

District Citizens' Oversight Committee (DCOC) Meeting Minutes

<u>Date</u>	<u>Prepared By</u>	<u>Agency</u>	<u>Location</u>
April 26, 2013	Laurie Green	LACCD	Los Angeles City College

Attended By	
Committee Members:	
Elliot Axelband, WLAC Representative, Chair	Daniel Swartz, Taxpayer Representative, Vice Chair
David Ambroz, LACC Representative	Terry Anderson, LAVC Representative
Robert Arias, LAMC Representative	Eva Holmes, LASC Representative
Stuart Laff, Foundation Representative	Ethel McClatchey, Senior Representative
Lanny Nelms, LAHC Representative	Richard Slawson, At-Large Representative
Donna Smith, LAPC Representative	
Other Attendees:	
Nabil Abu-Ghazaleh, WLAC	Adriana D. Barrera, LACCD
Todd Cozolino, Build—LACCD	Christopher Dunne, Harris & Associates
Mona Garber, Build—LACCD	Brent Hurwitz, AECOM
Kevin Jeter, LACCD	Daniel J. LaVista, LACCD
Stuart Markey, AECOM	James D. O'Reilly, LACCD

Opening Introductions and Announcements

Dr. Elliot Axelband, DCOC Chair, called the meeting to order at 12:05 p.m. A quorum was present.

Dr. Axelband stated that this is the first official DCOC meeting to be held at a college and that every other meeting would be held at one of the LACCD colleges. At the end of this meeting, LACC will provide an optional campus tour for those who can attend.

Dr. Adriana D. Barrera introduced Ms. Renee Martinez, Interim President and incoming permanent President, LACC.

Ms. Martinez welcomed the attendees to the new Student Union Building, which was opened in October 2012. She expressed her appreciation to the DCOC members for their efforts in assisting the District with its building program.

Dr. Axelband expressed his concern regarding the brevity of the DCOC minutes. He stated that the entry in the minutes of February 22, 2013 regarding the presentation by KPMG needed to expand on what actually transpired. The comments added by Dr. Axelband were included in the draft minutes that were distributed to the DCOC members. He stated that there would be discussion at the next DCOC meeting regarding whether the minutes have sufficient detail as to what transpired. He requested that all of the members take notes so that if the next set of minutes lacks anything they think should have been included, they can offer their amendments to the minutes. These amendments should be sent in advance of the meeting to Ms. Laurie Green.

Dr. Axelband reported that a meeting of the Ad Hoc Advisory Committee was held prior to the DCOC meeting. He stated that advisory committee meetings can be held only if they are ad hoc in nature. He further stated that the Ad Hoc Advisory Committees only make recommendations to the DCOC whose members then vote on them. He strongly recommended that the DCOC members attend the Ad Hoc Advisory Committees when they can so that they can provide their input.

Dr. Axelband noted that there was no student representative at this meeting and was told that one had not been selected yet, but will be soon.

Public Speakers

None.

Approval of Minutes

- February 22, 2013

Dr. Axelband stated that the minutes to be approved include his comments.

Ms. McClatchey stated that more information should have been provided during the discussion regarding construction concerns with respect to the responses provided by Mr. James D. O'Reilly to the concerns raised by Mr. Ambroz.

Mr. Swartz stated that the minutes are too brief.

Dr. Axelband reiterated that the brevity of the minutes would be discussed at the next DCOC meeting.

Motion by Mr. Swartz seconded by Mr. Slawson to approve the DCOC minutes of February 22, 2013 as presented.

APPROVED: 9 Ayes

Meeting Dates for Fiscal Year 2013-2014

Motion by Ms. McClatchey, seconded by Mr. Swartz, to approve the following meeting dates for fiscal year 2013-2014:

- 12:00 p.m. – 2:00 p.m., August 23, 2013
- 12:00 p.m. – 2:00 p.m., October 25, 2013
- 12:00 p.m. – 2:00 p.m., December 13, 2013
- 12:00 p.m. – 2:00 p.m., February 21, 2014
- 12:00 p.m. – 2:00 p.m., April 25, 2014
- 12:00 p.m. – 2:00 p.m., June 20, 2014

Dr. Axelband stated that the DCOC meeting of June 21, 2013 would be held at the Educational Services Center and that the meetings starting with August 23, 2013 would alternate between a college and the Educational Services Center.

