

MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT

CITIZEN'S BOND OVERSIGHT COMMITTEE

Monday, June 8, 2009
3:00 PM – Regular Meeting
Sam Karas Room, Library and Technology Center
Monterey Peninsula College
980 Fremont Street

Meeting Minutes

MEMBERS PRESENT: Mr. Peter Baird
Mr. Steve Emerson
Ms. Mary Ann Kane
Ms. Elinor Laiolo
Ms. Eleanor Morrice
Mr. Ron Pasquinelli
Mr. Gary Ray
Ms. Sondra Rees

ABSENT: Mr. Scott Coté
Ms. Daphne Hodgson

STAFF PRESENT: Ms. Rosemary Barrios, Controller
Mr. Joe Bissell, Vice President for Administrative Services
Mr. Pete Buechel, Purchasing Specialist
Dr. Douglas Garrison, Superintendent/President
Mr. Steve Morgan, Director, Facilities
Ms. Vicki Nakamura, Assistant to the President

OTHERS PRESENT: Mr. Joe Demko, Kitchell
Ms. Marilynn Gustafson, MPC Foundation

1. Call to Order

The regular meeting of the Citizen's Bond Oversight Committee of Monterey Peninsula College was called to order at 3:05 PM by Chair Baird.

2. Public Comment

None.

3. Issuance of Cash-Out Refunding Bonds

The District's bond counsel, Mr. Casnocha, reviewed the chronology of events leading up to the Attorney General's review of cash-out refunding bonds. He noted the District's bond measure passed in 2002 and the first series of bonds was issued in 2003. In October 2005, the District was advised it would be advantageous to refinance a large portion of the Series

A bonds and monetize the amount of savings resulting from a lower interest rate and an increase in the assessed valuation of property in the District. The college trustees approved the refunding of bonds and in December 2005, \$33 million of bonds were sold, generating \$4.2 million in cash which was deposited in the District's bond program fund. Mr. Casnocha said the benefit for the District was increased dollars for facilities projects identified in the bond measure. The benefit to the taxpayers was the shortening of the repayment schedule of the bonds by 7 years, from 2027 to 2020. He characterized the cash-out refunding mechanism as a win-win situation and many districts refinanced their bonds.

Mr. Casnocha explained the county treasurers group, however, thought the additional interest earnings should be returned to the taxpayers. He said Joe Simitian, representing the county treasurers, asked the Attorney General's office (OAG) in 2006 to consider the legality of cash-out refundings. Two years later, in January 2009, the Attorney General issued an advisory opinion. Using the District's refunding situation as an example, Mr. Casnocha said MPC received \$4 million more than the voters approved. This additional indebtedness was not approved by the voters in the OAG's interpretation.

The OAG's opinion also discussed how to challenge a bond refinancing, specifying a 60-day deadline to file a challenge. He assured the Committee that the challenge period had expired for all cash-out refundings that had taken place. The opinion also described a taxpayer challenge for waste, but there was still the 60-day challenge deadline.

Mr. Casnocha noted most cash-out refundings have already been done and interest rates have risen, so there is no longer a financial benefit. He added that most bond firms are no longer advising districts to do cash-out refundings, absent a legislative change or a court decision.

Mr. Pasquinelli asked about the OAG's delay in issuing an opinion, which precluded any actions to challenge refundings that had taken place. Mr. Casnocha stated the OAG could have brought an action; however, he surmised the OAG wanted to "close the door" on refundings without hurting those districts who had already completed the process. He said it was probably better for the issue to be debated by the legislature.

Chair Baird thanked Mr. Casnocha for attending and providing a complete review of the issue.

4. Approval of March 2, 2009 Minutes

Chair Baird asked Mr. Bissell to follow-up on several items identified in the minutes that needed further clarification. Mr. Bissell introduced staff, Mr. Pete Buechel, Purchasing Agent, and Ms. Rosemary Barrios, Controller, who were present to provide further information.

Bills and Warrants Report items:

- Replacement of cracked waste line – the two entries were not duplicates, but represented different work items.
- New gym flooring – the two entries represented installment payments on the total contract amount of \$203,000.
- Purchase of chairs for the Marina Education Center – the two entries reflected two different styles of chairs, one type had casters. An error was noted in the minutes, instead of 32 chairs, the number should have been 36.

