MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT

CITIZEN'S BOND OVERSIGHT COMMITTEE

March 3, 2008
3:00 PM – Sam Karas Room, Library & Technology Center

Meeting Minutes

MEMBERS PRESENT:	Mr. Peter Baird Mr. Scott Coté Mr. Steve Emerson Ms. Daphne Hodgson Ms. Mary Ann Kane Ms. Elinor Laiolo Ms. Eleanor Morrice Mr. Ron Pasquinelli Mr. Gary Ray Ms. Sondra Rees
ABSENT:	None
STAFF PRESENT:	Mr. Joe Bissell, Vice President for Administrative Services Dr. Douglas Garrison, Superintendent/President Mr. Steve Morgan, Director, Facilities Ms. Vicki Nakamura, Assistant to the President

1. **Call to Order**
   The regular meeting of the Citizen's Bond Oversight Committee of Monterey Peninsula College was called to order at 3:00 PM by Chair Baird.

2. **Introduction of New Committee Members**
   Dr. Garrison introduced Mr. Scott Coté, Ms. Daphne Hodgson, Ms. Mary Ann Kane, Mr. Ronald Pasquinelli, and Mr. Gary Ray. Chair Board welcomed the new members to the committee.

3. **Public Comment**
   None.

4. **Purposes, Duties and Authorized Activities of the Citizens' Bond Oversight Committee/Review of Ethics Policy Statement**
   Mr. David Casnocha, the district's municipal bond counsel, was introduced to provide an orientation on the role of the committee for the new members. Mr. Casnocha noted the college's bond, Measure I, was approved with 55% voter approval. He explained the bond was approved under Proposition 39 requirements which lower the threshold for passage of general obligation bonds from 66% to 55%. Proposition 39 bonds have additional obligations to establish and staff a citizen's oversight committee; complete an annual financial performance audit; and provide for greater project specificity to allow the public to determine if funds are being spent appropriately.

Mr. Casnocha stated the committee's Bylaws, approved by the Board of Trustees in 2003, summarize the committee's role and responsibilities. He noted the committee's meetings are subject to the Brown Act and most of the business and deliberations of the committee should be conducted in public. There should be no need for closed sessions. He advised the committee to avoid getting together as a group and discussing oversight committee business outside of regular meetings or conducting serial meetings.

Mr. Casnocha then reviewed the roles and responsibilities set forth in Section 3 of the Bylaws. The committee has three main duties. The first is to review bond expenditures to assure the public that monies are being spent appropriately on Measure I projects and not on teacher/administrator salaries. Mr. Casnocha advised the committee to use Exhibit B of the district's bond measure resolution to determine the projects authorized by the voters for bond expenditures. He further noted that Proposition 39 included the phrase, "no money for teacher/administrator salaries." The state attorney general issued an opinion that the law was intended to exclude teaching and curriculum activities and bond funds could be expended on the salary and overhead of district employees administering bond projects. However, Monterey Peninsula College has elected not to do so.

Mr. Casnocha said the committee had a further duty to inform the public regarding its expenditure review. This responsibility is not set forth in law; the committee may use its own discretion to determine its communication methods, such as publishing a column in the newspaper or having the CBOC Chair update the Board of Trustees at a public meeting.

The third duty is to provide an annual written report. Mr. Casnocha said the committee could follow the model used in the past or change to a different format.

Referring to page 2 of the Bylaws, Mr. Casnocha explained community colleges have used bond funds to leverage state funding. Thus, projects may be funded by a combination of bond and state funds; however, he cautioned that the committee's oversight role is limited to bond funds.

Mr. Casnocha reviewed Section 4 of the Bylaws that describes the authorized activities of the committee. The bond financial audit report may be reviewed by the committee. In addition, the committee may inspect college grounds and facilities (e.g., through a tour), review the deferred maintenance and master plan, and review the efforts of the district to maximize bond funds. He said this last activity is not defined and the college should communicate its efforts, such as private/public partnerships, to the committee.

Mr. Casnocha noted that committee members' terms are limited to two 2-year terms. The Bylaws established an initial 1-year term for some members to ensure continuity of membership through the staggering of terms.

He reviewed Section 7 regarding the technical and administrative support to be provided to the committee, including preparation and maintenance of a website.

5. Review of the Ralph M. Brown Public Meetings Act

Mr. Casnocha continued his orientation for the new members by briefly reviewing the Brown Act public meeting requirements. He emphasized that the committee's discussions should be conducted in open session and members should avoid doing any committee business outside of the meeting.

