KERN COMMUNITY COLLEGE DISTRICT
BOND OVERSIGHT COMMITTEE

February 4, 2009

Present: Mrs. Amy Covert, Chair; Dr. Herb Bonds, Mr. Ted Ensslin, Mrs. Cathy Prout, Mrs. Joan Smith, Mr. Ken Vaughan

Absent: Ms. Debbie Moreno, Mr. Cal Stead, Vice Chair; Ms. Lyne Muegma

District Staff: Ms. Sandra Serrano
Mr. Tom Burke
Mr. Chris Addington
Ms. Kim Crews
Mr. Joe DeRosa

Guest: Dr. Rosa Carlson, President, Porterville College
Mrs. Donna Berry, Director, Administrative Services, Porterville College

Call to Order

Mrs. Amy Covert, Chair, called the meeting to order at 2:25 p.m., in Conference Room 405, Library, Porterville College.

Introductions

The Oversight Committee members introduced themselves.

Tour of the Porterville College Library Project and the Wellness Center Project

Members of the Oversight Committee expressed appreciation for the opportunity to tour the Porterville College Library Project and the Wellness Center Project.

Approval of Minutes

It was moved by Mrs. Prout, seconded by Dr. Bonds, to approve the minutes of the meeting of July 16, 2008; motion carried.
Discussion of Bond Expenditures

Mr. Burke reported that recently the District had received some inquiries related to the Bond expenditures and whether or not they were truly part of the overall Bond that was passed in 2002. The question was raised primarily related to scheduled maintenance expenditures. The Kern Community College District contracted with the law firm of Orrick, Herrington and Sutcliffe, who has experience and an extensive background in municipal bonds. Mr. John Hartenstein completed the evaluation of the District’s expenditures and provided advice as to whether or not there were expenditures that may or may not qualify to be paid from bond funds.

Mr. Burke shared a summary of the findings and he advised that it was concluded that there are three categories to differentiate the use of SRID bond funds: (1) to finance projects that do not constitute ongoing or current maintenance, operations, or repairs; (2) projects specifically mentioned in the Bond Project List contained in SRID (Measure G); or (3) projects considered to be necessary and incidental to a specifically listed project. He stated that projects are qualified by these three primary evaluation criteria. Mr. Hartenstein had also advised that because the law was not well developed in this area, he could not guarantee that a court presented with the same facts and questions would decide these matters as he believe they should be decided.

Mr. Burke stated that based on these findings, the District was undergoing review of its historical scheduled maintenance expenditures funded by the SRID bond, to identify how many of the expenditures did not meet the criteria. At that point, a report would be made to the Board of Trustees and ask the Trustees to take appropriate action with regard to those projects.

There will be a follow up report at the next Oversight Committee meeting about any further actions taken on this matter.

Discussion ensued on various types of projects. Mr. Burke advised that the District had followed the State Chancellor’s definition of scheduled maintenance and it was determined subsequently that it was a very broad definition; in contrast the bond language was more limited in scope.

There was discussion about the State capital projects and the fact that there had been a stoppage of cash flow due to the State of California’s fiscal crisis. The District will be contacting the State to ask if that means when things get better will the cash flow return or will community college districts are on their own. Mr. Burke advised that the District had agreed internally to complete the State capital outlay projects that were already underway, and any new starts of capital outlay projects would be deferred until the cash flow issue was resolved. He further advised that any projects slated to be fully funded by SRID funds will proceed according to schedule.
Attorney General Opinion – Bond Refinancing/Refunding

Mr. Burke reported that in 2005, the District did a refinancing and refunding of the initial bond issuances for SRID. The refunding allowed the District to take advantage of the significant increase in the value of homes and try to capture additional capital or construction purposes. He stated that this became controversial and there was a case submitted to the State Attorney General’s Office contesting this type of refunding as not consistent with Proposition 39.

The State Attorney General stated that in his opinion the refundings and refinancings were not consistent with Proposition 39. When the refundings and refinancings first became controversial, the District noted at the time that the $6.9 million that the District received for additional capital should probably be moved back to pay off the debt, based on the adverse opinion. He stated that he would be making a recommendation to the Board of Trustees to do just that. He noted that the Attorney General felt that legally all of the refinancings and refundings that had taken place prior to the issuance of the opinion could be grandfathered.

It was noted that the proposed refinancings and refundings were reviewed and recommended by the Oversight Committee for the District to proceed with the refunding/refinancing plan.

A question was asked about possible SRID funds remaining at the end of the bond term and Mr. Burke replied that the entire Bond proceeds, $180,000,000, will be expended on projects. The question was asked if the District had purchased property for center(s) as included in the SRID. Mr. Burke advised that the District acquired 225 acres in northwest Bakersfield, located at Enos Lane and Kratzmeyer Road, towards Shafter; and 120 acres had been acquired in south Bakersfield, at the corner of Bear Mountain Boulevard and Highway 99. He further advised that the District had studies prepared to determine where the population migration was going and also took into consideration Taft College and their sphere of influence.

Project Status Report

Mr. Addington distributed copies of the Project Status Report of the Safety, Repair, and Improvement District (SRID) Funds and a copy of the current Bond plan for the proposed expenditures and a breakdown by delivery site for local, State, and multiple funding sources. He also distributed a report on interest income by fiscal year and he referred to the loss of the $6.9 million; and a report of the detailed expenditures by specific projects of SRID funds to date was presented.
Mr. Addington presented the Project Status Report of the Safety, Repair, and Improvement District (SRID) funds to the Committee. He advised that the original Bond funds were $180 million, and to date, there is Bond interest of $13,627,000 and additional funds of $13,627,100 for a total of $193,627,100. He further reported that total funds spent to date were $73,661,911 and the remaining available funds were $119,644,189.

Mr. Addington shared the current projects underway at each site and the amount of SRID funds spent at each site for the 4th quarter of 2007-08.

Staffing Update

Mr. Addington reported that the Director of Construction position had been filled by Mr. Gary Reed. Also, Mr. Joseph DeRosa would be serving as the Project Manager for Porterville and Bakersfield Colleges. Mr. Daniel Reed will be serving as the Interim Project Manager for Cerro Coso Community College, Bishop, Mammoth, and Bakersfield College. He indicated that Dr. Rick Wright and he continue to work on planning and special facility projects for the Construction Department.

Next Meeting

The members of the Oversight Committee commented on how they enjoyed the opportunity to visit the Porterville College campus and touring the construction sites of the Library and Wellness Project.

The next meeting was scheduled at Bakersfield College on July 15, 2009, at 2:00 p.m. (The date was subsequently changed to July 22, 2009.) The members of the Oversight Committee will tour new buildings and/or construction sites.

Adjournment

The meeting was adjourned at 3:15 p.m.