- Project management services – the payment amounts differed to reflect significantly different services being provided by Kitchell for bond program management and project specific activities.

Audit item:

The amount of \$1,898,813 for “other uses” had been questioned at the last meeting. Mr. Bissell discussed with the auditor, and this amount was held by Monterey County to pay for debt service on Series B and C bonds.

Bond Expenditure Report:

Mr. Bissell confirmed that all items identified had been evaluated.

Motion to approve the minutes of the June 8, 2009 meeting with the correction noted, was made by Vice Chair Emerson and seconded by Mr. Ray. Motion carried unanimously.

5. Accept Bills and Warrants Report

Mr. Bissell asked for questions or comments regarding the report.

Chair Baird noted there were several entries for trailer rental for the public safety training center project and a similar entry for trailer set up and removal on page 4. He asked how this entry differed from the others. Mr. Bissell explained the expense was for a construction trailer at the project.

Chair Baird followed with a question regarding a Division of the State Architect (DSA) fee for geotechnical services at the new education center and whether the Division performed the work or hired a contractor. Mr. Demko responded that DSA was not involved in doing any of the work. Chair Baird suggested “review” as a better word to describe the expense.

A question was then asked about the reason for using a separate category for furniture and equipment expenses on page 5 rather than including as part of a building project expense. Mr. Bissell noted when the bond program was implemented, a flat dollar amount of \$4 million had been budgeted for furniture and equipment rather than determining an allocation for each project. The \$4 million is used as a cap.

Chair Baird inquired about two entries for restroom trailer rental on page 8 for the education center where the rental period overlapped for the month of December. Mr. Bissell said he would verify the dates.

An expense on page 11 for repair of landscaping at the baseball field was questioned. Mr. Steve Morgan, Facilities Director, responded the work was related to installation of the baseball field backstop. DSA required an accessible sidewalk be installed leading to the field and the area needed to be re-landscaped. Mr. Bissell agreed a better description was needed for this entry.

Chair Baird asked about an entry on page 13 for replacement of a speaker controller, noting bond monies should not be spent on maintenance. Mr. Bissell explained the speaker controller was part of an emergency notification system that had recently been installed on campus. Mr. Pasquinelli followed with a question about another item that appeared to be maintenance, the replacement of boiler hot water lines on page 11. Mr. Bissell stated these pipelines were replaced as part of rebuilding the campus infrastructure. Mr. Emerson

advised using the word “upgrade” to describe this type of work to avoid confusion with repair items.

Motion to accept the bills and warrants report was made by Mr. Ray and seconded by Ms. Kane. Motion carried unanimously.

6. Bond Expenditure Status Report

Mr. Bissell explained the new bond expenditure report format had been developed to eliminate the accounting differences with the bills and warrants report. He emphasized the fiscal accounting performed by Ms. Barrios and Fiscal Services is the official record for the District and the reports produced by the bond program manager, Kitchell, need to be in balance with the District's records. Changes in some dollar amounts for early start projects were made on the bond expenditure status report to be consistent with Fiscal Services figures.

Regarding the cost control report, Chair Baird noted the report stated the budget for the infrastructure phase III project would be augmented with funds from phases I and II. He pointed out the bond expenditure status report showed phase I to be in deficit, so there were no funds for augmentation of phase III. Mr. Bissell responded funds for phase III would not be coming from phase I. He reported the Facilities Committee was re-evaluating projects to reduce scope and budgets due to the probable lack of state funding and the desire to proceed ahead, given the current advantageous bid climate. Augmentation for infrastructure phase III will come from a restructuring of bond projects, rather than from phases I or II. Mr. Bissell said the statement in the cost control report would be removed. Mr. Pasquinelli asked if priorities were changing as a result of the Facilities Committee work. Mr. Bissell responded yes and he would inform the CBOC at a future meeting.

7. Update on Facilities Projects, Timelines and Schedules

Mr. Demko, the college's bond program manager, began his report with a review of the status of current facility projects.

PE Fitness Building

The elevator will be completed within two months.

Public Safety Training Center at Seaside

Mr. Bissell described the progress being made with Marina Coast Water District in providing water and sewer service to Col. Durham buildings. Mr. Demko reported the classroom and office building will be completed in a month and the second building will be finished later. The existing trailers will be removed so the two buildings can be connected.

