

CITIZENS' BOND OVERSIGHT COMMITTEE

MEETING MINUTES

Tuesday, September 29, 2015 - 5:30 PM

San Jose City College, 600 South Bascom Avenue (Room T-112)

<u>Present:</u>	Leo Cortez	Community At-Large
	Daniel Kojiro	Community At-Large
	Johnny Lee	Community At-Large
	Carol Lizak	Community At-Large
	Mathew Mahood	Business Community
	Jimmy Nguyen	Taxpayer's Association
	Elias Portales	Community At-Large
<u>Guest:</u>	David Casnocha	Stradling Yocca Carlson & Rauth
	Wesley Ichinal	Public
<u>Absent:</u>	Rosalinda Thomas	District Staff Accountant, SJECCD
	Linda Wilczewski	Controller, SJECCD
	President Byron Breland	SJCC
	Vice President Jorge Escobar	Administrative Services, SJCC
	Rose Regalado	Senior Citizen's Organization
	Casey Michaelis	Gilbane
<u>Staff:</u>	Interim Chancellor John Hendrickson	SJECCD
	Vice Chancellor Douglas Smith	Administrative Services, SJECCD
	Peter Fitzsimmons	Director of Fiscal Services, SJECCD
	President Henry Yong	EVC
	Interim Vice President Susan Rinne	Administrative Services, EVC
	Tim McBrian	Gilbane
	Scott Jewell	Gilbane
	Andrew Spiller	Gilbane
	Ann Kennedy	Gilbane
	Mike Chegini	Gilbane
	Anna Tiscareno	Gilbane

AGENDA:

1. Call to Order

The meeting was called to order at 5:37 PM

An optional tour was offered from 4:30 p.m. to 5:15 p.m. for the San Jose City College of on-going project work.

2. Approval of Agenda

Matthew Mahood / Elias Portales

Unanimously approved

3. Approval of Minutes

The committee reviewed the previously distributed March 24, 2015 meeting minutes and asked for comments. There were no comments. Mathew Mahood / Carol Lizak motioned and the committee unanimously approved the meeting minutes. I had Dan down in my notes as the second?

4. Meeting Notes from June 16, 2015 (no quorum) – Information only.

5. Public Comment – 3 Minutes per speaker with advance sign in

There were no public comments made.

6. Communications Received by Citizens' Bond Oversight Committee Members

There were no communications received.

7. Staff Reports

Vice Chancellor Smith gave a brief overview of the Staff Reports.

Vice Chancellor Smith informed the Committee of the following:

- An introduction of Mr. John Hendrickson, Interim Chancellor, joined the San Jose Evergreen Community College District on July 1, 2015 and is expected to serve until January 15, 2016. The Board of Trustees is seeking a permanent Chancellor.
- Interim Chancellor Hendrickson gave a brief summary of his history to the Committee.
- The auditors are on site now doing their field work.
- The District successfully refunded selected bonds associated with the Measure G-2004 Bond Program resulting in a direct savings to the District's taxpayers of approximately \$10 million.
- The District anticipates submitting the Educational Master Plan to the Board of Trustees for their review/approval in November 2015 and the update to the Facilities Master Plan in December 2015.
- Invited the Committee to attend the Chancellor Breakfast on Thursday, October 29, 2015 at 7:30 AM in the District Office Board Room, 40 S. Market St., San Jose.

Vice Chancellor Smith complimented and thanked the Committee for their outstanding work efforts of the Measure G-2004 and G-2010 Bond Programs oversight. The Committee is being staffed by excellent Citizens' Bond Oversight Committee Members.

Interim Chancellor Hendrickson informed and invited the Committee to the November 17, 2015 groundbreaking ceremony for the Joint Use 21st Century Post-Secondary Education Center project.

8. Legal Updates

Vice Chancellor Smith gave a brief introduction of Legal Counsel, Mr. David Casnocha.

Mr. David Casnocha gave an overview of a California Appellate Case, Davis vs. Fresno, and its outcome, summarizing the impact on the use of the lease – leaseback delivery method on school projects.

Mr. Nguyen asked if SJECCD has any projects associated with this? Scott Jewell stated that the PE project at SJCC was planned to use this delivery method, but given the legal outcome, the college has rerouted.

