SAN JOAQUIN DELTA COMMUNITY COLLEGE DISTRICT

MINUTES OF THE CITIZENS’ OVERSIGHT COMMITTEE STUDY SESSION
Thursday, March 26, 2009

A study session of the Measure L Bond Citizens’ Oversight Committee of the San Joaquin Delta Community College District was held on Thursday, March 26, 2009, at 5:30 p.m. in Adm. 102A, 5151 Pacific Ave., Stockton, California

Members Present: Nancy Alhberg Mellor, Bob Bentz, Paul Cavanaugh, Bruce Jonsson, Janet Lilly, Gary Yocum

I. Called to Order

The Board meeting was called to order by Chairperson Nancy Alhberg Mellor at 5:32 p.m.

II. Communications

A. Public Comments

There were no public comments.

III. Approval of the Agenda

A motion to accept the agenda was proposed by Committee member Gary Yocum and seconded by Committee member Janet Lilly. The motion was approved unanimously.

IV. Welcome, Introductions, and Announcements

The Committee welcomed Bond counsel David G. Casnocha from the firm of Stradling, Yocca, Carson & Rauth. Mr. Casnocha is a municipal bond attorney who authored Measure L and the bylaws of the Citizens’ Oversight Committee.

Also in attendance:
- Dr. Jon C. Stephens, VP of Business Services
- Dr. Kathy Hart, Asst. Supt./VP of Instruction
- Lee Belarmino, Vice President of Information Technology
- Maria Baker – Director of Facilities Management
- Greg Greenwood, Director of Public Information &
V. New Business

A. Approval of Minutes, February 26, 2009 – Committee
Chair Ahlberg-Mellor suggested postponing approval of the minutes until the next regular meeting of the Committee.

B. Bond Counsel (David Casnocha)

Mr. Casnocha pointed out that he would speak to two documents: the bylaws and the resolution calling for a bond election.

Review of the Bylaws & Role of the Committee –

Measure L was passed under the auspices of Proposition 39. In 2000, an alternative authority was added to the State constitution with respect to general obligation bonds. Between 1986-2000, a community college district needed 2/3 voter approval to pass a bond. The proceeds of those types of bonds would have been limited to the acquisition and improvement of real property. In 2000, a consensus was reached, after many years of debate, that a super majority of 55 percent approval made sense, subject to certain conditions. If a college elected to pass a bond under Prop 39, it also had to agree that it was going to provide greater specificity to the voters as to what the projects that were going to be authorized by the bond. It had to agree to establish and empower a Citizens’ Oversight Committee and it had to agree to conduct annual performance and financial audits of the expenditure of those projects.

The Education Code is the source of authority for the bylaws and the source of authority for what the oversight committees are entitled to expect to be done and what the boundaries of their conduct is. The Board of Trustees of the college has nothing to say about the authorities of the oversight committee – that role has been superseded by actions of the State legislature.

The citizens’ oversight committees are advisory boards. They don’t have decision-making authority.

These oversight committees are subject to the Brown Act. All meetings have to be open to the public, giving the public an opportunity to comment. Anything discussed at these meetings has to be on the agenda, minutes need to be kept with nothing discussed behind closed doors.

The COC responsibility if to only review the Measure L bond projects. Scheduled maintenance projects are
outside of the boundaries of review by the Committee.

The Committee’s duties extends to informing the public (through the website with posted materials); reporting to the Board of Trustees with an annual report in a public session; reviewing quarterly expenditures, etc. If there are any problems arising, these communications should be done through the chair and the chair reflects the consensus of the committee. The chair would then meet with Dr. Stephens first. If there is no resolution, then the next step would be to schedule a meeting with Dr. Rodriguez. After that, the next step on the chain of command would be to go to the Board of Trustees.

Citizens’ oversight committees do not review and approve expenditures before they are made. They review expenditures after they are made. With respect to line items in a construction budget, and if it is a qualified bond project, the line item matters aren’t that. It is the Board of Trustees that review and decide which projects bond dollars will be spent on as well as the importance of those projects. It is the Board, as elected officials, chooses how to spend the bond proceeds. The COC is entrusted to make confirming review that how they have chosen to spend those monies is somehow consistent with what the voters thought they were going to get when they passed Measure L. And what the voters thought they were going to get is reflected in the resolution (75 word statement) on the ballot. The sample ballot contained the full text of the resolution. The project list is not prioritized. There is no obligation to do all of the projects.

The Ed Code authorizes the Committee to receive and review copies of Prop 39 audit, inspect college facilities or grounds for which bond proceeds have been or will be expended; review copies of deferred maintenance proposals or plans developed by the District; and review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

Mr. Casnocha noted that the Committee needs to find persons to fill out the three vacancies: Foundation member, Taxpayers Association-member, and student. The Committee at this time is top-heavy with “at-large” members. He suggested that one of the “at-large” members might consider becoming active in a Foundation, or possibly join the Jarvis Taxpayers Association. He pointed out that by not having these positions filled that the Committee is violating the law by not having actively pursued the appointment of the required composition of the Citizens’ Oversight Committee. Chair Ahlberg-Mellor asked if the COC could solicit current members-at-large to fill one of these categories. This will be placed on the next COC
agenda for discussion, review, and action.