APPROVED: 9 Ayes

Construction Update

- Old Business

Mr. O'Reilly stated that at the last DCOC meeting, a report was presented regarding the top five projects of concern, which could not be completed for one reason or another. The old top five are still the current top five. He introduced Mr. Todd Cozolino.

Mr. Cozolino provided an update regarding the LAMC Media Arts Center project. He indicated that at the time of the last DCOC meeting, progress on the project was pending a signed takeover agreement amendment with the Surety, and since that time, the amendment had been executed and the contractor has re-mobilized on the project. Work in preparation for submission to the Division of the State Architect (DSA) is underway for remediation of the structural connections, and other work on the project has resumed.

- New Business

Mr. Cozolino discussed the following informational documents, which were provided to the DCOC members as Attachment E:

“Average Invoice Turnaround Time (days),” which is an across-the-board graph outlining the average number of days from the day that the College Project Manager (CPM) receives the invoice from the vendor until the day that the CPM provides the approved invoice to the Program Manager (PM)

“All Colleges Fiscal Quarter Average Invoice Turnaround Time (days),” which is a series of graphs outlining the average number of turnaround days from CPM to PM per fiscal quarter from 2010 to 2013

“All Colleges Quarterly Invoices Processed Breakdown,” which is a series of graphs outlining the sum of invoice amounts in dollars per quarter for 2010 to 2013

(Mr. David Ambroz and Mr. Stuart Laff arrived at 12:34 p.m.)

“Program Change Orders by Reason,” which outlines the percentages and dollar amounts in the three categories of design issues, owner initiated, and unforeseen conditions for the nine colleges

“College Change Orders by Reason,” which outlines the percentages for each individual college in the same three categories

Mr. O’Reilly stated that one of the functions of the CPMs is to control their campus and guide them to not spend money on things that are frivolous. He further stated that a performance review of the CPMs would be conducted in order to determine whether they have been successful with respect to this function.

Mr. Ambroz stated that the College Presidents are the individuals on the campuses who make the final decisions regarding change orders. He raised the possibility of grading the College Presidents on their efforts to reduce the number of change orders.

Mr. Abu-Ghazaleh stated that the College Presidents do make these decisions. He indicated that the College Presidents are responsible not only for the appearance of the current building, but also for whether 20 years from now, the building can still be used as it was originally designed.

Dr. Axelband requested that the information be taken further in order to determine whether the construction money is being spent wisely.

Chancellor LaVista stated that if the DCOC feels that recommending change orders to the Board of Trustees should be one of its charges, the members need to ensure that they are properly educated regarding change order examples and the definition of change orders.

Mr. Swartz stated that the role of the DCOC is to determine the efficiency and appropriateness of the change order process.

Ms. McClatchey requested a breakdown of the \$22 million that LASC has spent for change orders.

Dr. Axelband stated that this would be provided at the next DCOC meeting.

Mr. Cozolino stated that for approximately the past three years, the Facilities Planning and Development Board of Trustees agenda items have been broken down into the three causes for change orders and provided to the Board members on a monthly basis.

Mr. Cozolino continued his presentation and discussed the following informational documents:

“Construction Progress” for each of the nine colleges and the Educational Services Center

“Design Progress” for each of the nine colleges and the Educational Services Center

“LACCD Building Program Current Project Status: In Progress” for each of the nine colleges, the Educational Services Center, and the Firestone satellite site

(Mr. Ambroz left at 1:06 p.m.)

Dr. Axelband requested that information be provided to the DCOC showing the comparison between the total budget variance and the total budget for the projects that are in progress.

Mr. Cozolino stated that this information is posted in the Dashboard Reports on the LACCD Builds Green website.

Mr. O'Reilly stated that updates on five of the current top projects would be presented and discussed at each DCOC meeting.

Mr. Cozolino discussed a recent incident at the Science Career and Mathematics Building at ELAC in which an incorrectly wired panel caused a short circuit resulting in a maintenance worker being injured. He stated that this incident is still under investigation. He further stated that the contractor was demobilized from the site and a replacement contractor was brought in to repair the work.

Mr. O'Reilly stated that safety is the number one priority and, in many cases, extraordinary efforts are taken to ensure that nobody is injured.