Chair Baird asked about the committee's authority. Mr. Casnocha described a hypothetical situation where a bond expenditure seemed inappropriate and staff was unresponsive to the committee's request for more information. In this example, Mr. Casnocha said the committee could then go to the Board of Trustees and explain the committee was being "stonewalled" by staff. The committee's authority ends there; the committee has no further recourse other than issuing a public statement. Mr. Casnocha stated the remedy for any violations rests with a taxpayer; only a taxpayer can bring a lawsuit regarding waste of college funds.

Ms. Morrice asked if any taxpayer could bring suit regarding an inappropriate expenditure. Mr. Casnocha responded that the taxpayer would need to reside within the District to have standing in a lawsuit.

In conclusion, Mr. Casnocha advised forwarding any questions that may arise regarding the Bylaws or whether a project was authorized for bond funds to him through Joe Bissell. He said there would be no charge to answer questions or attend meetings.

6. Approval of Minutes

The minutes showed a question was raised at the November meeting regarding a UC Regents expense. Mr. Bissell reported that an error was made in the vendor number used, and the check to the UC Regents was voided and reissued to the actual vendor, M3. Ms. Morrice asked if there was further information regarding a construction zone fencing expense referenced in the minutes. Mr. Demko responded the expense had been split equally between the Lecture Forum and Social Science projects and the charge was not a duplicate.

Motion to approve the minutes of the November 5, 2007 meeting was made by Ms. Rees and seconded by Mr. Emerson. Motion carried unanimously.

7. Accept Bills and Warrants Report

Chair Baird asked for clarification on two items. Under the Fort Ord Public Safety project, he noted there were two items listed for the same amount of $6811.12 and asked if this was a duplicate charge. Mr. Demko explained the 20% architect's fee is paid in equal monthly installments. The second item concerned a credit from the City of Monterey under the Infrastructure Project. Mr. Bissell responded that Fishnet Road is partially City property and the refund pertained to work the College completed on that portion.

Ms. Morrice asked how the furniture/equipment category related to the bond projects. Mr. Bissell said bond funds can be used to purchase equipment. The expenditure in question involved the cart used to transport disabled students. She also asked about an expense listed for Archaeological Consulting to identify bones. Mr. Bissell said that bones found on site were identified to be cow bones. The site was former pastureland.

Mr. Emerson suggested that when fees are split, it would be helpful if the expense was identified as 1 of 6, for example.

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

8. Bond Expenditure Status Report

Mr. Bissell explained the Bills and Warrants report is the "official" expenditure report for the district and is prepared by the district's Controller, Rosemary Barrios. The monthly Bond Expenditure Status Report is a more current report and is prepared by Joe Demko, the bond program manager. He works with Ms. Barrios to reconcile his figures. Mr. Demko noted he also uses different categories than those appearing on the Bills and Warrants report.

Mr. Demko referred to the two right hand columns of the report, labeled "% Cost Complete" and "% Schedule Complete." He pointed to the Child Development Center and noted the project is 0% cost complete, but 99% schedule complete. This discrepancy is due to the project being primarily state-funded. Mr. Demko added that a typical project runs three years with the first year devoted to design of the project, representing 25% of the total project cost. The third year is the construction phase which constitutes 75% of the total cost.

Chair Baird noted a discrepancy under the Infrastructure category where San Jose Blue is listed for a credit of $9,769 for document printing. He questioned if the credit should be $9,000 from the City of Monterey and $769 from San Jose Blue, according to the Bills and Warrants Report.

Chair Baird also asked about the Old Library project and observed it did not show up in the Bills and Warrants report. Mr. Bissell said this omission showed the difference between the two reports. The Old Library project is 50% funded by the state. Mr. Bissell said Mr. Demko's report shows the charges as 50:50; however, the district expends the state funding first with the bond funds being used last. The Bills and Warrants report will not show the expenditures until bond funds are used. Mr. Demko added that he uses his report to project costs to compare with the total cost.

Mr. Pasquinelli stated the report shows the Lecture Forum project is 95% schedule complete, but 70% cost complete. Mr. Demko responded a lag of 60-90 days was typical in making payments. He advised tracking the Encumbrances column for the most important expenditure information.

