

CITIZENS' BOND OVERSIGHT COMMITTEE

MEETING MINUTES

Tuesday, January 21, 2014 - 5:30 PM
San Jose City College, Room T-112 (WI)
2100 Moorpark Avenue San Jose, CA 95128

<u>Present:</u>	Joseph Becker	Community At-Large
	Leo Cortez	Community At-Large
	Johnny Lee	Community At-Large
	Carol Lizak	Community At-Large
	Ann Mancuso-Engdahl	Community At-Large
	Jimmy Nguyen	Taxpayers' Association
	Bob Nunez	Community At-Large
<u>Guest:</u>	Mike Bulea	Resident of San Jose
	David Casnocha	Stradling, Yocca, Carlson & Rauth
	Steven Mansfield	Instructor, Air Conditioning SJCC
	Novella Simonson	Instructor, English SJCC
	Tina Treis	Crowe Horwath LLP
<u>Absent:</u>	Chancellor Rita Cepeda	SJECCD
	Daniel Kojiro	Community At-Large
	Alex Ward	Student Representative SJCC
<u>Staff:</u>	Vice Chancellor Douglas Smith	Administrative Services, SJECCD
	Steven Thompson	Director Facilities & BP Mgmt., SJECCD
	Peter Fitzsimmons	Director of Financial Services, SJECCD
	Linda Wilczewski	Controller, SJECCD
	Marilyn Morikang	District Staff Accountant, SJECCD
	President Henry Yong	EVC
	Vice President Henry Gee	Administrative Services, EVC
	President Byron Breland	SJCC
	Vice President Seher Awan	Administrative Services, SJCC
	Casey Michaelis	Gilbane
	Mark Miller	Gilbane
	Scott Jewell	Gilbane
	Ann Kennedy	Gilbane
	Mike Chegini	Gilbane
	Anna Tiscareno	Gilbane

AGENDA:

1. Call to Order

The meeting was called to order at 5:31 p.m.

2. Welcome New Committee Members

Mr. Becker welcomed and introduced the new Citizens Bond Oversight Committee Members, Leo Cortez and Alex Ward (Mr. Ward wasn't present.)

Vice Chancellor Smith thanked the Citizens' Bond Oversight Committee members for their support in managing all projects under the Measure G Bond Programs.

Ms. Kennedy informed the Committee that there is still currently one (1) open seat available of Student Representative-EVC. An application for the open position is available on the District's web site (www.sjeccd.edu) and everyone on the committee is encouraged to help get this open position filled soon.

3. Approval of Agenda

Jimmy Nguyen / Ann Mancuso-Engdahl
Unanimously approved

4. Approval of Minutes for September 17, 2013

The committee reviewed the previously distributed September 17, 2013 meeting minutes and asked for comments. There was one comment of a minor edit to the last page of the meeting end time to be changed to 7:00PM. Ann Mancuso-Engdahl / Bob Nunez motioned and the committee unanimously approved the amended meeting minutes.

5. Public Comments

Mr. Becker informed the visitors, who are attending the Citizens' Bond Oversight Committee meeting, that if they had any questions concerning the Measure G Bond Programs they will be allotted three (3) minutes to speak.

Members of the public who attended the Citizens' Bond Oversight Committee meeting on January 21, 2014 voiced their concerns of the amount of money being spent from the Measure G Bond Programs on the Media Arts Center and Career Technical Education project at San Jose City College.

Questions and Answers:

Mr. Bulea introduced himself as a San Jose resident and a member of the Silicon Valley Tax Payer Association, to the attendees, gave a brief overview of his background, and voiced his opinion of the Measure G Bond Program Expenditures and the District Administration not adhering to the guidelines of the Bond Language. Mr. Bulea asked the Committee, is the District Administration going to continue to spend the Measure G Bond Program monies against what the Bond Ballot Language states or will the District Administration adhere to the Bond Language?

Mr. Casnocha, Bond Counsel informed the residence of the public that their concerns must be taken to the Board of Trustees. The Board of Trustees meetings occur twice a month. All meetings are open to the public and if an individual cares to voice their concerns they are issued an allotted time to speak during the scheduled time of the public comments topic.

Ms. Simonson introduced herself as an Instructor, English at San Jose City College and asked the following questions:

Is there a type of project for the SJCC Theater?

How often is the Citizens' Bond Oversight Committee required to meet?

Was the technology endowment exposed in the audit report?

Mr. Casnocha answered:

Yes, there is a project for the SJCC Theater and he would show her it in the ballot language after the Citizens' Bond Oversight Committee meeting.

The legal requirement is stated in the Bylaws and reads "the Committee is to meet at least once a year including an annual organization meeting, not more frequently than quarterly."

