The special study session of the Measure L Bond Citizens’ Oversight Committee of the San Joaquin Delta Community College District was held on Thursday, April 22, 2010, at 5:30 p.m. in the Board Room, Administration 103, 5151 Pacific Ave., Stockton, California.

Members Present: Nancy Ahlberg Mellor, Bob Bentz, Nicole Goehring, Bruce Jonsson, Armando Valerio, Lisa Vigil, Gary Yocum

Member Excused: Paul Cavanaugh

### I. Called to Order

The Board meeting was called to order by Chairperson Nicole Goehring at 5:42 p.m.

### Call to Order, 5:42 p.m.

### II. Communications

A. Public Comments
   There were no public comments.

### Public Comments

### III. Welcome, Introductions, and Announcements

Vice President of Information Technology & Measure L Bond Program Executive Lee Belarmino announced that he will now be facilitating the Citizens’ Oversight Committee due to the recent resignation of Vice President of Business Services Jon C. Stephens.

Mr. Belarmino announced that Yvonne Sheffield, who has been administrating to the Citizens’ Oversight Committee as the administrative secretary, will be retiring in June. Lee introduced his secretary, Judy O’Rourke, to the Committee. Judy will be taking over the secretarial duties to the Committee.

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.
Staff members and visitors also in attendance:
- Lee Belarmino, VP of Information Technology & Measure L Bond Program Executive
- Dr. Kathy Hart, Asst. Supt./VP of Instruction
- Maria Baker – Director of Facilities Management
- Raquel Puentes-Griffith – Budget Manager
- Jim Vergara – Public Information Office
- Mark Newton – Kitchell CEM Project Director
- Judy O’Rourke – Administrative Secretary

IV. New Business

A. Orientation for Citizens’ Oversight Committee Members - 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. He also noted that those oversight committee bylaws written 2008 have a little bit of upgrade provisions that figured out some of the things that was found out could be done better. On the empowerment side, however, all the committees abide by the same rules.

The citizens’ oversight committees are advisory boards. They don’t have decision-making authority. The boards of trustees hire an auditor to provide annual audits of the district, which also includes an audit of bond funds…not the citizens’ oversight committees. No member of a citizens’ oversight committee has any authority to direct anybody to do anything – cannot direct the auditor to do anything. The auditor does not report to the COC and is not held accountable to the committee, is not paid by the COC. It is held accountable to the District and performs those tasks in accordance is generally accepted accounting principles.
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 majority of the Committee cannot hold session informally outside of the public session. Mr. Casnocha emphasized that there are to be no sub-committees or ad hoc committees of the Citizens’ Oversight Committee. The committee works as a whole and comes to a consensus.

The COC responsibility is 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 any problems arise, these communications should be done through the chair and the chair reflects the consensus of the committee. The chair would then meet with Mr. Belarmino 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. 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 that choose how to spend the bond proceeds. The COC is entrusted to confirming that those monies spent are 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.

It was previously thought that bond dollars could not be used for any district staff salaries. However, the Attorney General states that the purpose of Prop 39 was not to prohibit the districts from more cost effectively delivering products for the taxpayers’/students’ benefit. If they could get work done administering bond projects in-house with their own people, then they have the right to spend bond monies for those purposes. The Attorney General established the “but for” test – BUT FOR Measure L, the District would not have incurred a particular expense associated with a bond project. For example, BUT FOR the bond, they wouldn’t be renovating this building and we wouldn’t be spending 20 percent of this time overseeing this building or overseeing the accounting of the
expenditures for this building. So, are districts’ salaries and overhead allowed to be paid for by Measure L? The answer is “yes.” Vice President Belarmino stated, however, that there are no plans to charge salaries back to Measure L. The District has chosen not to use Measure L dollars to pay for salaries.

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. It was pointed out by MR. Casnocha that the term “deferred maintenance” has since been replaced by “scheduled maintenance.” The terms are synonymous, but the phrase used now is “scheduled maintenance.”

The Committee should be concerned about getting some comfort that the District is aware of the importance of spending some portion of its limited resources maintaining buildings that were funded with Measure L dollars; and in the annual report that the COC does, there could be a part that says, “During the course of the year, we had the opportunity to review the scheduled maintenance report dated on such and such a date. The Committee was satisfied that the District was attentive and has a plan to allocate a portion of its resources towards the ongoing maintenance of Measure L projects.”

The Committee shall review expenditure reports produced by the District. Expenditure reports vary from college to college. These reports are up to the District to prepare. The Committee does not have the right to ask staff to prepare reports that are not authorized by the Board of Trustees.

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.

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 Committee is also required to submit an annual report. This is a legal requirement. Typically, the staff and Committee agrees on a format with the staff doing the legwork for the initial draft and the Committee reviews the

Copies of Scheduled Maintenance Funding Request were distributed to Committee members to review for next meeting.
draft and edits it. From a content perspective, the report needs to say that the Committee has reviewed the listed expenditures and concludes that the bond proceeds were expended for the purposes set forth in Measure L, and that no monies were spent on inappropriate teacher or administrative salaries.

Mr. Casnocha pointed out that there could be an update to the “Termination” portion of the bylaws. As it stands now, the bylaws read that the Committee shall automatically be terminated and disbanded at the earlier of the date when (a) all bond proceeds are spent, or (b) all projects funded by bond proceeds are completed.” Another version read that the COC will disband 180 days after the last dollar has been spent. The last version, and right answer, states that the Committee will terminate when the last annual report of the reporting period after the last dollar has been spent and has been filed with the Board of Trustees.

