

District Citizens' Oversight Committee Meeting (DCOC)

Meeting Minutes

<u>Date</u>	<u>Prepared By</u>	<u>Agency</u>	<u>Location</u>
10/28/2011	Laurie Green	LACCD	District

Attended By:	
Committee Members	
Nancy Carson, LAHC Representative, Chair	Elliot Axelband, WLAC Representative, Vice Chair
Terry Anderson, LAVC Representative	Reginald Byron Jones-Sawyer Sr., At-Large Representative
Marv Hoffman, LACC Representative	Jaden Ledkins, Student Representative
Isa Meksin, Seniors' Representative	Henry Porter, LASC Representative
Donald Saguchi, ELAC Representative	Richard Slawson, At-Large Representative
Donna Smith, Pierce College Representative	Daniel Swartz, Taxpayer Representative
Other Attendees:	
Nabil Abu-Ghazaleh, WLAC	Chancellor Daniel J. LaVista, LACCD
Trustee Mona Field	Camille Goulet, LACCD
Thomas Hall, LACCD	Christine Marez, LACCD Inspector General

A. Opening Introductions: 12:06 pm

Nancy Carson, DCOC Chair, called the meeting to order. There was a quorum.

Self-introductions were made.

N. Carson stated that she is creating a "Handbook Committee." The purpose of this committee would be to determine what kind of information should be included in the handbook. She stated that this could be accomplished in one or two meetings.

N. Carson stated that another committee would be created for the purpose of determining how each college would prepare its reports for the meetings. She delegated this to R. Slawson.

B. Public Speakers:

None.

C. Approval of Minutes from August 26, 2011 regular meeting and September 30, 2011 special meeting

E. Axelband distributed a copy of the draft minutes of the September 30, 2011 special meeting with his suggested revisions in red. He discussed the revisions. Based on the discussion, several of the suggested revisions were incorporated into the final version of the minutes.

M. Hoffman expressed his concern that "legal people" do not want a lot of detailed information to be included in the minutes.

(J. Ledkins arrived at 12:18 p.m.)

I. Meksin stated that the minutes need to be detailed in order to show the public that there is an earnest attempt for transparency and to address concerns that have arisen from the Board of Trustees.

Motion by E. Axelband, seconded by M. Hoffman, to approve the DCOC minutes of September 30, 2011 with the revisions as discussed.

APPROVED: 10 Ayes: E. Axelband, N. Carson, M. Hoffman, J. Ledkins, I. Meksin, H. Porter, D. Saguchi, R. Slawson, D. Smith, D. Swartz

N. Carson welcomed J. Ledkins to his first DCOC meeting as the Student Representative.

J. Ledkins expressed his appreciation for the appointment and stated that he looks forward to serving on the DCOC for the next two years.

Following Mr. Ledkins' comments, the DCOC members returned to the discussion on the approval of the minutes.

Having just approved the minutes for the meeting of September 30, 2011, R. Slawson made a motion, seconded by M. Hoffman, to approve the DCOC minutes of September 30, 2011. The DCOC actually voted to approve the minutes of August 26, 2011.

APPROVED: 8 Ayes 2 Abstentions – Ayes: E. Axelband, N. Carson, M. Hoffman, I. Meksin, H. Porter, D. Saguchi, R. Slawson, D. Smith; Abstentions: J. Ledkins, D. Swartz

(T. Anderson arrived at 12:22 p.m.)

D. Motion to Approve Changes to Bylaws as presented at Special Meeting – Camille Goulet

A document entitled “Recommended Changes to Bylaws” was distributed.

Ms. Goulet stated that the DCOC Bylaws are ultimately subject to the approval of the Chancellor. She stated that the Board Rules take priority or precedence over the Bylaws and the Board had changed the Board Rules to add some items that were never reconciled with the Bylaws. She stated that the most important change is the addition on page 6 of the Bylaws, which is the addition of the Board Rule provision that allows the DCOC to vote to ask for a special investigation of some kind. This provision was added to the Board Rules and the DCOC was advised of this at the time, but the provision was not put into the Bylaws. She stated that this provision should be there because the Bylaws is one of the DCOC's governing documents.

