

# District Citizens' Oversight Committee Meeting (DCOC)

Date	Next Meeting	Start Time	Prepared By	Agency
5/14/10	9/17/10	12:00	Laurelyn Johnson	LACCD

## Attended By:

### Committee Members

Elliot Axelband, WLAC Representative  
Nancy Carson, Co-Chair, LAHC  
Representative

Harvey Berg, LAVC Representative  
Yvonne Chan, LAMC Representative

Bob Courtney, Foundation Representative  
Isa Meksin, Senior Representative  
Richard Slawson, Labor Representative

Russell Hughes, Business Representative  
Donna Slamon, LAPC Representative  
Mark Wilson, LATTTC Representative

### Other Attendees:

Tom Hall, Director of Facilities Planning and  
Development LACCD  
Camille Goulet, General Counsel LACCD

Larry Eisenberg, Executive Director of Facilities Planning  
and Development LACCD  
Todd Cozolino, Build-LACCD

## A. Opening: 12:11pm

In the absence of the Chair and Co-Chair, Committee member Donna Slamon called the meeting to order. Self-introductions were made.

## B. Approval of Minutes

Approval of minutes was postponed until there was a quorum.

Ms. Goulet recommended switching agenda item #13 Public Speakers to the beginning of the meeting to be Brown Act compliant. A call for public speakers was made and the public speakers requested to wait until other additional people in their group arrived to also speak and to wait until the committee began discussion on agenda item #4.

Ms. Carson arrived and took over chairing of the meeting. The minutes were approved with the following corrections:

- i. Mr. Axelband stated the minutes should reflect going forward that the DCOC members will receive prior to future meetings an agenda with time allocations, project materials that are available and other pertinent materials including urls. This would allow members to review information in advance of the meeting. A motion was put forward and approved by the committee to reflect this correction.
- ii. Ms. Meksin identified a correction to page 3 paragraph six, the sentence should state "They voted to accept \$3 million from the State to renovate an aging building."
- iii. Mr. Axelband stated on page 3 paragraph nine, there was motion presented to have the District answer "What funds are available for DCOC to hire subject matter experts which could include lawyers and other to provide independent advice to the committee?" Larry Eisenberg stated his recollection was that this was discussed at the last meeting and that question will be addressed at the meeting today.

Mr. Axelband made a motion to omit agenda item #6 Program Status Reports from the agenda because they are provided in advance of the meeting. The committee decided to change agenda item #6 Program Status Comments rather than report to allow for comments on the program status report instead of a full review of the reports.

Mr. Axelband made a suggestion to discuss agenda item #10 "Proposition 39" Update prior to agenda item #4 "Respond to questions raised at last meeting regarding Van de Kamp". This suggestion was accepted by the committee.

**C. Adopt a bylaw amendment when calling for a vote**

The Committee discussed the draft motion. Mr. Axelband made a motion to adopt the bylaw provided to the committee. The vote was taken by Roll Call: E. Axelband (No), H. Berg (Yes), N. Carson (No), Y. Chan (Yes), B. Courtney (No), R. Hughes (Yes), I. Meksin (No), D. Slamon (Yes), R. Slawson (Yes), M. Wilson (Yes). The motion passed and was adopted by the committee.

The Bylaw Amendment is as follows:

Section V, Item E – When calling for a vote, the Chair may take the entire vote of the group verbally by asking first for those in favor, then for those opposed, then for abstentions. In the absence of a member articulating his or her opposition or abstention, the vote of the individual members present will be deemed to have been cast in favor of the motion.

**D. Proposition 39 Update:**

i. Capstone Report

Mr. Eisenberg provided an overview of the Capstone report memorandum that was distributed at the meeting. Mr. Eisenberg stated that the LACCD Board passed a motion to create an Office of Inspector General of the Bond Construction Program based on the Capstone recommendation. The District has advertised and has four firms that are interested in being the Inspector General. It is expected that by the next meeting the District will have a firm identified as the Inspector General.

The LACCD Board adopted a whistle-blower policy based on the Capstone recommendation which would allow persons to raise concerns about the bond program in an anonymous manner to a third party. The District will have to identify a firm to handle the whistle-blower policy.

A question was raised as to what fund will pay for these firms. Ms. Goulet stated that the Lisalee Wells has stated that the Office of Inspector General may be paid for using bond funds. Mr. Eisenberg stated that the whistle-blower program would also be paid for using the bond funds.

Mr. Eisenberg stated that the LACCD Board has not taken any action at this time with regard to the Capstone recommendation that the Board seek independent guidance from an individual who would function like a Legislative Analyst to the board.