Mr. Kojiro asked if this redirection would have an impact on the project timeline? Mr. Jewell stated that it would delay the project by about 6 months.

Mr. Casnocha prompted the question regarding the impact of the change in delivery method on cost. There was a discussion regarding potential cost impacts.

Mr. Casnocha then summarized the Citizens' Bond Oversight Committee Bylaws training session that he conducted on January 21, 2014 and provided/reviewed the questions sent to the District from the Citizens' Bond Oversight Committee Chair on March 26, 2015. Mr. Casnocha gave a brief overview to the Committee of the answers to each question, which are included in the September 29, 2015 Citizens' Bond Oversight Committee agenda packet and is also included in the September 29, 2015 Meeting Minutes.

Mr. Nguyen asked Mr. Casnocha to go over the implementation provision 15278(a) found in the code and in the Committee's materials in more detail.

Mr. Kojiro requested confirmation from counsel that the current Committee is not responsible for past activity. Mr. Casnocha stated this was correct.

Mr. Casnocha gave the opportunity to the Committee to ask additional questions. No additional questions were asked.

9. Committee Membership: Recruitment and Renewal of Members

Vice Chancellor Smith informed the Committee of the following vacant positions for the Citizens' Bond Oversight Committee required representation and any interest of renewal of Committee Members:

- Student – San Jose City College
- Student – Evergreen Valley College.
- Johnny Lee agreed to resubmit his application to continue his Citizens' Bond Oversight Committee membership from 2015 to 2017.

10. Annual Report Preparation

Mr. Chegini informed the Committee of the upcoming preparation for the Measure G-2004 & Measure G-2010 Citizens' Bond Oversight Committee 2014-2015 Annual Report and asked the Committee for their interest in volunteering to participate for the 2014-2015 Annual Report working group.

The following Committee Members volunteered to assist in the 2014-2015 draft Annual Report preparation:

- Johnny Lee
- Mathew Mahood
- Jimmy Nguyen
- Elias Portales

11. Program Updates

- a. Mr. Jewell and Mr. McBrian gave a brief overview of the Measure G-2010 Bond Program project highlights regarding current status of the projects for the District Office, Evergreen Valley College and San Jose City College.
- b. Mr. Jewell and Mr. McBrian gave a brief overview of the Measure G-2004 Bond Program project highlights regarding current status of the projects for the District Office, Evergreen Valley College and San Jose City College.

Mr. Spiller gave a brief overview of the Joint Use 21st Century Post-Secondary Education Center project highlights regarding current status.

12. Program Financial Reports

- a. Measure G-2010 and G-2004 Financial Reports:

Ms. Kennedy presented an overview of the Measure G-2010 and G-2004 Financial Report from inception through June 30, 2015 and gave an update regarding the cost and schedule status of the program.

There were no “caution” projects to discuss for reporting period inception to June 30, 2015 of the San Jose City College, Evergreen Valley College, and District.

- b. There were two Measure G-2010 Bond List Revisions and two Measure G-2004 Bond List Revisions during the reporting period ending June 30, 2015. These revisions were reported on at the previous Citizens’ Bond Oversight Committee meeting, held on June 16, 2015.

There were two Measure G-2010 Bond List Revisions and two Measure G-2004 Bond List Revisions that occurred after the reporting period ending June 30, 2015, and prior to this meeting. These revisions took place at the August 25, 2015 and September 8, 2015 Board of Trustees meeting and are reflected in the reports.

Measure G-2010 and Measure G-2004 Financial Reports/Bond List Revisions:

Matthew Mahood / Johnny Lee

Unanimously approved

13. Proposed Future Meeting Dates

Ms. Kennedy reviewed the 2016 Citizens’ Bond Oversight Committee proposed future meeting dates, times, location, and asked the Committee for input/approval on the dates.

Jimmy Nguyen encouraged the Committee to attend each Citizens’ Bond Oversight Committee meeting so that a quorum can be established for each meeting. 5 Citizens’ Bond Oversight Committee Members are required to conduct a quorum.

14. Future Agenda Items

The annual audit reports will be presented by the auditor at the next meeting.