E. Axelband inquired as to when the change was made to the Board Rules.

Ms. Goulet responded that this provision was added to the Board Rules in December 2009. She stated that with respect to the Board Rule document entitled “Management of Proposition A, Proposition AA and Measure J Funds” (Attachment 4), the language from Board Rule 17006. SPECIAL AUDITS AND INVESTIGATIONS A. District Citizens' Oversight Committee Request (Page 4) was added to the DCOC Bylaws (Page 6 of 8).

J. Ledkins inquired as to when these changes were made.

Ms. Goulet responded that it is the practice in the District that when a Board Rule is listed to identify the date it was adopted or amended. She stated that Board Rule 17006 was adopted on December 16, 2009. The DCOC was made aware of it at the time, but it did not occur to anybody to put it in the Bylaws. It has always been available to the DCOC, but it was not stated in both places.

With respect to the Recommended Changes to the Bylaws document as it relates to 3. c., which states that the Chancellor will make recommendations to the Board in accordance with a process determined by the Board (Page 2 of 8), E. Axelband stated that the language is very vague. He stated that if this process exists in writing, it should be referenced. If it is an ongoing process that can change all the time, something should be said that this process is not a written process but a variable process that may change at any time.

Ms. Goulet stated that the major motivation is that the DCOC does not tell the Board of Trustees how to make the Board's appointments. The Bylaws states "a process determined by the Board" because "we defer to the Board to make its own determination about whether to have a perennial process or something that changes.

E. Axelband stated that he still finds the documentary unsatisfactory because it is vague.

Ms. Goulet stated that the Board does not have an express written process other than the Board Rules (Attachment 4). She further stated that the Board Rules do not address the mechanism for a recommendation to be reviewed.

E. Axelband stated that he would like to be informed of what the underlying Board process is.

Ms. Goulet stated that if the Board adopts something that is written, she would so inform the DCOC.

E. Axelband requested that a footnote be added to the Bylaws stating that there is no written process and the process can change at any time.

Ms. Goulet stated that because she would come back to the DCOC to change the Bylaws, she does not think this is a good choice. She further stated that the DCOC can have the minutes reflect that she told the DCOC that there is no written process at this time.

Motion by E. Axelband, seconded by D. Swartz, to approve the changes to the Bylaws.

APPROVED: 11 Ayes

N. Carson stated that she would be including these Bylaws and Board Rules in the handbook. She requested that if anyone does not think there should be a handbook, to let her know.

Ms. Goulet stated that a handbook is a great idea.

(R. B. Jones-Sawyer arrived at 12:33 p.m.)

E. Inspector General's Report

A document entitled "Office of the Inspector General Los Angeles Community College District Report of Audit" was distributed.

Ms. Marez stated that when the OIG created the first-year work plan, this was one of the audits that the OIG wanted to perform in light of the allegations that were being received about the bond program. The OIG reviewed two procurement methods that are being used to select construction contractors. These were both formal bid procurements. One was the sealed bid process whereby contractors submit sealed bids and the contract goes to the lowest bidder. This is called "design-bid-build." The second procurement process is the design-build process. Under this process, 34 projects that were awarded from the bond

program have been through the design-build procurement. This is a three-step process where there is a selection committee that evaluates the proposals submitted by design-build teams. These teams include the architect who does the design in conjunction with the construction contractor. Due to the nature of the design-build process, there are many more steps in evaluating and the awards are not based on the low bid. The contracts are awarded to a design-build team based on the best value as determined by the District and how it weights the evaluations as well as how the selection committee gives a score.

E. Axelband inquired as to whether or not the value criteria are announced in advance.

Ms. Marez responded that the value criteria are announced in advance and are included in the Request for Proposal (RFP) with the percentage of the weights that are applied to each and every project.

E. Axelband inquired as to what fraction of the award is subjective.

Ms. Marez responded that a majority of the categories are subjective.

E. Axelband inquired as to whether the criteria for acceptability are included in the RFP.

Ms. Marez responded in the affirmative.

E. Axelband inquired as to what fraction of the criteria for acceptability on the sealed-bid process are subjective.

Ms. Marez responded that nothing was subjective.

N. Carson inquired if the people who will be using a specific building form a committee to provide a list of the elements that are most important for that building including technical support to meet the needs of the students and the community. She stated that most of the colleges with which she is familiar have the individuals who are going to be the users of that building say what is most important and what the final decisions will be.