9. Bond Audit Report for 2006-07

Mr. Bissell reviewed the bond audit report. He directed the committee's attention to pages 3, 4, and 5 which indicated the auditors' findings. Mr. Bissell reported there were no exceptions in procedures;no exceptions in compliance; bond proceeds and expenditures were accounted for separately; every expenditure tested complied with Measure I; and there were no adjustments to the District's financial records.

Mr. Pasquinelli asked about a local audit firm being used to conduct the audit. Mr. Bissell said that very few firms do college audits.

Chair Baird noted the auditor's letter stated the firm was not engaged to express an opinion. He commented that this statement dilutes the findings. Other members also questioned the auditor's statement. Ms. Hodgson explained that the auditing firm was making the distinction that it could not offer an opinion on the financial statements of the bond as a whole. Mr. Bissell said the same firm performs the financial audit for the entire district and he questioned why it could not express an opinion. He offered to discuss with the firm and report back to the committee at the next meeting.

10. Series B and C Bonds Issuance

Mr. Bissell reviewed the recent issuance of Series B and C bonds. He said a letter was sent to the committee regarding the district's upcoming bond sale. He reported the bonds were sold in January and $105 million was deposited in the County treasury.

Mr. Bissell said the original plan was to issue four series of bonds, Series A for $40 million and Series B, C, and D at $35 million each. The bond series would be issued in three year increments, with 12 years to issue all the bonds and 15 years to spend the funds. The final maturity date, or when the bonds would be paid back, was projected to be 2042. Per

Measure I, the bonds are repaid with homeowners' property taxes, at a rate of $23.89 per $100,000 of assessed valuation.

In 2003, the district issued the Series A bonds at $40 million and 4.58% interest. In 2005, the district refinanced the Series A bonds at 4.37% interest with a final maturity date of 2035 instead of 2042. Since the Series A bonds were sold, construction costs have increased by 30%. Mr. Bissell said the timing in January appeared favorable for selling the next series of bonds. The district evaluated its five year construction plan and shortened the construction timeline from 9 to 6 years. The remaining bonds were split between two series. Series B bonds in the amount of $9,004,530 were sold as taxable bonds at 4.9% interest and a final maturity date of 2021. Series C bonds in the amount of $95,994,770 were issued as non-taxable bonds at 4.85% interest and a final maturity date of 2034.

Mr. Casnocha explained that general obligation bonds are fully obligated by the public entity issuing the bonds. He said the district's general fund is not obligated to the bond debt, which is solely secured by property taxes. Mr. Casnocha noted that in Monterey County, bonds can be sold on the authority of the trustees, alone. The debt service is then given to the county tax collector who determines the annual tax rate. Per Measure I, the tax rate cannot exceed $23.89.

Mr. Casnocha noted the district wanted to access the full $145 million of bond funds sooner than in the original plan. He said the usual requirement is to spend 85% of the bond proceeds within three years. However, there is an exception where bonds can be sold to fund a five year construction plan, providing the district with five years to spend the funds. Regarding the taxable bonds issued by the district, the spending requirements don't apply so these funds will be spent last, after the non-taxable bonds. Mr. Casnocha said the advantage gained is that the district has $105 million earning interest that can be used on Measure I projects. He added that since the bonds were sold, the bond market has declined and the cost of bond insurance has doubled. Mr. Casnocha concluded the district's sale occurred just under the wire.

Mr. Coté asked if the $105 million must be spent within five years. Mr. Casnocha responded that $95 million must be expended. If the district doesn't meet that expectation at the end of five years, Mr. Casnocha said the district will advise that the interest earned is no higher than the bond rate and thus, no profit was earned. Secondly, Mr. Casnocha said the district will be subject to an IRS audit, where the test will be if an objective third person would conclude that given the facts and circumstances, the drawdown was correct. If not, there would be a tax assessment on the district.

Mr. Pasquinelli asked if the ad valorem tax was based on property value or fixed. Mr. Casnocha answered that the rate of taxation will change due to adjustments in the assessed value. He said growth in the assessed value is assumed so the tax rate should remain about the same. Mr. Casnocha stated the tax rate may exceed $25, but that is not projected to occur. Mr. Bissell added the assessed value is estimated to grow at 4%. Citing the current housing market situation, Mr. Pasquinelli stated a concern with local property tax rates falling. Chair Baird agreed that the growth in assessed value would probably fall if property sales slow down.