15. Adjournment

The meeting adjourned at 7:09 PM

The next scheduled meeting is December 15, 2015 at 5:30 PM – 7:00 PM. This meeting will be held at the Evergreen Valley College Library/Ed. Tech Center (LE) Building Mishra Room.

Questions sent to the District from the Citizens' Bond Oversight Committee Chair on March 26, 2015, via e-mail for response:

- 1) For issues concerning emails for the CBOC members. It is okay to hyperlink my personal email address to my name on the CBOC website without listing my actual email address.

Mike Chegini, Communications Manager for the Program Management Team, has fulfilled this request.

- 2) When an asset is paid for with bond funds, is it listed as a bond asset for the CBOC to see? If so, is the asset ever taken off of the asset list? For example, since the new district office building is a bond asset, will it always remain on an asset list made available to the CBOC? Will it ever be taken off that asset list?

It is the District's responsibility to utilize the taxpayer's dollars in the most effective and efficient way possible while adhering to laws and regulations governing those processes.

When an asset is purchased with GO bond funds, it is charged to the General Ledger using the relevant fund and object code. Thus, there is transparency as to purchases made.

As per AP6500.1, Capital Asset Inventory, all assets valued at \$100 or more (Measure G-2010) or \$1,000 or more (Measure G-2004) are tagged and inventoried in our RAM database and inventoried periodically.

In accordance with Generally Accepted Accounting Principles (GAAP) and the State Chancellor's Office Budget and Accounting Manual (BAM), District assets exceeding \$5,000 (aggregated cost) are capitalized using the straight-line method over the useful life of the asset, as established in our Capitalization and Depreciation Schedule. Estimated useful lives of buildings are 50 years, portable buildings are 15 years, improvements are 10 years, and equipment is 3-8 years. Once assets are fully depreciated, they are carried on inventory at a zero book value until such time as they are disposed of.

The District may elect to dispose of, transfer or sell any District property that is no longer required or not suitable for use (AP 6550.1 Personal Property). Proceeds from any sale are directed back to the original funding source in the form of revenues.

[Attached is a copy of the District's Fixed Assets Capitalization and Depreciation Schedule.](#)

- 3) What happens to revenue that is generated by bond assets? For example, the District Office Building has two tenants that are paying rent. What happens to that money? Who is responsible for monitoring that money? Is that information presented to the CBOC?

The revenue generated by “bond assets” can be generated by public activities or private activities. In the case of public activities, another public agency uses the facility and pays a fee established in compliance with Section 82537 through 82548 of the California Education Code (commonly referred to as the Civic Center Act) which governs rental activities. The fee is meant to offset the expenses generated by the use of the facility. There are no issues associated with the use of public facilities by public entities.

In the case of a private rental, a review is done by bond/tax counsel to ensure the compliance requirements for income generation are met. This includes a review of the net proceeds relative to the current pay-off schedule for the series of bonds used for the asset, and the amount of bond dollars used for the asset. Bond/tax counsel is requested to review private income generating bond assets at the start of the rental agreement and whenever a change occurs in the agreement for compliance purposes. Once the bond series used for the asset is paid back, the compliance requirements are no longer applicable.

Income generated from bond assets is not restricted in use.

To speak to the tenants in the District Office, these tenants were inherited with the purchase. Bond/tax counsel reviewed the purchase and the rental agreements prior to the close of escrow for compliance with the bond programs. The ratio of net proceeds to bond series expense was within the compliance rules.

The rental income received from the tenants occupying the 4th and 5th floors is recorded in Fund 15 (Facility Rental) and is reported in the District’s budget and financial reports. The revenues offset the cost of supporting the tenants and the parking for the employees and visitors to the district office.

The responsibility for the monitoring of the money lies with the Chief Business Officer for the District.

The District’s budget and financial reports are reported to the Board of Trustees and are a public document. The rental income information is not presented to the Citizens’ Bond Oversight Committee (CBOC) as a matter of course because it is not within their purview. The purview of the CBOC is relative to expenditures.

4) In 15278(a), the law requires creation of an independent citizens’ oversight committee for "a bond measure" that is approved. However, the way the code is written allows one to interpret that the bond committee has oversight concerning any "expenditure of bond revenues." 15278(b). That line doesn’t have a qualifier or limiter, so one could interpret it to include all bond measures. Please get a statement from bond counsel that each bond measure creates a respective bond committee responsible and limited to that measure/revenue only, and not past measures/revenues. Include 1-3 citations to judicial or legislative authority.