Mr. Cozolino distributed the following informational documents:

“District Citizens Oversight Committee,” which outlines progressive program additions and refinements as well as major program refinements

“Construction Quality Control and Management Overview Q&A”

- Construction Alternatives

Mr. O'Reilly stated the following:

“When we were agendizing this, we were talking about alternatives with delivery methods. Speaking with Elliot and the other folks, it was apparent that the litigiousness of our business was not yet known by many folks who did not realize how many attorneys are actually involved in getting our jobs done, unfortunately. In doing that, a lot of the drive here is always cost or time. We can argue for days and days about it and pay lots of attorneys a lot of money and eventually nobody wins except for the attorneys. In doing that, we as public sector facilities guys, if you will, have been looking for ways around this for years and years. Richard pointed out that the lump-sum low-bid way that we do work was put into state law in the 1920s. So you can imagine a public sector employee in 1910 is going to do a waterworks project and he picks Joe's Construction Company because Joe is his brother-in-law. The easiest way to get rid of that is to put into effect low bid and lump sum. So everybody puts in sealed secret bids. Nobody knows what the price is that their opponent is putting in. They are opened publicly in front of an audience. At that time, if the lowest is from a responsible bidder, and it's very hard not to be responsible, he is selected to do the work. In theory, it's fabulous, but what occurs oftentimes, especially in hard times over the last four years or so, is people need that cash flow. They are willing to take on a job sometimes that they cannot finish for the money that they promised. They are doing it to keep the cash flow and keep that company above board because they are betting on the company for several other jobs. It is a lot of speculation.

When the money does not start coming, oftentimes they look for other reasons. Some of those are in what we call claims where they go back on the owner and say 'this detail was not perfect on the steel and because of that, we had to refab it and it cost me one quarter of a million dollars.' Some of them are legitimate; some of them are not. In cases where people do not have a lot of money to bid or they are upside down to start the bid, they are going to search for every spot in those drawings that are wrong and by law, they have a right to ask for additional compensation for that work. That sets up what we ran into if you look back at the last few years, there has been a lot of litigation on this particular program. I point towards having to do these jobs as long as some low bid and a tough environment; the economic environment and construction environment is the reason behind a lot of that. I don't think it is because there are a lot of bad people and a lot of mismanagement. I think a lot of it had to do with economics and some of the folks we were dealing with. We are one of those who really started to push design build (versus design bid build) very hard and it is an obligatory model we use here which once again in theory you are going to have less change orders because you only have a contract with one entity that is both a designer and builder and oftentimes it is a partnership with a contractor or subcontractor arrangement. Also what helps there is that part of it is objective, but there is some subjectivity to it, but you get to choose or grade these contractors. You don't just have to award it to the lowest bidder. You can pick the best contractor for that particular project with price being a factor, but it is not the determining reason that they are going to get the job. What this does is allow you to do design build work. Design build as a delivery model is fabulous. It has been used in the private sector for a number of years. What we do oftentimes is we would start digging a foundation right away. Meanwhile, the architects and engineers are designing that drawing as we go along. So we have continuum and there are a lot of parallel activities and you never need that big ten-month or a year chunk to design the building. It is all part of the construction phase. It moves very rapidly. We lose that advantage here in what we do because we have to go through DSA. We pretty much have to have a pretty "cooked" set of drawings that go in to reach approval. That will allow the contractor to start building in most cases. We lose the expediency, but we still gain the way we are able to select the contractors based upon qualifications in many bases and best value. There is another vehicle that has been used in the public sector in the education world for a number of years and the K-12 guys have been going crazy with it. There has been an argument as to whether community colleges can use it or not. There have been plenty of community colleges in the state that use it effectively and it has been challenged several times by one particular attorney in San Diego and he has been defeated every time, as far as I know. That route is called lease-leaseback. Lease-leaseback was originally passed to allow agencies that did not have a lot of money to be able to bring in a financier and developer to get the work done and then pay later. So basically, you would lease your spot of land that you own to a developer for a dollar for an amount of time, let's say it's for 24 months, and after 24 months, you would pay for the improvements on that land. Hopefully, those improvements included a structure, a school, or whatever you contracted for. We have the money. We don't need to finance it, but the good news about this lease-leaseback model is that, once again, the selection process is based upon the qualifications and best value. You don't have to pay for the lowest bidder. Once again, you get to pick the best builder or the person you think can do the best work for you and where you get the best value. It is something we are going to attempt. We are prepared with a validation action. What that means is we will try it, go out, get our contractor through this method. We will then take it to court. They have 60 days to object. If nobody has a problem with it, we can go forward and build it. It has been an excellent way to do the work, meaning we get to follow the design. We hire the designer. We go all the way through the design, stop. Then we go through the lease-leaseback process or the selection process and, once again, it is based upon the qualifications, it is based upon approach, it is based upon the history and the performance of that contractor as to whether they have done a good job in the past. We look at those things and then make our decision. I just wanted to make you aware of it because, in speaking with Elliot, he was a bit surprised by the limitations we had as a public agency with regards to the people that we choose to hire to build some of our projects because as you know we have had quite a few faulty issues and we have spent a lot of money on attorneys in court."

