the projects. Sometimes members of the committee are not clear on our role. We are trusting the Board of Trustees to make decisions on the bond proceeds.

Mr. Duncheon requested that Mr. Lynch clarify that bond proceeds can be spent on salaries that are applicable to the projects.

Mr. Lynch reviewed the last bullet on Slide 10 that one of the “but for” costs that are listed include project administration and the law is clear that district staff costs attributable to administering the project are eligible expenditures.

Ms. Turner: Page 34 of the meeting packet lists the district positions budgeted to the bond and it was approximately \$2 million dollars and I just wanted to note that is included in the Annual Budget. Can somebody tell us how much was spent on district staff positions for each one of the bonds, either at this meeting, or as a chart with a summary total?

Ms. Foust: I believe we had asked for links to previous lists like this at our fall or summer meeting. Is this something that is easily available?

Chancellor Claire: I will work with Ms. Kennedy and her staff to get this audited information which is publicly available.

Ms. Foust: Thank you, Chancellor Claire. Links to the audited reports will be fine.

### **Response to Audit Questions**

Ms. Slater addressed the committee's questions about the accounting of investment earnings reported on the audited financial statements. The chart used is included in the meeting packet (pg. 12). In summary, there were no losses through the county investment. The interest earnings were positive: 1.93% for FY19/20 and 1.25% for FY20/21.

Mr. Waissar: Thank you Ms. Slater for following up on our question. Can you explain why we do this fair market value (FMV) reversal? It looks like we're mixing some balance sheet items with some revenue and expense items. Can you explain this process as the reversal seems to be driving the appearance of a negative interest, which would be odd?

Ms. Slater: For a long time, we didn't have to make that adjustment at all. Then the Governmental Accounting Standards Board (GASB) required us to recognize those investments as if we were to liquidate it at a point in time, even though we're not going to. So, we must book it at a point in time and then reverse it. We consider it as an accounting entry only. It doesn't increase the fund balance for us, we're looking at it from the perspective of cash. In terms of spending, we're only looking at the actual cash money that we have.

Ms. Foust had a prior engagement and turned the meeting over to Ms. Campbell as Acting Chair. Before her departure, Ms. Foust requested that the committee take a poll on the following: (1) whether to hold the next meeting virtually or in person and (2) the next meeting date during the "Proposed Next Meeting Date" agenda item.

### **Update on Capital Improvement Program (CIP3)**

Ms. Mejia provided the committee with a CIP Project Update. Her presentation can be found in the meeting packet (pp. 13-17).

Mr. Waissar: What is DSA?

Ms. Mejia: Division of State Architects. That is the permitting process for higher education.

Ms. Kessler: You mentioned that there's going to be upgrades for select theater improvements. What kind of improvements are they?

Ms. Mejia: Any safety issues in the theater building will be addressed.

Ms. Kessler: It's really important for theater environments to make sure that staging and the environment is ADA accessible for the hearing challenged or impaired. It's important for theaters to have loop access for hearing improvement, ADA access for people who have mobility issues, and access for people who are sight impaired. I hope that would be done while we're in the construction phase, if possible.

Chancellor Claire: Thank you Ms. Kessler. We completed a comprehensive ADA transition plan in 2019-2020. We hired an outside firm to conduct ADA assessments across the district. It's a 4,000-page report.. We're going to be implementing about \$30 million dollars of ADA improvements over the next 10 years. We'll double back to make sure that we're looking at needed ADA improvements to the theater.

Ms. Mejia: More details on the ADA Self-Evaluation and Transition Plan are provided in the last slide (pg. 17 of the meeting packet).

Mr. Storti: ADA improvements are very important to us. You can see that the Measure H budget is \$3 million, but the district has set aside the difference of \$26 million. We have those funds earmarked for ADA transition projects over the next 10 years. It's very important that we tackle these items.

Ms. Mejia: Regarding CAN B13 Multiple Program Instructional Center, we're upgrading all the restrooms and putting in a new elevator. We're also putting in a new elevator for SKY B1 Social Science/Creative Arts and making sure that the restrooms are compliant. We're putting a lift for ADA at CSM B19 Floor Abatement Project.