Please reference the attached e-mail from the District's Bond Counsel, David Casnocha of Stradling Yocca Carlson & Rauth, to Vice Chancellor Doug Smith, dated June 2, 2015, for the answer to question number 4.

5) Please state the process and timelines for when a member of the public makes a public records request on the CBOC; and in the context of on the Board of Trustees. What is the remedy for noncompliance?

Please reference the attached e-mail from the District's Bond Counsel, David Casnocha of Stradling Yocca Carlson & Rauth, to Vice Chancellor Doug Smith, dated June 2, 2015, for the answer to question number 5.

6) State how the College District came into possession of the land at Evergreen Valley College, specifically the land that is under consideration for lease and development. Was it through bond money, gift, etc.?

The District land located at the front of Evergreen Valley College was purchased using District Reserves, Community Use funds, current revenue, and State matching funds.

Please reference the attached page from the Board of Trustees Meeting Minutes dated November 7, 1967, regarding the land acquisition.

Question from Committee Member Carol Lizak raised during the Citizens' Bond Oversight Committee Meeting on March 24, 2015.

Does the District track bond assets? Please provide an asset list for the bond programs.

Please reference the answer to question number 2 from the Committee Chair (above) for information regarding the handling of assets.

Please find the link below to the Asset Lists:

<http://cboc.sjebond.com/wp-content/uploads/2015/06/SJE-Asset-Detail-Sheets.pdf>

Due to the file size, one hard copy will be provided at the meeting.

San Jose Evergreen Community College

Fix Assets Capitalization and Depreciation schedule

Asset Type	Capitalization Threshold	Useful Life
Land	\$150,000	N/A
Land Improvements	\$150,000	10yrs
Parking lot, sidewalks	\$150,000	10yrs
Bus ramp, fencing	\$150,000	10yrs
Running track,	\$150,000	10yrs
Ball field, park landscaping	\$150,000	10yrs
Buildings	\$150,000	50yrs
Building Improvements	\$150,000	10yrs
Temporary building	\$150,000	15yrs
Other portable	\$150,000	15yrs
HVAC system	\$150,000	10yrs
Roofing	\$150,000	10yrs
Carpet replacement	\$150,000	10yr
Electrical plumbing	\$150,000	10yrs
Construction in Progress		N/A
Infrastructure	\$150,000	10yrs
Easements	\$150,000	10yrs
Drainage Systems	\$150,000	10yrs
Sewerage disposal system	\$150,000	10yrs
Water systems	\$150,000	10yrs
Roads	\$150,000	10yrs
Machinery and Equipment	\$5,000	8yrs
Motors vehicles	\$5,000	8yrs
Telephone equipment	\$5,000	8yrs
Scientific equipment	\$5,000	8yrs
Radio communications	\$5,000	8yrs
equipment	\$5,000	8yrs
Recreational/Athletic equipment	\$5,000	8yrs
Custodial equipment	\$5,000	8yrs
Grounds equipment	\$5,000	8yrs
Outdoor equipment	\$5,000	8yrs
(Playground equipment,	\$5,000	8yrs
Scoreboards, bleachers, radio,		
towers)		
Furniture, Fixtures and Office equipment	\$5,000	8yrs
Computer equipment	\$5,000	3yrs
Library Books, Artwork	N/A	N/A



Ann Kennedy <akennedy@akennedygroup.com>

San Jose Evergreen CCD CBOC

1 message

Casnocha, David <DCasnocha@sycr.com>

Tue, Jun 2, 2015 at 10:28 AM

To: "Smith, Douglas R." <Douglas.Smith@sjeccd.edu>, "Ann Kennedy (akennedy@akennedygroup.com)" <akennedy@akennedygroup.com>

Doug: On your behalf Ann asked me two questions that originated with one or several members of you CBOC.

The first question related to the scope of the Committee's review powers. As you know, the District has had three bond elections. Two of them were conducted under the provisions of Proposition 39 and for which the District was obligated to establish an oversight committee. The Prop 46 election did not prompt the formation of an oversight committee, and the expenditure of those bond funds were only subject to Board of Trustee approval.