The audit report reflects the District sold a series of Bonds for \$20,000,000. The technology endowment is included in the audit report.

Mr. Mansfield introduced himself as an Instructor, Air Conditioning at San Jose City College and noted that the language for the Measure G-2004 and Measure G-2010 Bonds would be different and questioned the roles and responsibilities of the Citizens' Bond Oversight Committee for the Measure G-2004 Bond Program. Mr. Mansfield understood that the Bylaws that were explained only focused on the Measure G-2010 Bond Program and asked how did the Committee integrate into one Committee?

Mr. Casnocha answered that the legal function of the responsibilities of the Citizens' Bond Oversight Committee for the two (2) Measure G Bond Programs are identical. The Committee reviews two (2) independent project lists and must have these project lists in their manuals to reference to.

Vice Chancellor Smith informed the Committee that the same questions were asked at the Board of Trustees meetings in April and May 2013 and the District reviewed the Ballot Language during these meetings. The Board of Trustees determined that the District is in good standing and approved to move forward with the Measure G Bond Program projects that were presented to the Board.

Mr. Becker informed the public attendees that if they have any additional questions pertaining to expenditures of the Measure G Bond Programs that he can be reached, via email correspondence, at joseph.becker@sjsu.edu.

6. Communications Received by Citizens' Bond Oversight Committee Members

Mr. Becker informed the attendees that he received two (2) correspondences, via email, from members of the public Charles Heimler, SJCC Faculty and Alicia Minyen, CPA. Their concerns are in regards to the audit report of the Measure G Bonds for the year ended June 30, 2013, Media Arts Center and Career Technical Education project at San Jose City College and are on the same issue that Mr. Bulea discussed of the verbatim language on Bond List vs. Bond Ballot Language. A copy of the correspondences was emailed to the Citizens' Bond Oversight Committee members prior to the meeting.

7. Staff Reports

Vice Chancellor Smith informed the Citizens' Bond Oversight Committee that Chancellor Cepeda sends her regrets of not being able to attend this scheduled meeting due to another meeting she's required to attend which is being facilitated by the Chancellor in Sacramento.

Vice Chancellor Smith gave a brief introduction of the following:

Mr. Leo Cortez, Support Organization, joined the Citizens Bond Oversight Committee Members.

Mr. Steven Thompson, Director Facilities and Bond Program Management who joined San Jose Evergreen Community College District on Monday, January 6, 2014. The District is excited that Mr. Thompson joined their team and has the knowledge and expertise of Director Facilities and Bond Management to support structure with Gilbane Building Company.

Mr. David Casnocha of Stradling, Yocca, Carlson and Rauth is Bond Counsel for San Jose Evergreen Community College District. Mr. Casnocha is also Bond Counsel for nearly every College District in California and is highly recognized of the resident expert. Mr. Casnocha will address the Citizens' Bond Oversight Committee Amended and Restated Bylaws which will respond to some of the concerns that have been raised.

Ms. Tina Treis of Crowe Horwath is the Auditor who will present the Audit Report year ended June 30, 2013. Vice Chancellor Smith informed the Committee that the District Audit Report was submitted to the Board of Trustees on Tuesday, January 14, 2014 and commented that this Audit Report is the finest audit that he has ever seen in all his years of experience. There was not one finding or recommendations of improvement from Crowe Horwath.

8. Review of Committee's Bylaws

Ms. Kennedy reminded the Committee that the "Review of Committee's Bylaws" has been one of the upcoming agenda topics in the last three (3) meeting agendas as future agenda items. The District scheduled Bond Counsel to re-address the Committee Bylaws for the January 21, 2014 Citizens' Bond Oversight Committee meeting.

Mr. Casnocha reminded the Citizens' Bond Oversight Committee that he met with them in the past regarding the roles and responsibilities of the Committee. Mr. Casnocha guided the Committee to reference to their meeting packets to find the Citizens' Bond Oversight Committee Amended and Restated Bylaws (approved 12/14/2010) and gave a brief summary of the 1986 to 2000 California Constitution. The 2000 California Constitution was amended to provide an alternative source of local bonding for schools and community colleges. Proposition 39 is an amendment to the California Constitution, which states 55% voter approval a community college District to pass a local bond and the proceeds for the bonds can be used not only for the acquisition and improvement of real property but also for the furnishings and equipment of school facilities. The following are the three (3) most important legislative goals of Proposition 39:

- Student safety
- Class size
- Information computer technology

Each time the Districts go out for a Prop. 39 election they are required to make a finding that they consider projects in the three (3) categories indicated above.