A question and answer session was conducted regarding the contractor selection process as discussed by Mr. O'Reilly.

(Ms. McClatchey left at 1:45 p.m.)

Mr. Slawson expressed his concern that there is room for kickbacks, favoritism, and all of the things that the sealed bid process was initiated for that the DCOC will see coming back. He stated that it is going to happen because it is human nature—especially when you are talking about millions of dollars—to find the person that can help you get through the process and provide assistance in putting the package together. He stated that he is sure that this has happened already and the DCOC does not know about this on a large scale, but it is going to be exposed at some point—some big cases where some politician was favoring the process for a friend of his who was helping him on his campaign.

Mr. O'Reilly reported that the District went through a program management procurement in January 2013 and recently signed a contract with AECOM, the Program Manager. He introduced Mr. Stuart Markey, Vice President, AECOM, who will be the Deputy Program Manager.

Mr. Markey stated that AECOM is pleased to have been awarded the contract. He distributed a document entitled "AECOM" and discussed the document with respect to the organizational chart, the transition update, and program management. He reported that approximately 30 percent of AECOM's staff has had previous experience in the LACCD construction program.

There being no objection, the meeting was extended by 10 minutes.

Mr. Arias reported that LAMC has been able to work out a situation with labor union 300 in an effort to recruit electrical workers. He stated that it would be a real opportunity for the colleges to build good relations with their respective communities by employing individuals from these communities.

Subcommittee Reports

Mr. Slawson reported that the Ad Hoc Committee, being advisory to the whole DCOC, met prior to this DCOC meeting. He stated that the first resolution discussed by the Ad Hoc Committee was entitled "Satellite and District Bond Contingency Fund" and was adopted by the Board of Trustees on January 30, 2013 (BT4) as follows:

The following resolution is presented by Trustees Veres, Park, and Santiago:

WHEREAS, The Los Angeles Community College District adopted and voters approved in 2008 Measure J, which included a list of proposed projects; and

WHEREAS, The Measure J project list included potential satellite campus sites for Los Angeles Mission College, Los Angeles Valley College, West Los Angeles College, East Los Angeles College, the Health Careers Academy at County General Hospital, and the Firestone factory building in the city of South Gate; and

WHEREAS, The District and colleges identified potential satellite campus sites at Sunland/Tujunga (Los Angeles Mission College), Burbank (Los Angeles Valley College), LAX (West Los Angeles College), and the Health Careers Academy at County General Hospital (East Los Angeles College); and

WHEREAS, The Los Angeles Community College District (LACCD) based the feasibility of developing each of the satellite projects on the funding and enrollment at the time; and

WHEREAS, A subsequent District wide evaluation of the available operations and maintenance funding and projected student enrollment needed to support the

need for all planned bond construction projects that a sufficient reduction in state funding and projected student enrollment determined that it would be in the best interest of the District and the voters who approved Measure J to evaluate the continuation of development of the satellite projects; and

WHEREAS, The Board of Trustees of the LACCD established the Ad Hoc Committee on Assets Management to evaluate the best course of action related to the satellite projects; now, therefore, be it;

RESOLVED, That the Ad Hoc Committee on Assets Management determined that it is best, at this point, to suspend further development of planned satellite projects, including Sunland/Tujunga (Los Angeles Mission College), Burbank (Los Angeles Valley College), LAX (West Los Angeles College), and the Health Careers Academy at County General (East Los Angeles College); and be it further

RESOLVED, That the funding for those projects be transferred into the District bond contingency fund; and be it further

RESOLVED, That the Ad Hoc Committee on Assets Management determined that development of the Firestone factory building project proceed with a reduced scope; and be it further

RESOLVED, That the Ad Hoc Committee on Assets Management determined that any remaining funds at the completion of the Firestone satellite project be transferred into the District bond contingency fund.

Motion by Mr. Slawson, seconded by Mr. Swartz, that the DCOC recommends approval of the Board of Trustees action on resolution BT4 on January 30, 2013 to suspend further development of the planned satellite projects and the funding for those projects be transferred into the District bond contingency fund and that the DCOC recommends approval of the Trustees Ad Hoc Committee on Assets Management's determination that the development of the Firestone factory building project proceed with a reduced scope and that any remaining funds at the completion of the Firestone satellite project be transferred to the District bond contingency fund.