Mr. Ray stated the College should be commended on getting the bonds sold. Ms. Morrice stated appreciation for the CBOC being notified of the College's intent to sell the bonds.

11. State Capital Outlay Funding Process

Mr. Bissell distributed a hand-out listing facility projects being funded by both the bond and the state and providing a breakdown of funding amounts. Mr. Bissell cited the stadium project as an example where an alternative source provided funding; the project received $100,000 in funding from the state waste tire grant program for the artificial turf and track. However, the largest source of non-bond funding is state capital outlay dollars.

The district must compete with other community colleges for capital outlay funding provided through state bond measures. There are nine different categories for funding and a maximum of 200 points are awarded to projects based on various measures, such as capacity load ratio, the age of facilities, etc. Points are also awarded for local matching dollars, up to 50 points for a 50% match.

Mr. Bissell reviewed the hand-out. The first group of projects is in process or completed. He indicated the Library & Technology Center was a project primarily funded by the state, with only a minor amount of bond funds used. In contrast, the Old Library project is funded 50:50 by the state and the bond. The second group of projects has also been approved by the state for 50:50 funding and is dependent on the state bond measure passing in November 2008. The third group consists of future projects that the district will submit to the Chancellor's Office for state funding consideration.

12. Update on Facilities Projects, Timelines and Schedules

Mr. Demko, the college's bond program manager, reviewed the status of current facility projects.

<u>PE Fitness Building</u>
The college expects to go out to bid soon on the elevator.

<u>Public Safety Training Center at Seaside</u>
Mr. Demko explained that a self-certification process is being used to renovate the existing buildings on the site. Testing of the buildings is required since there are no drawings available for the former army buildings. The DSA (Division of the State Architect) approval process has been slow. It is hoped that the project can be bid soon.

<u>MPC Education Center at Marina</u>
Mr. Demko stated the modular buildings have been installed and classes are being offered at the site. Student enrollment has increased. Another modular will be installed.

<u>Infrastructure</u>
Progress is continuing. Mr. Demko noted the contract for the campus infrastructure upgrade extends through December 2008, but the contractors hope to finish early, in summer.

<u>New Lecture Forum Bridge</u>
The bridge will be installed next month.

<u>Old Library</u>
This project is $1 million over the original budget due to seismic work. However, bids were received and the approved bid was $500,000 under the estimate.

<u>Facilities Master/Funding Plan Reworking Committee</u>
The Facilities Redo Committee continues to meet. Mr. Bissell said the committee continues to look at different scenarios for projects and funding.

New Student Services Building
A presentation on the building design was made to the Board of Trustees on February 26. The architect's estimate is within budget. The trustees accepted the plans and the drawings are being completed. Mr. Demko reported a new parking lot will be constructed as part of the building plan.

Lecture Forum
This project is close to being finished.

13. Meeting Schedule
The remaining meeting dates for 2008 are June 9, August 4, and November 3 (annual organizational meeting).

14. Suggestions for Future Agenda Topics and Announcements
A tour of facilities projects as part of the next meeting was discussed. Dr. Garrison proposed touring the projects at Colonel Durham in Seaside and at the campus site in Marina. Ms. Rees suggested holding the next meeting at the Marina site.

Ms. Hodgson stated she had reviewed the annual reports in preparation for the meeting and noticed a gap in detail in the numbers presented. She indicated the annual report needs to be expanded and be more complete to be of value to the public. She mentioned that she only learned today that the Library project was funded by the state and asked why it was not included in the report.

Dr. Garrison noted the difference between a bond projects report vs. an annual report on the committee's proceedings. He said the annual report covers a specific timeframe and the Library building was not constructed during the annual report time period. Dr. Garrison added the college is developing a glossy report on the bond projects to share with the public. He suggested this publication may be a better vehicle to inform the public than the committee's annual report.

Ms. Rees stated the report would help educate the public in preparation for the November state bond measure. Dr. Garrison offered to bring a recommendation for a new report to the June meeting to discuss with the committee.

Mr. Emerson suggested expanding the website to explain how projects were funded. Ms. Hodgson added that the cost of projects is not clear to the public. Mr. Coté commented the information would also show the College's success in getting state funding. Mr. Pasquinelli supported Ms. Hodgson's suggestion. He said the taxpayers association would be reviewing the November bond measure and it would be beneficial to show that the Monterey Peninsula would receive some of the funding.

15. Adjournment
The meeting was adjourned at 4:54 p.m.

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