Ms. Campbell thanked Ms. Mejia for the in-depth report, pictures of all the work that's going on, and the response about the ADA improvements.

### **Program Financial Reports**

a. Mr. Scogin presented the Financial Reports for Measure H as of December 31, 2021, highlighting key information and projects with significant quarter expenditures. The financial reports can be found in the meeting packet (pp. 18-34).

Mr. Duncheon: What do you mean by spread?

Mr. Scogin: The costs are originally booked against DW-002 District-wide Project Requirements/Compliance, but they're administrative in nature, meaning they may not be project specific costs. Certain administrative costs are billed to this project and are then distributed to projects that had activity during that same period.

A motion was made by Mr. Waissar and seconded by Ms. Kessler to accept the Measure H Fiscal Year 2021/2022 Q2 Financial Reports as presented.

The motion to accept the financial reports was unanimously approved via roll call vote:

*Ayes: Ms. Campbell, Mr. Duncheon, Ms. Kessler, Ms. Terner, Mr. Waissar*

b. Mr. Scogin reviewed the Fiscal Year 2021-2022 2<sup>nd</sup> Quarter Bond List Revision with the committee.

Ms. Turner: Thank you Mr. Scogin. I love this report and very much appreciate that it clearly indicates how the bond money is moving around. There are a few things that I did not understand, and I'm hoping that you can clarify.

- A lot of projects have a balance, and sometimes the balance is moved into DW-002 DW Project Requirements/Compliance. At the last meeting, I called it a slush fund, and I was corrected that it was unallocated monies. The name is very confusing, but it is good to see that money is being put there.
- I'm not clear on some of the transfers that go from one project to another. For example, DW-006 DW Network Firewall Switch Replacmt to DW-017 DW Video Camera Replacement.
- What is the facilities funding source?

Mr. Scogin: If I'm not mistaken, I believe that was covered in Ms. Mejia's presentation, in which she acknowledged that \$1 million dollars from district funds was brought into the project, and as a result, the \$1 million dollars of Measure H was in turn freed up.

Ms. Mejia: When we went out for bid for CAN B13 Multiple Program Instruction Center, it was lower than the cost estimate. So, we had to return some funds to the State and Measure H. The furnishing, fixtures, and equipment (FF&E) is always low in the state budget, so we requested funding from the College for that portion. That's the \$1 million from the College. Then savings were realized when we went out to bid.

Ms. Turner: I do understand that part, but does the district budget have something called the Facilities Funding budget? Where in the budget is it a part of? Is it the operating budget? Since a lot of projects are being augmented in this way, I think it will be worthwhile to know what it is.

Ms. Mejia: Augmentation of budget from a college funding source will be non-Measure H. It's district funding.

Ms. Turner: So it's just coming out of the regular district budget?

Ms. Mejia: Yes.

Ms. Campbell: Ms. Mejia, so there would basically be a line item in the regular district budget that would be that category?

Ms. Mejia: Yes, my slides will indicate Measure H, state funding, and college funded which is college/district funded.

Ms. Turner: Does staff have something that defines what is a maintenance project? We're told that bond measure projects reduce maintenance costs. Measure H is not supposed to be used for maintenance or repairs. Does the district have a way of deciding whether things are funded by the bonds as opposed to facility or college funding?

Ms. Mejia: Maintenance has a different budget for that, and it's the scheduled maintenance budget. When we build or design these new buildings, we make it efficient so it's less cost on maintenance. Does that answer your question?

Ms. Turner: Yes. I would like to see an item on a future agenda so that we really understand that bond money is not being used for what would commonly be referred to as a maintenance project or a repair project because I think that needs to be part of the district's regular budget.

Mr. Storti: We do have district funds that are used for ongoing scheduled maintenance projects. Whenever we have a renovation project, where we're doing a major component of a building, the natural process is that we are taking care of what would have been scheduled maintenance projects because we're doing a very thorough renovation.

c. Mr. Scogin presented a list of District positions budgeted to the bond in Fiscal Year 21-22 to the committee.