A District bond oversight committee was first formed following the 2004 Measure G election and for the next six years it had the responsibility of reviewing expenditures under the 2004 Measure G. With the passage of 2010 Measure G, the Committee's responsibilities were expanded to review pending expenditures of both 2004 Measure G and 2010 Measure G.

One of the Committee's responsibilities is to submit an annual report to the Board of Trustees summarizing their conclusions regarding the expenditure of bond proceeds during the fiscal year identified in each annual report. Once an annual report has been provided to the Board of Trustees, the Committee's work with regards to all bond expenditures recorded during that fiscal year has been concluded and cannot be revisited. The Committee's responsibility is to review bond expenditures made during the current fiscal year, as this is the only year for which an annual report has not yet been filed. A sitting committee cannot look back to prior years to reconsider decisions made by the Committee and which expenditures had already been included in a prior annual report.

No expenditures of bond funds of a non-Prop 39 bond measure are subject to review by the Committee.

The second question related to the Public Records Act. While it has not been tested in Court, because the Committee has been established by the Board, it is likely subject to the Public Records Act ("PRA"). Requests made under the PRA need to be responded to in 10 days. The response does not need to include all the requested materials, but triggers the timeline the agency needs to assemble all the requested documents. If a PRA request is not responded to by an agency within the response guidelines is subject to a lawsuit and the payment of legal fees of the petitioner. The typical sequence of a request includes the request for records, an initial response within 10 days, unless an extension is granted, and an agreement of the date by which records will be produced. If the requested documents are not produced the petitioner and the agency must "meet and confer" to discuss the manner and timing of the document production. If this meet and confer session does not produce a settlement of the duty to produce documents, the petitioner can initiate a writ of mandate action in the local superior court to get a judge to order the agency to supply the appropriate materials. I have never seen a PRA request made to a CBOC, in as much as a CBOC only receives documents which are public records.

If you have any follow-up questions I would be happy to attend the next meeting of the CBOC to explain these answers in greater detail.

Best regards, David

SAN JOSE JUNIOR COLLEGE DISTRICT
SCHEDULE OF PAYMENTS

Response to Questions #4 & 5:
Supporting Documentation

Site Purchases

	Milpitas		Evergreen	
	Acres Purchased	Total Am't.	Acres Purchased	Total Am't.
Dec. 31, 1967	38.065	\$413,005.25	50	\$600,000.00
June 30, 1968	35.979	412,990.59	50	500,000.00
Option I June 30, 1969	16.966	216,783.66	26	99,154.64
Option II June 30, 1970	15.468	197,007.62	10	38,136.40
Option III June 30, 1971	15.827	199,214.45	10	38,136.40
Option IV June 30, 1972			9	34,322.76
TOTAL	122.305	\$1,439,001.57	155 ±	\$1,309,750.20 ±

Revenue Sources for Land Purchases

Year	Source of Revenue	Am't of Revenue	Expenditures		
			Milpitas	Evergreen	Bascom
1967-68	District Reserves	\$ 800,000	\$825,990.84	\$1,100,000	\$165,000
	Community Use	415,000			
	Current Revenue	36,760			
	State Matching @ .668	839,000			
	Based on (Entitlement III):				
	\$ 165,000 Bascom				
	1,100,000 Evergreen				
826,000 Milpitas					
Total 1967-68	\$2,091,000	\$825,990.84	\$1,100,000	\$165,000	
1968-69	District Reserves (67-68 AB272)	100,000	216,783.66	99,154.64	165,000
	Community Services	110,000			
	Special Reserve	165,000			
	State Matching (Depending on success of Entitlement 4 application. State reports all S.B. 318 money expended; any entitlement is to be based on the Governor's budget)	???			
	Total 1967-68	\$375,000	\$216,783.66	\$ 99,154.64	\$165,000
	Total payment 67-68 & 68-69		\$1,042,774.50	\$1,199,154.64	\$330,000
Balance owed on sites as per offer		\$396,227.07	\$110,595.56	-0-	
(Assuming 155 acres, subject to survey)					

1969-70 and future years

S.B. 691 or Bonds and/or current revenue
A 5¢ tax will raise \$350,000.
The State may match on a less than 50-50 basis due to our comparative wealth.