B. Annual Report Update – Public Information Office staff Jim Vergara asked the Committee if there were any additional changes to the draft annual report that was sent out with the agenda. He mentioned that once all changes were made and sent to the printers, 500 copies of the report would be printed. Right now the report is fourteen pages. Some changes had been sent to Mr. Vergara and have been included in the PDF version. It was noted that there appeared to be one page different, which was due to the change in auditors and each auditor prepares the information a little differently. It was questioned about the current status in Lodi. Mr. Belarmino replied that the current Board of Trustees has not yet decided on what they plan to do. However, it still needs to be included as a placeholder in the report. Committee member Nancy Ahlberg Mellor commented that since this represents the work that the incumbent members worked on over the last year, she felt that the work that was set out to do was accomplished. She felt that this is a beautiful report. Mr. Casnocha felt that some information could be added in the letter from the chairperson that reflects the following: “The Committee has concluded that the District during the accounting period, was in compliance. The Committee met seven times, took a tour, received the annual reports, we discussed all the projects that are shown.” As Ms. Alhberg Mellor was Committee Chair last year, she will work with Mr. Vergara to include these comments in her letter for the annual report. A motion was made by Committee member Bob Bentz to accept this annual report with the minor changes that Mr. Vergara will include, and send it to the printer. The motion was seconded by Committee member Armando Valerio and passed unanimously.

Moved, seconded, and approved to accept the Annual Report.
V. Committee Member Comments

- Committee member Armando Valerio thanked the staff for bringing in Bond counsel David Casnocha to help him get a better understanding of what the Committee is all about.
- Committee member Bob Bentz stated that he gained a greater depth of understanding from Mr. Casnocha’s presentation. He also noted that he enjoyed working with the staff on the annual report.
- Committee member Nancy Alhberg Mellor stated that she has enjoyed working with Yvonne Sheffield over the past few months and appreciated everything she has done to assist the Committee.
- Committee Vice Chair Lisa Vigil expressed her appreciation to staff for having Mr. Casnocha attend the meeting and making a very insightful presentation. She has a greater understanding of what the job of the Citizens’ Oversight Committee is. She is grateful to be allowed to ask questions and get the information necessary to make knowledgeable decisions.
- Committee member Bruce Jonsson stated that he felt this was a very informative meeting. He feels the Committee should review objectives in the future and know where we are going to go. He thanked Mr. Belarmino for taking on the responsibility to facilitate the meetings and being able to work through him. He looks forward to taking a tour of the Goleman Library.
- Committee member Gary Yocum thanked everyone. He requested the staff if they could pass along to Dr. Jon Stephens his concerns and appreciation to him and what he had done in the past 18 months. He felt that Dr. Stephens had been a steady force and a real fountain of information.
- Chair Nicole Goehring noted that she has enjoyed working with Yvonne Sheffield and looks forward to working with Judy O’Rourke as well. She is looking forward to reviewing the Facilities Master Plan. She also asked to see if in the future if the Committee could be notified if there is something going on with Measure L project, such as ribbon cuttings or grand openings.

VI. Other Business/Comments

- Vice President Lee Belarmino asked to make a few comments to the Committee regarding where he is coming from in his position of facilitating the Citizens’ Oversight Committee. Trust was mentioned earlier in the meeting. Everything the Bond Team does is built on trust. As of April 15th, the Bond Team has been in business for two years. Prior to when Mr. Belarmino came to the Bond Team, the College decided on the “big bang” theory – they would do a lot of planning, get a few things done that the public could
see, and then do the rest all at once. Textbooks on construction, however, never talk about the “big bang” theory. After four years, however, there was no “bang.” The Board then put Mr. Belarmino in charge to get things done. He was allowed to recruit his own team and this group was not to be micromanaged and they would show transparency. This Team was taking full responsibility and not the consultants, who were dismissed. The way the Team learned was by reading, researching, and basically learning on the job. The new group of Trustees has been on board for a year and a half and have judged the Bond Team on what they have seen. Mr. Belarmino stated that the Team has earned the Board’s trust and he feels that the Team should have earned the Committee’s trust as well. Things are getting done and with transparency. Bond-related items will be brought to the Citizens’ Oversight Committee, however the Team will not be micromanaged. Mr. Belarmino insists on – don’t ever question the Team’s integrity again. If there is any question that the Team is taking money, Mr. Belarmino said the COC could do an investigation. Mr. Belarmino noted that what happened with the auditor at the last meeting will never be allowed again. Mr. Jonsson replied that at the last meeting he stated, at least a couple of times, that he did not suspect any wrongdoing. No one should have felt that their integrity was challenged. Mr. Belarmino continued that from now on, everything will be shared – will take the COC anywhere they want to go and show them want they want to see.

- Topics to be discussed at the next COC meeting:
  - Bond/Budget Report
  - Update on Projects
  - Review Scheduled Maintenance Report

- A motion was made by Committee Member Gary Yocum to adjourn the meeting. Committee Vice Chair Lisa Vigil seconded the motion. The motion was unanimously approved, and the meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Lee Belarmino
Vice President of Information Services &
Measure L Bond Program Executive