



Bond Measure A and the San Mateo County Community College District

[Issue](#) | [Background](#) | [Findings](#) | [Conclusions](#) | [Recommendations](#) | [Responses](#) | [Attachments](#)

Issue

Were the \$468,000,000 in bond funds from Measure A, approved by San Mateo County voters on November 8, 2005, used for the purpose(s) stated in the San Mateo County Community College District bond measure?

Summary

The 2011 San Mateo County Grand Jury conducted an inquiry into the expenditures of \$468,000,000 in Measure A bond funds approved by the voters in November of 2005 for the purpose of new construction, building renovation and upgrading of facilities and equipment at the three campuses of the San Mateo County Community College District (College District). Particular attention was directed to the construction and equipping of an athletic facility that would be open to the public as a membership fitness center in addition to use as a teaching facility at the College of San Mateo.

Measure A funds were used for new construction projects, extensive renovation of existing buildings and procurement of upgraded technology and equipment that dramatically improved campus facilities.

It was the conclusion of the Grand Jury that the expenditures of Measure A funds conformed to the project list itemized in the ballot measure, while noting that the language was sufficiently vague to allow for broad interpretation. The Grand Jury found that operating a private athletic club on campus was consistent with other College District enterprise activities, and that the private use of public facilities on a fee basis is a widespread and generally accepted practice in San Mateo County.

The 2011 Grand Jury validated the findings of the 2010 Grand Jury that there may be an erroneous public perception that the Bond Oversight Committee (BOC) has the authority to approve plans or expenditures before they are completed, rather than simply reporting on the expenditures after the fact.

The Grand Jury recommends that the College District communicate clearly to the public and to its Bond Oversight Committee the College District's intended uses of Measure A bond funds prior to and during the course of expenditures and to ensure that all bond funds are spent in compliance with the project list in Measure A.

Background

The College District's Board of Trustees placed Measure A before the voters as a "Proposition 39" bond measure which requires a 55% vote for passage rather than the 66% required by a standard bond measure. "Proposition 39" bond measures (Education Code 15282(a)) require that the language of the ballot include a list of the proposed projects to be completed with bond funds. Proposition 39 also establishes the requirement for a "citizens' oversight committee" to oversee how bond funds were expended, to conduct and/or review performance and financial audits, and to report to the public on their findings. The College District refers to its "citizens' oversight committee" as the "Bond Oversight Committee" (BOC).

Proposition 39 also establishes the composition and terms of office for BOC members. Members are appointed to serve for a term of two years, and for no more than two consecutive terms. Proposition 39 further requires that the BOC be composed of members representing specified groups. These include one active member of a business organization, one active member of a senior citizens' organization, one active member of a bona-fide taxpayers' organization and one student in the district active in a college group such as student government. (*Education Code 15282(a).*)

On November 8, 2005 Measure A passed with a 64% vote. The short ballot version of Measure A stated:

"To prepare College of San Mateo, Canada College, and Skyline College students for universities and high demand jobs: upgrade nursing, health career, science, computer, and biotechnology labs; improve accessibility for disabled students; make earthquake safety improvements; repair/modernize libraries, classrooms and aging facilities; and other projects in the Bond Projects List, shall San Mateo County Community College District be authorized to issue \$468,000,000 bonds at interest rates within legal limits and with oversight by a Citizens' Advisory Committee?"

Measure A funds were subsequently used, on all three campuses, for new construction projects, extensive renovation of existing buildings and procurement of upgraded technology and equipment that improved campus facilities.

One of the projects completed using Measure A bond funds is an 88,300 square foot "Health and Wellness Center" on the campus of the College of San Mateo (CSM). This houses a fitness center, two swimming pools, and space for physical and vocational training programs. A portion of this facility (approximately 24,500 square feet) is available to the public, as an enterprise activity, through membership in the "San Mateo Athletic Club." The San Mateo Athletic Club is being developed as a "teaching health club" which will provide internships and student job placement opportunities in the high demand fitness industry and generate revenue through its membership fees. The San Mateo Athletic Club is similar to enterprise campus fitness centers on other college campus such as San Francisco State University and California State University, Long Beach both of which are open to members on a fee basis.

Other enterprises activities exist within the College District include the cafeteria, theater, planetarium, bookstore and the cosmetology program. Administrators plan to rent various new meeting facilities, the new dining complex at CSM and other College District venues for private functions.