Ms. Marez stated that the audit looked at two criteria. One was to find that there was reasonable assurance in the samples taken that the District and the bond program complied with not only their own policies but with all statutory requirements. Design-build has specific legislation as to how the design-build process must be conducted. The audit also included a review of internal controls; i.e., whether there were any deficiencies in the internal controls that would lead to the selection process being biased. The good news in the audit is that the findings for compliance to both District policies and bond program policies in statutory requirements, there was only one exception noted for District policies and the programs for design-build and formal bid complied 100 percent with the statutory requirements. The one exception noted that they were not complying with their own policies had to do with the type of quality control that they were doing when the scorers at a selection process turned in their score sheets. There was not a quality control where the build team would initial that they had verified the score sheets. In order to resolve this, BuildLACCD is creating a more uniform practice for the scoring process. They are in the process of updating their policies and procedures and training their staff to ensure that this process will take place with every selection. She discovered a number of internal control deficiencies. These are listed in the "Report of Audit" document. They include insufficient document controls, no evidence of conflict of interest management, no formal process for determination of design-build selection committee members, inconsistencies in the administration of the design-build scoring process, and insufficient due diligence in receipt of bids and proposals.

E. Axelband inquired if it is a requirement to submit a non conflict of interest form as a condition to be on the selection committee.

Ms. Goulet responded that this has not been a requirement.

Ms. Marez stated that the District is currently implementing a process for which they can check for conflicts of interest.

E. Axelband stated that there are still two possible errors. The first is that people did not complete forms. The second possible error is that the people who filled out forms did not fill them out honestly. He inquired if both types of errors were uncovered in the audit.

Ms. Marez responded that there was no form to fill out. The only conflict of interest check was a verbal instruction to selection committee members, which stated that the members should not have a conflict of interest. There was no written proof or evidence of any conflict of interest.

D. Swartz inquired as to who is typically on the selection committees.

N. Carson responded that the members include administrators, department chairs, faculty members, and students.

Ms. Marez stated that the selection committees also include a representative of the program management team and a representative of the college project management team. She further stated that the District is in the process of creating a policy and protocol for managing conflict of interest issues. She is currently working with the Office of General Counsel on the actual form.

M. Hoffman requested copies of the corrective document with respect to the conflict of interest issue.

Ms. Goulet stated that she would provide these documents. She is currently in the process of writing language for the conflict of interest document that would be understandable to everyone.

D. Swartz stated that it is critical for the DCOC members and the public to understand who makes the decisions in terms of actually selecting the contractor.

Ms. Goulet stated that the members of the Board of Trustees virtually never sit and read a proposal except when they are mandated by law to be handed it.

Ms. Marez continued discussing the internal control deficiencies.

Ms. Marez stated that most of the recommendations listed in the document are being implemented. In the next three months, she will present a report to the DCOC regarding recommendations that the OIG issues and a status of how those recommendations are being performed by the District, the bond program staff, etc.

N. Carson stated that at Los Angeles Harbor College (LAHC), certain administrators sat on almost every committee. When she was the Dean of Academic Affairs, she was involved in every academic program of the college. This included every building committee.

M. Hoffman requested that the language in the conflict of interest document be very simple.

Ms. Goulet stated that one of the challenges being faced is that the typical perceived conflict of interest is a financial one.

R. B. Jones-Sawyer stated that he recently went through a two-hour online training in ethics. He does this every year and each year, he learns a new conflict of interest that he did not know existed. He was doing things that he thought were okay that had the appearance of impropriety. He recommended looking at what the City of Los Angeles does with respect to ethics training. He stated that there might be a type of online training for the members of the selection committees.

E. Axelband stated that the qualifications of the building professionals have to be judged with respect to the merit of the company to build and design in one case and in the other case to have a sound architecture that can be built as well as building the design. He inquired of Ms. Marez how satisfied she is and why and if she is not satisfied, what is she doing about it that the party is represented sufficiently in this judgment process.

Ms. Marez responded that in design-build, she thinks there is a process in place that checks on not only the references by the company . . .

E. Axelband stated that he is talking about things like having an inadequate foundation—someone who is an expert in building could perhaps find that having something that is likely not to be sustainable after ten years. A building professional—somebody who understands the process of designing and building buildings—how is that represented?

Ms. Marez responded that anyone can put forth a good resumé and give good references and say “we build this building.” For how they are being evaluated now, you are not going to capture the past record of performance in the evaluations.