MPC Education Center at Marina

Mr. Demko reported the drawings are being reviewed by DSA. He estimated bidding would occur in a month or two. Ms. Kane asked what would happen to the portable buildings currently at the education center. Mr. Bissell said the district would use the portables along with the old Administration Building to meet swing space needs on campus.

Infrastructure

Mr. Demko indicated work on the parking lots was completed before graduation.

New Student Services Building

Mr. Demko indicated 24-25 general contractors were interested in the project and he expected 7 would submit bids. The bid deadline is next week and the contract will be awarded at the June Board meeting.

Auto Technology Building

Mr. Demko said the drawings have been completed and bidding would take place soon for the classroom addition.

Baseball Backstop

DSA has approved the plans.

Swing Space

A swing space plan is being developed to address classroom needs. The former Administration Building will be converted to provide six classrooms.

Facilities Committee

Mr. Demko reiterated the Committee was reassessing projects and schedules. Chair Baird asked if a likely outcome of the reassessment would be an acceleration of construction timeframes for projects. Mr. Bissell answered yes, but explained the District was limited by the need to keep the campus open and running and by the amount of swing space available. He estimated that if the District continued with state funding, construction would continue for ten years. However, if the District proceeded without state funding, construction would be completed in five years.

8. Monterey County Treasurer's Investment Report

Mr. Bissell reported on the discussions regarding the County's investments and the Lehman Bros. and Washington Mutual bankruptcies. The County will write off the \$30 million of investment losses from the Lehman Bros./Washington Mutual defaults and every agency will share the loss. There was some concern by the County's Controller that the loss could not be written off until the shares were sold and the loss recognized. However, the County's Auditor-Controller will act as if the securities were sold and recognize the loss at the current market value (20¢/\$1.00). Then, when the bankruptcy is settled, and if the value is higher, an adjustment will be made. Mr. Bissell noted it would be more accurate to recognize the loss now; there would be no cash flow benefit from doing it later.

Mr. Pasquinelli asked if it would be possible to take cash out of the District's bond fund and "make taxpayers whole." Mr. Bissell stated the refunding was approved by the Board with the proceeds going toward bond projects rather than the taxpayers. Mr. Ray added the taxpayers are still whole. Mr. Bissell noted the additional earnings have made a difference to the projects. Mr. Pasquinelli responded the District had \$4 million from the refunding, but now the amount is less; he said it was a philosophical question. Mr. Bissell commented the projects would take a double loss in that case.

Dr. Garrison observed the primary purpose of the bond was to fund specified improvements to the college's holdings and the refunding continues that premise. The Facilities Committee's re-examination was not driven by the Lehman Bros./Washington Mutual bankruptcies, but by state funding capacity. He noted the priorities were originally established based on the premise of spreading the dollars around and upgrading everything. The premise has now

changed and when money is short, the primary projects are determined and the other projects are put on the waiting list.

Mr. Pasquinelli responded he was not proposing any actual changes. He said the report at the end of the year will show a \$2 million decrease in cash. Instead of focusing on the investment loss, returning funds to the taxpayers would be a way to approach the situation positively. Mr. Bissell responded the County Treasurer's report may not be negative; interest on the bonds will be zero. Dr. Garrison said the District will consider Mr. Pasquinelli's proposal. Chair Baird acknowledged Mr. Pasquinelli's suggestion and noted the college trustees would have many issues to consider.

Ms. Morrice asked about Mr. Solton's previous assertions that litigation, federal TARP funds, or other strategies may yield additional reimbursements. Mr. Bissell referred to Mr. Solton's report to the Board of Supervisors that described the actions being taken. He said San Mateo County had the biggest loss of any county and San Mateo Community College District believes it has lost \$30 million.

9. Meeting Schedule

The meeting schedule for the remainder of the year was reviewed by the committee:

Monday, August 17, 2009

Monday, November 2, 2009 (Annual Organizational Meeting)

10. Suggestions for Future Agenda Topics and Announcements

A tour of the Seaside Public Safety renovation project on Col. Durham Road was proposed in August, followed by the meeting there or at the Education Center in Marina.

There were no other suggestions.

11. Adjournment

The meeting was adjourned at 4:26 p.m.

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