Members of the public raised concerns over the operation of a private club on campus, and the use of public funds for the construction and operation of this facility were questioned in the press in June 2010. The article reflected the objections of some local citizens and certain private fitness club owners who believed that it constituted unfair competition by a publicly funded institution. Much of the Grand Jury's investigation centered on whether this use of Measure A funds conformed to the stated purpose and list of projects set forth in Bond Measure A.

As the investigation of the use of Measure A funds proceeded, the role of the BOC came into question in assessing the adequacy of oversight of bond money expenditures. The 2010 Grand Jury questioned the efficacy of Citizens' Oversight Committees in the report *School Bond Citizens' Oversight Committees, Prop 39*. While this investigation limited itself to Measure A, concerns highlighted in last year's investigation were encountered, along with some concerns specific to the BOC overseeing Measure A.

Investigation

This report has been compiled from numerous sources including comprehensive tours of the three College District campuses and in-person interviews of key College District personnel including administrators, elected officials and appointed members of the Bond Oversight Committee.

Documentary Items reviewed:

- Full text of Measure A including ballot language
- California State Constitution, Article 13A
- California Education Code, Sections 15278-15282
- Pre-ballot market surveys conducted for Bond Measures
- Market Study of Fitness, Health and Wellness Center, 2007
- Minutes of the College District Board of Trustees meetings
- Minutes of Bond Oversight Committee meetings
- Newspaper articles
- Planning and building documents
- 2009-2010 San Mateo Grand Jury report *School Bond Citizens' Oversight Committees, Prop 39*.

Findings

1. A 2001 pre-election research study commissioned by the College District determined that the shared use of sports fields and recreation facilities by students and the community would be well received.
2. Market research commissioned by the College District in 2007 to determine the viability of opening a campus fitness center to the public indicated it would be well received.

3. College District administrators stated to the Grand Jury that they intended to design/construct a multi-use “wellness/fitness” center before the Board of Trustees placed Measure A on the ballot.
4. Bond Measure A does not list a “wellness/fitness” center in its project list, nor does it refer to using the College District facilities for public/private partnership or enterprise activities. It does refer to a "Workforce Development Center".
5. Deteriorating economic conditions between the passage of Measure A in 2005 and the commencement of construction of the Health and Wellness Center created an emphasis on programs and activities that could generate revenue for the College District.
6. The minutes of the BOC do not document any objections by the BOC to any of the expenditures by the College District from Bond Measure A funds.
7. Several members of the BOC exceeded their statutory limit of two consecutive two-year terms (4-year maximum). On October 13, 2010, this was corrected by the appointment of eight new members.
8. The BOC has no representative of a bona fide taxpayer group as required by State Law, [California *Education Code 15282(a)*], despite a reasonable effort by the College District to identify and appoint such a member.
9. The BOC membership remained substantially the same for both Bond Measure A (2005) and Measure C (2001). The BOC was chaired for seven years by a former senior administrator of the College District. The members of the BOC are selected by the College District.
10. The BOC did not issue an annual report for the year 2009 but did submit a report for 2010.

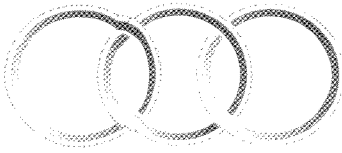
Conclusions

1. The San Mateo Community College District Board of Trustees used Bond Measure A funds to continue the transformation of San Mateo County’s three community colleges into state-of-the-art institutions through safety and seismic upgrades, new and renovated facilities, and enhanced campus environments.
2. The Board of Trustees, the authors of Measure A, did not include on the ballot its proposed use of bond funds to construct an athletic facility that would be operated as an athletic club as well as a teaching facility. The project list for Measure A is so broad it permitted generous interpretation in the purpose of the funds. For example, College District officials stated that the bond language "workforce development center" was the basis for the construction of the wellness/fitness center.
3. The private use of public facilities on a fee basis is a common and generally accepted practice in San Mateo County, and is similar to other public school facilities (e.g. athletic fields, gymnasiums, classrooms, meeting space, planetarium, etc.) that are made available to the public on a fee basis. However, selling membership to a facility appears to be unique within the College District.
4. The role of the BOC has been limited to review expenditures after the fact, to conduct and/or review performance and financial audits, and to report to the public on their findings.

Recommendations

The 2011 San Mateo County Civil Grand Jury recommends the San Mateo County Community College District Board of Trustees:

1. Communicate clearly to the public and to the BOC the intended uses of bond funds prior to and during the course of expenditures, particularly when major projects are not identified specifically in the bond project list contained in the ballot measure.
2. Ensure that all bond funds are spent in compliance with the project list in Measure A.
3. Require that the Bond Oversight Committee publish timely reports to inform the public regarding the use of bond funds on the District web site and issue a press release as new reports become available.
4. Regularly, Identify members of the Bond Oversight Committee in the official meeting minutes by their term and affiliation specified in California Education Code 15282(a).
5. Create and publish on the College District website a detailed and specific list of the remaining projects to be funded by Measure A bond funds and update it on a regular basis.