Mr. Duncheon: Does this include consultants?

Mr. Scogin: These are district staff that are working on a component of Measure H, and it lists the title, and the third column (LBD FTE) defines the full-time equivalency of that position that is working on the bond program.

Mr. Storti: The Vice Chancellor, Facilities position is currently vacant. Although it's budgeted, we're not replacing the Vice Chancellor position. So, you're not going to see the actual expenses coming in for that position. We do plan to have a lower-level position fill it, but the actual budget amount will be lower.

Ms. Mejia: We're winding down on Measure H, so a couple of project coordinators will have a lower percentage or maybe moving one of the project coordinators to Maintenance and Operations.

### **Proposed Next Meeting Date**

Ms. Campbell pointed out the next meeting date of Thursday, June 9, 2022, and asked the committee to enter in the chat if they prefer to meet in person or continue to meet virtually.

Ms. Turner: Does state law require public agencies to meet in person? Is it optional if you are doing official agency business?

Ms. Campbell: Under the Brown Act people can attend remotely while an in-person meeting is going on. But, as it was discussed earlier, to do that, the individual who is remote must post the agenda for the meeting wherever they physically are, and the public must be allowed to attend that meeting from that location. We still have the capacity, if we adopt the resolution like we adopted today, to continue to meet virtually because the public can attend. The provision still applies until January 2024. Mr. Bailey did I get that right?

Mr. Bailey: Yes, you stated that correctly. To Ms. Turner's question, there is nothing prohibiting the committee from meeting in person, but still allowing for the remote option in an emergency situation. So, while technically the group would be meeting in a virtual setting, a number of folks could host that virtual meeting in one location, which is what our Board of Trustees does.

Ms. Campbell thanked Mr. Bailey and asked the committee to express their preference for an in-person or a virtual meeting in the chat.

Ms. Kessler: I've participated in hybrid meetings, and it makes for a difficult and confusing way to manage all the participants equally with regards to questions and comments. Unless there's a spike in COVID, I would like it if we did all of one way or all another way. I know the College has the capacity to do hybrid meetings, but whoever is chairing the meeting requires a certain level of sophistication.

Ms Campbell asked Mr. Bailey to comment.

Mr. Bailey: If the committee decides to meet in person, a clarifying question would be "Would you want to allow for members of the public to still be able to participate remotely?". That's just an operational question that staff would need to set up the Zoom link to be able to have members of the public participate in a remote capacity.

Mr. Duncheon: Is it an option for some committee members to join in person, and for others to join virtually?

Mr. Bailey: It is. As Ms. Campbell has mentioned, there are two ways to do that if you adopt the resolution, like you did today. Some members of the committee could meet at the same location, and it would still be qualified as a remote meeting. If the committee chooses not to adopt a resolution to permit online meetings in the future, the normal requirements of the Brown Act would still apply and anyone participating remotely would need to provide the appropriate notices as required by the Brown Act, the location of the meeting, posting the agenda, and allowing members of the public to participate and access that meeting from whatever location the member is physically at. Under the resolution that you passed today, the requirement of the posting of the notice and allowing for participation is not required. That's the difference.

Ms. Campbell mentioned that several committee members would like to meet in person, but also have the option for remote participation. Assuming that we're in a benign COVID environment, Ms. Campbell asked if any members had any issue with this. Mr. Chegini will poll the committee after this meeting to determine how best to proceed..

### **Future Agenda Items**

Ms. Campbell asked if anyone wanted to add any items to the future agenda.

Ms. Turner: A staff report on maintenance items versus capital items. I'm not talking about major remodels. I think if we go through our list of projects that were funded with bond money, quite a few of them are questionable. So, if there is a protocol, a checklist, or a dollar amount, I think it would be very helpful for us to conduct a review to fulfill our responsibility of ensuring that bond money is spent on capital projects identified in the bond.

Ms. Campbell stated that she would speak with staff to incorporate Ms. Turner's request.

There were no other additions to the future agenda.

### **Adjournment**

Ms. Campbell adjourned the meeting 4:34 p.m.