Mr. Eisenberg stated that the recommendation that implementation of mandatory conflict-of-interest disclosures is being implemented. The District currently requires all staff and individuals required to make decisions at the District including District Board members to complete the form 700 which designed to disclose the nature of any conflict that might exist. Ms. Goulet stated in order to require identified BuildLACCD staff to complete the form 700 the District had to obtain approval from the county to change BuildLACCD conflict of interest code. It took some time to obtain approval from the county to make this change and we now have approval. Thus, as of this year BuildLACCD has this requirement in place. It is not required among all BuildLACCD staff but is required for key positions that were identified that could influence contracting.

Mr. Eisenberg stated that the recommendation that a Supplier Code of Conduct be implemented has not acted upon by the Board at this time. However, the District currently has a rigorous ethics code that the District is required to follow which includes both employees and contractors.

Mr. Eisenberg stated that the Capstone recommendation of a full look-back of submitted expenses is under currently under review by the auditors and general counsel.

Mr. Eisenberg stated the expense control recommendation is still under review and as the District receives clarity on these issues they will implement guidelines to address those issues. Mr. Eisenberg also stated that Vasquez and Associates conducts a detailed review of the expenses on a monthly basis and this was not reflected in the Capstone report.

Mr. Eisenberg stated that the recommendation of a completion of a Build Staff Analysis is also subject to an intense review by the Vasquez office that looks at what is appropriate with regard to billing, billing accuracy and value.

Mr. Eisenberg stated that the Capstone recommendations with regard to benefits have been reviewed. The District has an understanding of the nature of the benefits structure of the companies under BuildLACCD. However it was felt that if the District were to disclose each employee is on an individual basis this would be an invasion of the individual's right to privacy.

Mr. Eisenberg stated that benefit package of a human resource function with the Build program does exist for the Build program. Employees are being given evaluations properly, employees are being hired through a competitive process and only a very few people were hired through a non-competitive process based upon their individual expertise. The District will develop a manual to respond to this recommendation.

Mr. Eisenberg stated that the recommendation to conduct a fraud risk assessment will be addressed with the hiring of the Independent Inspector General.

Mr. Axelband requested that the District provide, if permissible, an estimate of the annual expenditure that the LACCD anticipates for the Office of Inspector General.

Mr. Eisenberg stated that the Office of Inspector General will consist of a team of people and once established will also participate with the DCOC Committee.

ii. Bond Counsel Report (Lisalee Wells)

Mr. Eisenberg stated that the general conclusion of the bond counsel was that there were issues and activities that Bond program was engaged in that Bond Counsel felt did not comply within the limits of Proposition 39. Basically, that the purpose of Proposition 39 is to supply bricks and mortar in support of the Community College District and activities outside of that are not things the District should consider. However, there are administrative costs that should be considered as a part of a program like this that require payment. The bond counsel advised that there were a number of activities that the bond program was participating in that were not permissible. As a result, the Bond program will no longer be participating in those activities.

Grant writing was determined to be a non-permissible expense and the employees that were hired to do those activities were issued a notice of termination. The colleges and LACCD may continue to pursue this activity using general funds but not with use of bond funds.

Travel to conferences, attendance at, organizing and arranging sponsorships for conferences was determined to be a non-permissible bond fund expense and the bond program has discontinued this activity. This applies to Build-LACCD staff and use of bond funding for this purpose.

Ms. Goulet stated that some of activities on the report will be further clarified as to not be restrictive to the competitive process of our work.

Development of curricula and sustainability, green construction or any other topic was determined to be a non-permissible bond expense and as a result bond program initiated layoff for those individuals engaged in that activity. The colleges may continue this activity using other funding sources.

Some public relations activities were determined to be non-permissible and as a result activities in this area will be reduced. MWW will no longer provide monthly newsletters, press releases, apply for awards and other related activities. They will continue to respond to public information requests and help plan and coordinate milestone events. The website will also continue to be maintained but the information provided will be reduced. MBI was also directed to cease the activity of providing video status updates of projects.

Mr. Axelband requested in consideration of time remaining that the committee move on to discuss some of the other topics on the agenda.

Mr. Hughes asked if there was discussion that in restricting some of these activities that were hampering the bond program's ability to effectively implement the program. Ms. Goulet responded that this report was issued without the draft and the review of the underlying circumstances and as a result there is continued discussion going on with the bond counsel and the performance auditor. It is anticipated that there will be a narrower refinement of this list that will include items that they have that identified shouldn't be done as well as items that were identified in this report that a change in opinion will be made. Thus, there will be a follow-on report that will provide further information.

Mr. Berg asked when the bond funds were received was Build-LACCD given a certain management percentage of those funds to handle the overhead elements that are not directly covered by the bond. Mr. Eisenberg responded that the program management team BuildLACCD works under a contract with the District and receives 3% of the entire bond funding over the life of bond to provide their services. It's billed on an hourly basis based on agreed upon rates and it's possible at the end of the program we will not have spent all the funds under the contract. The college project managers at each college receive 6% of the allocation to each college to manage the work activity at each college. Under DMJGM they were charging 4% as opposed to the 3% currently with URS.