Cañada College, Redwood City
College of San Mateo, San Mateo
Skyline College, San Bruno

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT

Office of the Chancellor

June 23, 2011

Hon. Joseph E. Bergeron
Judge of the Superior Court
Hall of Justice
400 County Center, 2nd Floor
Redwood City, CA 94063-1655

Dear Judge Bergeron:

We are pleased that the Grand Jury concluded that the College District's expenditure of bond funds conformed to the bond projects list presented to the voters. This conclusion is consistent with nine years of findings by the Bond Oversight Committee and nine years of financial and performance audits conducted by an independent auditor. We also agree with the Grand Jury's observation that operating a fee-based athletic facility open to the public is consistent with other enterprise activities – like bookstores and cafeterias – operated by the College District. The Grand Jury also correctly pointed out that other public universities operate centers like the San Mateo Athletic Center and that the use of public facilities on a fee basis is a widespread and accepted practice in San Mateo County.

Regarding the Grand Jury's comment that the Bond Project List language was "vague," we do not believe it is vague and it is our strongly held belief that, when embarking on a 6-10 year construction project, it is important that the bond project language be both comprehensive and broad to allow for modifications to the "Master Plan," on which the Bond Projects List is based. The Master Plan presents a "big picture view" of what projects need to be undertaken on a campus to achieve a vision that is outlined in the Master Plan. Once detailed planning begins, new information may emerge – about building conditions, costs of construction, or other matters – that could cause the District to modify its earlier plans. As an example, in the College District's 2006 Master Plans, we had indicated that we would demolish Buildings 15 and 17 at CSM and build a new facility for faculty offices. During detailed construction planning, we learned that it would be more cost efficient (and less disruptive to the campus) to remodel these two buildings and add space in the planned Building 10 to accommodate the need for additional offices. Conversely, in our Master Plan, we had planned to remodel Buildings 5 and 6 at CSM. Detailed planning revealed that the building was seismically unsafe and it would be much more expensive to remodel and make the building seismically safe rather than to demolish and build new – which is what we did. The Bond Projects List language that allowed both these changes is; "Demolition of outdated, non-compliant structures" and "Repair, modernize and construct interior and exterior instructional and support facilities," which intentionally did not identify specific buildings.

We appreciate the fact that the Grand Jury acknowledged that the College District made a "reasonable effort" to identify a BOC member from a "bona fide taxpayer association." When the

BOC was first formed, there was a representative appointed from a taxpayer's association, but that member never attended a meeting of the BOC. We are pleased to report that we recently were successful in identifying a new member in this category who currently is serving.

Regarding the formal recommendations:

- 1) The Grand Jury recommended that the Board communicate clearly to the "public and to the BOC the intended uses of funds prior to and during the course of expenditures." We concur and we believe we have consistently done this – through development and widespread distribution of the Facilities Master Plan; through frequent facilities program updates at public meetings of both the Board of Trustees and the BOC; and through our website which includes copies of all the presentations, our Master Plan, and detailed information related to our bond funded (and state funded) projects.
- 2) The Grand Jury recommended that the Board ensure that all bond funds are spent in compliance with the Bond Projects List. We concur and, in paragraph 4 of the report, the Grand Jury concludes that we have done so.
- 3) The Grand Jury recommended that the BOC "publish timely reports" to inform the public regarding the use of bond funds." We concur. The law requires an annual report which our BOC does complete – usually in January of each year. This report is released to the media and posted on our website. We would like to comment that, in nine years of public meetings conducted in compliance with the Brown Act, members of the public have attended only two BOC meetings.
- 4) The Grand Jury recommended that the College District identify BOC members by their term and affiliation in meeting minutes. We will implement this recommendation at the BOC's next meeting on August 4.
- 5) The Grand Jury recommended that the College District publish a "detailed and specific list of the remaining projects to be funded by Measure A." We concur and we have maintained this listing for the last 5-7 years:
<http://www.smccd.edu/accounts/smccd/departments/facilities/DistConstInfo.shtml>. This includes all projects – past and present.

This response was approved by the Board of Trustees at it public meeting on June 22, 2011.

Sincerely,



Richard Holober
President, Board of Trustees