APPROVED: 9 Ayes

Mr. Slawson stated that the second resolution was entitled "Standardize Centralized Accountability Controls Utilizing Industry Best Practices for Build—LACCD" and adopted by the Board of Trustees as BT4 on September 12, 2012 as follows:

The following resolution is presented by Trustees Veres, Santiago, and Field:

WHEREAS, The Board of Trustees of the Los Angeles Community College District reviewed a number of reports, studies and audits over the past year on its Build-LACCD program and established an Ad Hoc Committee consisting of Trustees Veres, Field and Santiago to further evaluate each report, audit and study to recommend policies to the entire board for the purposes of addressing concerns and improving the accountability, efficiency and effectiveness of Build-LACCD; and

WHEREAS, The Board of Trustees unanimously adopted a resolution directing the Chancellor to implement the agreed upon recommendations from the California State Controller report, "Los Angeles Community College District (LACCD) Proposition A/AA and Measure J Bond Expenditures Audit, August 2011"; and where that Audit stated, "It is essential for LACCD to adopt appropriate control measures to oversee and monitor the colleges' spending practices"; and

- WHEREAS, The Independent Building Program Review Panel issued a final report January 2012 recommending that LACCD “modify the Building Program management structure to a more centralized model”; and
- WHEREAS, The June 2011 Performance Audit conducted by KPMG LLP found that, “The bond program does not have an adequate centralized scheduling function providing oversight to scheduling activities performed by individual College Project Managers (CPMs)”; and
- WHEREAS, The Hill International Program Management Functions Assessment of March 2012 commissioned by the Board of Trustees stated, “Normally, CPMs would report project status directly to the Project Manager (PM) and instead CPMs report directly to campus presidents and are completely independent of the PM”; and
- WHEREAS, The LACCD Board of Trustees desires to implement industry leading best practices and accountability controls and measures at Build-LACCD; now, therefore, be it
- RESOLVED, That the College Presidents are charged with the managing of the educational and facility master planning for each college and ensuring that all construction projects meet their colleges’ educational and programmatic needs within the standards set by the Accrediting Commission for Community and Junior Colleges; and be it further
- RESOLVED, That the Board of Trustees of the Los Angeles Community College District hereby directs staff to ensure that the Request for Proposals for the LACCD Program Manager reflects the best practices and centralized accountability measures recommended by the above reports and audits. The Program Manager will report to and be managed by the Executive Director for Facilities, Planning and Development and the Program Manager will directly oversee the College Project Managers.

Motion by Mr. Slawson, seconded by Mr. Swartz, that the DCOC recommends supporting the LACCD Board of Trustees resolution BT4 of September 12, 2012 entitled “Standardize Centralized Accountability Controls Utilizing Industry Best Practices for Build—LACCD.”

APPROVED: 8 Ayes: R. Arias, E. Axelband, E. Holmes, S. Laff, L. Nelms, R. Slawson, D. Smith, D. Swartz
1 Abstention: T. Anderson

Mr. Slawson reported that the last item discussed by the Ad Hoc Committee was the review of the differences in cost, schedule, and quality between design-build and design-bid-build. He stated that with respect to the DCOC’s request for a comparison of building and contracting methods, Mr. O’Reilly recommended that the LACCD Facilities Planning and Development Department provide a presentation on the beneficial or negative aspects of alternative bidding methods utilized by the LACCD and the industry including cost, schedule, quality of the building, the legality of using alternative bidding, and the cost of changes.

Dr. Axelband stated that this presentation would be given at the next DCOC meeting.

(Mr. Anderson left at 2:14 p.m.)

Mr. Arias reported regarding a meeting that he was asked to attend on March 12, 2013 with representatives from the State Controller’s Office. He stated that the discussion at this meeting pertained to the use of bond program funds.

Mr. Slawson stated that he was invited to the same meeting for the purpose of discussing the operation of the DCOC with the representatives from the State Controller's Office.

Mr. O'Reilly introduced Mr. Christopher Dunne, CPM, LACC, and Project Director, Harris & Associates.

Adjournment

The next DCOC meeting will be on Friday, June 21, 2013 at 12:00 p.m.

There being no objection, the regular meeting was adjourned at 2:21 p.m.