Mr. Casnocha gave a brief summary of the background of the Measure G-2004 and Measure G-2010 Bond Programs. The 2nd Measure G-2010 is subject to the same conditions of Measure G-2004. The Bylaws were amended to expand the power of the Committee to approve both Bond Measures. The reason why the Citizens' Bond Oversight Committee was formed in 2004 was in fulfillment of the first Measure G promise that a condition of receiving 55% voter approval the District will have an Oversight Committee. The power of the Citizens' Bond Oversight Committee is defined by Sacramento.

Mr. Casnocha reemphasized the Citizens' Bond Oversight Committee Amended and Restated Bylaws (approved 12/14/2010) and explained in detail, covered a broad range of responsibilities, rules and operating procedures from the following sections of the Bylaws:

<i>Section 1 Committee Established</i>	<i>Section 6 Meetings of the Committee</i>
<i>Section 2 Purposes</i>	<i>6.1 Regular Meetings</i>
<i>Section 3 Duties</i>	<i>6.2 Location</i>
<i>3.1 Inform the Public</i>	<i>6.3 Procedures</i>
<i>3.2 Review Expenditures</i>	<i>Section 7 District Support</i>
<i>3.3 Annual Report</i>	<i>Section 8 Reports</i>
<i>3.4 Duties of the Board/ Chancellor</i>	<i>Section 9 Officers</i>
<i>3.5 Measure G Projects Only</i>	<i>Section 10 Amendment of Bylaws</i>
<i>Section 4 Authorized Activities</i>	<i>Section 11 Termination</i>
<i>Section 5 Membership</i>	<i>Attachment "A" Citizens Bond Oversight</i>
<i>5.1 Number</i>	<i>Committee Ethics Policy Statement</i>
<i>5.2 Qualification Standards</i>	
<i>5.3 Ethics: Conflicts of Interest</i>	
<i>5.4 Term</i>	
<i>5.5 Appointment</i>	
<i>5.6 Removal: Vacancy</i>	
<i>5.7 Compensation</i>	
<i>5.8 Authority of Members</i>	

The Committee Members are only legally allowed to discuss topics that are on the agenda. If Committee Members who have a topic(s) that they would like the Committee to discuss the Committee must inform the Chair of the agenda item prior to the meeting so that the agenda topic(s) may be placed on the agenda for the public meeting. Mr. Casnocha recommended to the Citizens' Bond Oversight Committee Members that to address public comments ask the

District staff to explain to the Citizens' Bond Oversight Committee Members why the District approved the expenditures in question(s.)

The law determines in order to satisfy the Proposition 39 project list requirement the Districts should organize their projects by type and that the Districts are authorized to spend bond money for any projects that are of the type that are described in Exhibit B. Mr. Casnocha gave a brief overview of two lawsuits; Foothill De Anza Community College vs. Emerich case that occurred in 2007 and the San Diego Unified School District case occurred in 2013. The Citizens' Bond Oversight Committee Members is responsible for reviewing the expenditures and determine whether or not they are the type of projects that are included in the Measure G Bond Program list.

Mr. Nunez noted that the review of the Bylaws doesn't feel that it's being directed to the Citizens' Bond Oversight Committee Members. This review seems to be addressed to the public concerns and using this venue to address their concerns. Mr. Nunez also noted that he agrees with what was stated by Mr. Casnocha of the Bylaw language.

Mr. Casnocha concluded with informing the Committee that the Bylaws will be amended in section 5.4 Term to reflect the Citizens' Bond Oversight Committee Members to serve three (3) consecutive two (2) year terms and will be available to answer any questions during or after the Citizens' Bond Oversight Committee meeting. It was noted that the Citizens' Bond Oversight Committee Members aren't elected officials.

9. Financial and Performance Audits Report

Mr. Fitzsimmons re-informed the Citizens' Bond Oversight Committee that Crowe Horwath completed a very thorough and expanded audit of the Measure G-2004 & G-2010 Bond Projects and provided their review of expenses for the year ended June 30, 2013. Crowe Horwath reported no findings of discretionary expenses of the Measure G Bond Programs.

Ms. Treis gave an overview of the Measure G-2004 and Measure G-2010 Financial and Performance audits report process ended June 30, 2013. Ms. Treis informed the Committee that the audit evidence that was obtained is sufficient and appropriate to provide a basis for the audit opinion. The Measure G-2004 and Measure G-2010 Financial and Performance audits reports are available on the District website <http://cboc.sjebond.com/audit-information/>.

Vice Chancellor Smith noted that the Audit was foundational to the steps that are going to be underway. The District is in the process of a revised credit rating to represent the College District of their financial management, bond program management, and the audit report. This will lead to an issuance of more money and continuance to use the \$31,000,000 of Measure G-2004 Bonds and \$120,000,000 of Measure G-2010 Bonds.

A question was asked if a District employee works under the Bond do they get paid from the Bond fund and does a payroll deduction apply to the District employee? Vice Chancellor answered that a District employee who works under the Bond receives their standard pay. Mr. Fitzsimmons gave a brief overview of the book keeping associated with the Bond.