Mr. Casnocha spoke to the term limit of the COC members. The Ed Code states that no member of the oversight committee can serve more than two consecutive two-year terms. The theory was to have the membership staggered with an initial term for one year and could be re-appointed for a two year term with a way of trying to bring some fresh blood in without “gutting” the committee. The logic of allowing a “hold-over” member until a replacement could be found is that it is better to have someone who is willing to be on the committee rather than having an empty seat.

Regarding the authority of members, Mr. Casnocha reviewed what is in the bylaws, but also noted that he feels like another sentence should be added to reflect that the committee shall be entitled to receive all documents that are public record and that have been given to the Board of Trustees as they relate to Measure L. In this manner, the COC will get the same documents relating to Measure L projects that the Board received.

The COC will disband 180 days after the last dollar has been spent.

C. Review of letter for COC Chairperson for the 2007-08 Annual Report – The COC reviewed the letter for the 2007-08 annual report. Chair Mellor commented that this report refers back to the previous, before the new COC took office. Is there some general way in which this could be emphasized that the information contained did take place a year ago? Director of Information Greg Greenwood noted that he could note the term that this report covers. The necessary amendments were noted and will be made before submitting to Chair Mellor for review. She will forward it to Committee members for one final appraisal.

VI. Study Session Topics

Those who submitted topic suggestions were asked if they felt their issues had been addressed. Committee member Paul Cavanaugh noted that all three of his topics had been answered in the context of Mr. Casnocha’s presentation.

Committee member Bruce Jonsson’s requested that his topic of establishing communication procedures with the Board of Trustees be expanded upon. The way it is now is that the chair of the COC speaks on behalf of the committee. Committee members are discouraged from speaking as
individuals only because then you get a disharmony of voices and it is hard to determine what the actual view of the Oversight Committee. Communication with the Trustees should be held in open session, public forum, on the record, in the minutes, clean view — not a phone call to the Board member, on the side. If it’s all out in the open, and better from the Committee point of view through the chairperson, it sends a clear message to the Board. And sometimes Trustees want to come to the COC meetings. Mr. Casnocha discourages them from doing so as they have their forum and this is a forum for the COC. Of course, the Committee could ask staff to invite a Board member to speak to them about how the Board is viewing some of the projects.

Committee member Bob Bentz noted that his topics were covered as well in the presentation. However, he did have a couple of new questions. It is presumed the COC serves at the will of the Board of Trustees, and asked if a COC member could be removed if the Board saw fit? Mr. Casnocha replied that the Bylaws has a section that addresses that issue: The Board may remove any Committee member for any reason, including failure to attend two consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member’s removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee.

Mr. Bentz’ second question was is there some requirement of activity on the part of a Committee member to participate in an outside organization (for instance, the senior citizen representative – should that designee be a member of a senior citizen organization) or does a Committee member need to validate in some way his/her position. Mr. Casnocha replied that in Mr. Bentz’ case, he would need to be active in a senior citizen organization, like AARP. Being active doesn’t necessarily mean attending several meetings a week and volunteering on other committees. Upon learning that information, Chairperson Mellor asked what the requirement would be for the student representative. A student is a person currently enrolled in a credit or non-credit class in college and active in a community college support group. Chairperson Mellor is taking classes and is involved in a college-sponsored activity. At that point, Chairperson Mellor asked that her constituency representation be changed from at-large to student; therefore, she will now be the Student Representative on the COC.

Chairperson Mellor then asked what the requirement for someone to get on a Foundation? Dr. Stephens replied that the College’s Foundation is just now getting underway after being on hiatus. The Foundation is under his supervision and the Board of Directors is now being formed. It is his intention to approach one of the new Foundation board members once
that board is formed.

Mr. Casnocha concluded his presentation and stated that he is available for questions. They need to direct any questions to Dr. Stephens who would then forward them on to him and then he could write the COC a letter in response. Committee member Janet Lilly expressed her appreciation to Mr. Casnocha for being so helpful in defining the role of the COC and helping them to do a better job.

VII. Committee Member Comments

Committee member Bob Bentz thanked David Casnocha. He also noted that he has been one of the activist members on the COC. He stated to Director of Facilities Planning & Management Maria Baker that it was not his intent to offend her when he made remarks to maintenance issues around campus. And to other staff members, he said that if he was overzealous in his efforts it was for the right reasons. He thanked everyone for their cooperation. Chair Mellor responded that she appreciated Committee member Bentz for trying to be a good COC member.

VI. Other Business/Comments

A motion was made by Committee Member Gary Yocum to adjourn the meeting. Committee member Paul Cavanaugh seconded the motion. The motion was unanimously approved, and the meeting was adjourned at 7:04 p.m.

Respectfully submitted,

Jon C. Stephens
Vice President of Business Services