

District Citizens' Oversight Committee Meeting (DCOC)

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

Attended By:

Committee Members

Harvey Berg, LAVC Representative

Yvonne Chan, LAMC Representative

Bob Courtney, Foundation Representative

Donna Smith, LAPC Representative

Kurt Tennyson, LACC Representative

Nancy Carson, LAHC Representative, Co-Chair

Philip Cohen, ELAC Representative

Henry Porter, LASC Representative

Daniel Swartz, Taxpayer Representative

Other Attendees:

Adriana Barrera, Deputy Chancellor, LACCD

Larry Eisenberg, Exec. Director Facilities

Planning LACCD

Lloyd Silverstein, Director Build-LACCD

Todd Cozolino, Build-LACCD

Tom Hall, Director Facilities Planning LACCD

A. Opening: 12:19pm

Nancy Carson called the meeting to order. Self-introductions were made. There was not a quorum.

B. Public Speakers:

A request for public speakers was made. The speakers requested to wait for a quorum or to speak when the committee gets to the Annual Report and the Van de Kamp topic.

C. Program Update:

Todd Cozolino distributed handouts. Mr. Cozolino stated that the handout reflected an overview of the Division of State Architect (DSA) Closeout Activity. There are 915 projects, 62% are closed with certification, 18% are void/cancelled, 2% are closed without certification, 13% are under construction/pending closeout, and 5% are pending approval.

Mr. Porter asked what documentation is received from DSA to certify the building. Mr. Cozolino responded that DSA provides a letter of certification. Mr. Porter raised the issue of liability exposure in occupying buildings before DSA certification is received. Mr. Eisenberg responded that the issue with delay in certification has primarily arisen with respect to building remodels (smaller projects) and not with entire buildings. Some of those projects were done years ago and now DSA is requiring them to be closed and certified before another project can begin at that same site. In some cases DSA is requiring a signature from the architects and the architects are now out of business and there is no way to obtain a signature. As a result DSA is coming up with a process to certify these dated projects because they were in fact built to code and inspected. These projects have issues associated with them to effectuate closeout but overall we have done a good job at getting the pre-bond projects closed because the District had over 800 projects that were not closed out in 2003. We now have 17 projects that are not closed out.

Mr. Porter asked if there is any impact on the bond funding if the projects are not closed out. Mr. Eisenberg responded that the District is required to make final payment to the architect and contractor 90 days after project completion. The District now requires that the architect to complete the final paperwork prior to the release of their final payment and this has facilitated the District being able to closeout the active projects.

Mr. Eisenberg stated that the District does not allow occupancy of a building unless the inspectors have signed off on the safety of the building. Harvey Berg asked if the inspectors were independent contractors or internal inspectors. Mr. Eisenberg stated that the District has a small internal staff of 3

people who coordinate the inspection program and then there are about 90 contractor inspectors. Lloyd Silverstein stated that DSA certification completion is not certification of occupancy and occupancy is effectuated by the architects and inspectors.

Mr. Cozolino referred to the handout entitled "Recent Bid Activity Status" and stated this handout is reflective of the Design Bid Build Bidding Results. Mr. Cozolino highlighted the bid savings trend for projects. Mr. Berg asked what happens to the bid savings. Mr. Eisenberg responded the bond project list exceeded the amount of funding approved by the voters and the bid savings is used to fund projects that were not funded.

Mr. Cozolino referred to the next series of handouts related to design-build projects. He stated that the information summarizes the responses they received to the 2010 pre-qualification publication. Mr. Berg asked if they qualify then are the contractors pre-qualify if they are then asked to bid on projects. Mr. Cozolino responded that as projects are identified by the campus and program they are issued to the relevant pool. Mr. Cozolino stated that unsuccessful contractor's that submit a proposal at the design step are paid an honorarium. Mr. Eisenberg stated that the District typically pays two tenths of 1% as an honorarium. Mr. Porter asked if there were incentives and penalties as part of the contract. Mr. Cozolino responded that there are liquidated damages for late completion and they have a contracting model that has a shared savings provision. There are no bonuses or incentives for early completion.

Mr. Cozolino reviewed the design-build project snapshot handout. He stated that this handout reflects the status of all the design-build projects in the District including awarded to date. These are all Proposition J projects executed since November 2008.

D. Multiplier:

Lloyd Silverstein stated that the board passed the resolution to cap the multiplier for the program management firm at 2.0. He stated they are reviewing the compensation approach for all professional services firms to come up with a consistent approach. Mr. Eisenberg explained the multiplier approach and how that number is determined. Mr. Berg asked how the program limits the number of employees firms hire to keep them from having more than they need. Mr. Silverstein stated that every contract has a maximum amount and scope of work. The firms are required to provide a staffing plan and forecast of costs. The program then reviews that during the contract and the firm cannot add additional people without the programs approval and the firm is required to stay within their maximum contract amount.