Ms. Slamon asked are we taking action too fast by letting people go based on the findings of this report, if it comes up later that they were in fact needed. Mr. Eisenberg responded that some of the findings are relatively clear and the resource development area was a marginal kind of idea and was correctly identified. The areas that needed further clarification the District has not yet acted on.

Mr. Eisenberg moved ahead to discuss tenant improvements in consideration of time and public speakers that wished to address that issue. Mr. Eisenberg stated that it was determined that bond funds cannot be used to remodel a space that will be leased or used for functions not related to LACCD. Thus, the funds to remodel must come from another source either grant funds or outside funding.

Mr. Axelband asked the question to what extent could the committee be provided specialized funds to support the committee's interest in Van de Kamp. Ms. Goulet responded if the committee votes to ask for a specific auditor or something of that nature the District will make a good faith effort to comply with that request within reason. Mr. Eisenberg stated Trustee Member Santiago advanced a motion at the board meeting that the first task of the Inspector General would be to do a detailed review of the Van de Kamp situation and review expenditures to come to a conclusion on the issues that have been raised. This information once completed will also be available to the committee for review. Mr. Axelband stated that the committee would like to work with the Inspector General and not just receive reports from that person. Ms. Goulet responded that the District has an existing board rule that allows this committee to vote for a special request

of some kind. Mr. Axelband stated that what he is requesting is to know if the committee can work with the Inspector General to understand and make suggestions with more frequency and not just at committee meetings given the amount of time between those meetings. Ms. Goulet stated that the Inspector General work plan has not been articulated yet and therefore that is something they will take into account when putting forth the parameters for the Inspector General's function.

**E. Respond to questions raised at last meeting regarding Van de Kamp:**

- i. Are there sufficient funds to operate a college at Van de Kamp?

Mr. Eisenberg stated that City College has taken the position that they do not believe that they have funding at this time to operate the Van de Kamp facility.

- ii. What was the intent of the bond measure?

Mr. Eisenberg stated that at the point that Prop AA was passed the intention was to create a fully functioning satellite of City of College. The funding provided under measure J was designated to acquire the remaining property on the block for future use and the remaining funds would be used for the final build out of the property. There was 10 million allocated toward that project and 5 million has been committed to acquire the Portola property.

- iii. Is it appropriate to use the bond money for other purposes?

Mr. Eisenberg stated the bond funds can only be used for capital purposes as consistent with Proposition 39. Tenant improvements for non-college uses on the property will be paid for by other non-bond funding sources.

- iv. How would the DCOC pay for more advice if it cannot use bond funds and is there a misuse of tenant improvements funds?

Mr. Eisenberg stated that this would be a point of inquiry for the Inspector General as to use of bond funds for tenant improvements and if it's appropriate for that use.

Ms. Chan asked about the appropriateness of using bond funds for a building that will have dual enrollment of high school students in that the students will be getting high school credit as well as credit towards an AA degree. Ms. Goulet responded that it is the District's belief that the use of property for both high school activities and college activities is consistent with the legal use of bond funds and the lease with the Alliance charter school allows the college to use the facility for the college classes as well.

Mr. Axelband requested to see the original plan of courses for Van de Kamp in order to compare that to the current plan. Ms. Goulet and Mr. Eisenberg responded that they will look into providing that information if it's available. Ms. Carson responded that it is not the committees function to review curriculum.

Ms. Meksin recommended motion for a time extension until 2:30 of the meeting to allow for public speakers and the motion was unanimously approved.

**F. Public Speakers:**

Daniel Wright legal counsel to the Van de Kamp's Coalition presented comments regarding Proposition 39 and the Van de Kamp site. Mr. Wright expressed concerns regarding the expenditure of bond funds in relation to Van de Kamp. Mr. Wright inquired

as to when the committee will provide an annual report to the public. Mr. Wright stated Van de Kamp should go back to City College to run it.

Mickey Jackson from the Van de Kamp's Coalition presented comments regarding the Van de Kamp site. Ms. Jackson expressed concern that Worksource Development and the charter school were going to the main focus of the site instead of offering more college classes. Ms. Jackson stated that their issue is the original plan for Van de Kamp is not being followed. Ms. Jackson stated they would like the committee to ask for an immediate independent audit and issue a report to the public.

Laura Gutierrez from the Van de Kamp's Coalition stated that she recommends that the committee request an independent investigation for illegal spending.

Mr. Axelband made a motion to arrange for a special meeting in the next 30 days to discuss Van de Kamp. After further discussion it was determined that there would not be a response from the District with regard to this issue by the next meeting and therefore committee decided to wait for a response from the District prior to discussing this issue further. The motion was withdrawn.

**G. Upcoming Items:**

- a. Van de Kamp discussion
- b. Multiplier
- c. Program Status Report
- d. Review how much money has been allocated and how much has expended by project.

**Adjournment:** 2:42pm