Mr. Nguyen questioned what does the Measure G-2004 general obligation bond balance sheet of receivables \$13,743 represents? Mr. Fitzsimmons replied that the District would review work papers and report details back at the next meeting for both measures.

Mr. Nunez and Mr. Nguyen noted that there is nothing in the notes about giving the Citizens' Bond Oversight Committee meeting minutes and the two (2) correspondences (mentioned in section 6) to the Chancellor or request for itemized expenditure list for District Office building Measure G-2004 and Measure G-2010.

Mr. Lee asked why is the interest earnings low? Mr. Fitzsimmons replied that the interest earning requirements are in a County pool.

Bob Nunez / Jimmy Nguyen motioned and the committee unanimously approved the financial and performance audits report for year ended June 30, 2013.

10. Review/Approval of Draft Annual Report

Mr. Chegini informed all that the subcommittee for the 2012-2013 Citizens' Bond Oversight Committee Annual Report has met and worked with District staff to prepare a draft Annual Report for review. The draft has been posted to the Measure G-2004 and Measure G-2010 Bond website, which is accessible at <http://cboc.sjebond.com/AR1213/>.

Bob Nunez / Jimmy Nguyen motioned and the committee unanimously approved the draft annual report.

11. Website Analytics Report

Mr. Chegini gave a brief overview of the Citizens' Bond Oversight Committee Annual Report Web Analytics.

12. Measure G-2010

- a. Project Update: Vice Chancellor Smith gave an overview of the new District Office regarding current status of the District Office project.
 - i. San Jose City College: Mr. Jewell gave a brief overview of project highlights.
 - ii. Evergreen Valley College: Mr. Miller gave a brief overview of the project highlights.
 - iii. District Projects: Mr. Jewell and Mr. Miller gave a brief overview of the project highlights.

b. Bond List Revision(s)

There was one Measure G-2010 Bond List Revisions during the reporting period ending September 30, 2013. This Bond List Revision was reported upon at the last meeting of the Committee and is included in the financial reports for this period.

There was one Measure G-2010 Bond List Revision that occurred after the reporting period ending September 30, 2013, and prior to the Citizens' Bond Oversight Committee meeting January 21, 2014. This revision took place at the November 12, 2013 Board of Trustees' meeting and is reflected in the November 12, 2013 report.

The Bond List Revision and the associated back-up from the Board of Trustee's meeting approving the revision is incorporated in the meeting packet distributed during this Citizens' Bond Oversight Committee meeting.

c. Measure G-2010 Financial Reports:

Ms. Kennedy presented an overview of the Measure G-2010 Financial Report from inception through September 30, 2013 and gave an update regarding the cost and schedule status of the program. Bob Nunez / Carol Lizak motioned and the committee unanimously approved the Measure G-2010 Financial Reports.

There were no "caution" projects to discuss for reporting period inception to September 30, 2013 of the San Jose City College, Evergreen Valley College, and District.

13. Measure G-2004

a. Project Update:

- i. San Jose City College: Mr. Jewell gave a brief overview of project highlights.
- ii. Evergreen Valley College: Mr. Miller gave a brief overview of the project highlights.
- iii. District Projects: Mr. Jewell gave a brief overview of the project highlights.

b. Bond List Revision(s)

There was one Measure G-2004 Bond List Revisions during the reporting period ending September 30, 2013. The Bond List Revision was reported upon at the last meeting of the Committee and is included in the financial reports for this period.

There was one Measure G-2004 Bond List Revision that occurred after the reporting period ending September 30, 2013, and prior to this meeting. This revision took place at the Board of Trustees' meeting and is reflected in the report dated November 12, 2013.

The Bond List Revision and the associated back-up from the Board of Trustee's meeting approving the revision is incorporated in the meeting packet distributed during this Citizens' Bond Oversight Committee meeting.

c. Measure G-2004 Financial Report

Ms. Kennedy presented an overview of the Measure G-2004 Financial Report from inception through June 30, 2013 and gave an update regarding the cost and schedule status of the program. Bob Nunez / Jimmy Nguyen motioned and the committee unanimously approved the Measure G-2004 Financial Reports.

14. Future Agenda Items:

The Citizens' Bond Oversight Committee Members re-discussed tentative dates for the District Office Building Tour and agreed to schedule in the near future, tentatively September 16, 2014.

15. Adjournment:

Carol Lizak /Bob Nunez

The meeting adjourned at 8:17 p.m.

The next scheduled meeting is March 18, 2014 at 5:30PM – 7:00PM. This meeting will be held at the District Office Conference Room #9 SJECDD 4750 San Felipe Road, San Jose, CA.