Yvonne Chan arrived 12:53pm

E. Annual Report:

The committee reviewed the annual report. Camille Goulet stated that the draft was circulated in advance of the meeting had not been reviewed by counsel or Ms. Goulet prior to distribution. There were some typographical edits and there was a substantive change to page 3 of the report at the end of the first full paragraph. There was a sentence that indicated that the District was looking into whether there was a need for remuneration of any funds that were determined to have been spent inappropriately. Bond counsel recommended the removal of that sentence because in her opinion there is no legal requirement. Ms. Goulet distributed a copy of the legal opinion from bond counsel on this issue. Ms. Chan clarified that the sentence was deleted based on the opinion of District counsel that there is no obligation; but there still is possibility that outside counsel may say the District does have an obligation to repay funds. Ms. Goulet clarified that bond counsel is outside counsel and Ms. Goulet and bond counsel agree on this particular element. Ms. Goulet stated that in her opinion and bond counsel's opinion is that once activity is identified as not allowable then a corrective measure is required, which in this case was the District ceasing that activity.

Ms. Carson identified a correction on page 2 of the last paragraph. It should say soft costs are well below the national average. Ms. Carson stated there should be reference to the expenditures at the District office. Mr. Eisenberg state that satellite projects should also be listed here as well even though they are not college specific they should be listed on a page to report their current status.

Mr. Berg asked in reference to the bond counsel opinion distributed if the fourth paragraph meant that there have been no court actions taken with respect to challenges of appropriate bond expenditures that would create a precedent. Ms. Goulet responded that she inferred that to be the case and that she is not aware of any court opinion ordering repayment of funds.

Phillip Cohen arrived 1:10pm. There is now a quorum.

Public Speakers:

Laura Gutierrez expressed concern regarding the committee's lack of reference to litigation pending in the annual report. She also stated the committee is not accessible to the community and there should be more outreach.

Miki Jackson stated that the language in the report needs to be precise to express that Van de Kamp was a planned project. She stated the committee should investigate the Van de Kamp issue further and what was built illegally with bonds. She also expressed concern about the lease and the rent agreements with the tenants at Van de Kamp.

Daniel Wright expressed concern with the lease of the Van de Kamp building with the City of Los Angeles. He provided a copy of a letter dated 9/17/10 to Citizens Bond Oversight Committee and a letter dated 8/24/10 to Georgia Mercer, Board of Trustees President and reviewed the information in these letters. He also expressed concern over the committee obtaining independent advice.

Bob Courtney asked what is Van de Kamp's objective. Mr. Wright responded that their expectation was the Van de Kamp would be a satellite to City College. Bob Courtney requested a summary from Ms. Goulet. She responded there are two civil actions pending; one from the Coalition and the other from four taxpayers which has been filed but not served.

Nancy Carson stated that the lawsuits are against the District and not against this committee. Ms. Goulet clarified the committee does not have a separate legal capacity from the District to sue or be sued. This committee is not named in those actions and this committee's capacity is advisory to the Board of Trustees.

Bob Courtney asked for clarification of what the committee's advisory capacity relates to. Ms Goulet responded that this committee's responsibility is the entirety of the bond expenditures.

Ms. Carson stated that Reginald Byron Jones-Sawyer Sr. attended the subcommittee meeting and participated with the drafting of the annual report.

A motion was made to adopt the Annual Report with the changes noted today. 9 Ayes

F. Approval of Minutes:

- i. The 5/14/10 meeting minutes were approved with a correction to identify the public speaker not named as Laura Gutierrez. 5 Ayes 4 Abstentions
- ii. The 7/8/10 meeting minutes were approved with a correction to add the location of the meeting as Van de Kamp. 5 Ayes 4 Abstentions

G. Review and Approve Proposed Meeting Dates:

The committee reviewed and discussed the proposed dates.

Yvonne Chan asked when the next election of chair and vice-chair will take place. Ms. Goulet stated the provisions call for an annual election and it is usually done at the beginning of the year. Ms. Goulet also stated she will review the provisions with regard to meeting attendance as well and provide a report to the committee.

Ms. Carson asked if they were required to meet a certain number of times. Ms. Eisenberg stated it's typically every 3 months. Ms. Goulet stated the bylaws provide for quarterly meetings and the Brown Act requires that you adopt a meeting calendar once a year.

The committee decided to agree to meet on December 17 and before that meeting have members propose some dates and possible meeting times to discuss at the next meeting.

H. Dashboard Reports:

Mr. Eisenberg stated that each project in the report reflects its original budget, actual expenditures and remaining budget. Also included are College level summaries that roll-up the costs and the District-wide summary that rolls-up the College level summaries. This is produced and updated once a month and is available on the web.

Bob Courtney asked to see reports on successes and problems during a certain period and how they were handled.

I. Van de Kamp Follow-up:

The committee had no further discussion items on this issue.

Public Speaker:

Laura Gutierrez expressed concern over the issues at Van de Kamp.

J. Inspector General Status:

Dr. Adriana Barrera stated that the Inspector General contract will be presented to the Board of Trustees at the October 6, 2010 meeting.

K. Media Inquiry Status:

Larry Eisenberg stated that the District is continuing to answer media inquiries from the Los Angeles Times.

L. Video Update:

Larry Eisenberg presented a PowerPoint presentation of projects under construction.

Adjournment: 2:07pm