E. Axelband requested clarification that this is based only on past record—not on contemplated work processes or professionalism of staff.

Ms. Marez stated that there are qualified inspectors that should be checking these issues. She further stated that she also wants to look at what controls are in place to make sure the work is being performed.

An inquiry was made as to the “winnowing down” process for the committees that review the actual proposals.

Ms. Marez responded that there are criteria for the pre-qualification process for design-build contractors. This is not the same as that for the sealed bid process. The District does not utilize the pre-qualification process for sealed bids.

E. Axelband expressed his concern that companies change over time. If a company has done something well in the past and has testified that it is honest and is all true and they then went through a downturn and fired half of its staff and then staffed up with people who were not fully qualified to do this next job, it sounds like your current process has no way of detecting that.

R. Slawson stated “I take it you found the issues with the prequalification process as you noted the lack of evidence for qualify insurance control and score sheets with the design-build process, not with the design-bid-build process, which I don’t know if everyone even knows the difference between those two here at the table.” He further stated that the purpose of switching to the design-build process was to speed up the overall construction of schools. When this process first started, the design process included the bidders who were teams of general contractors and architectural firms who put a bid together with a design.

The selection was made based on that package. A contract code was put in place in the 1920s to stop what was going in the 1920s in California, which was the wholesale selling of projects. He stated that it was his understanding that the contractor end of this for the design-bid process is still utilizing the sealed bid and opening process as criteria for the successful bidder on the design-build end of this overall process. He inquired if the bidders for the design-build end of the process select a general contractor.

Ms. Marez responded in the affirmative and stated that the general contractor might not select his subcontractors until a year later. She stated that one of the values of the design-build process is that it will save time because there will be fewer change orders.

E. Axelband recommended that the DCOC Advisory Subcommittee meetings be used as an opportunity for Ms. Marez to further address questions regarding the audit report.

Ms. Marez stated that most of the recommendations have to do with strengthening internal controls and she is confident that they are being implemented. The policy that the DCOC has taken on to direct staff to prohibit the rescoring or retabulation of forms once the design-build team has been identified during a scoring process. The other two investigations in scoring that have been conducted are aligned with this recommendation, which is underway as well.

R. Slawson stated that with respect to the ethics issue about whether someone could affect the outcome of a contract, there are many ethics issues that are involved in awarding contracts. One person on the selection committee could have a big impact because he is not necessarily going to influence 10 or 15 people. If it is five to five, all this person has to do is influence one other person and there might be a conflict. There are many reasons why an entity should conduct a background evaluation of someone who is sitting on a selection committee so that all of their possible ethics issues are brought forward before a decision is made.

J. Ledkins inquired if the DCOC would be able to utilize the compliance officers on the campuses to help people understand the ethics issues with respect to the selection committees.

T. Anderson recommended that anyone who is a member of a selection committee be required to take a conflict of interest or ethics course. These courses are done online. At the end of the course, a test is given online that the individual is required to pass.

Ms. Marez stated that she is recommending that everybody in the bond program be required to take this course at least once per year.

T. Anderson expressed his concern that one member of a committee could be a dominant person who would influence the rest of the committee.

Ms. Marez stated that part of the disclosure form includes a confidentiality clause, which states that the members of the selection committee do not discuss what occurs at the meetings until the contract is awarded.

Ms. Marez distributed a document entitled "Van de Kamp Innovation Center Project Expenditure Review (October 2011 Update)." She stated that one of the recommendations from the Van de Kamp report was that there be a reconciliation of costs from the project performed by bringing the information from the Chief Financial Officer's (CFO) office into the

actual system that manages the project, which is BuildLACCD. That reconciliation has been in process for the last few months. The OIG is in agreement with the monetary figures in the document. There is still some work to be done with the categorizing of expenditures, but for the most part it is well on its way.

D. Swartz inquired if this is the only project that has the CFO components to it with this money coming out of so many different pots.

Ms. Goulet responded in the negative. She stated that most of the property acquisitions were paid directly by the CFO's office. For example, 16 parcels were purchased at Los Angeles Trade-Technical College (LATTC). Generally speaking, in order to book it as an asset, the CFO preferred to tie the property acquisition's money through her office. All of those projects that include property acquisitions will have tend to have that overlap.

Ms. Marez stated that there should be a process in place for a monthly reconciliation of all projects so that when there is a property purchase by the CFO's office, they can communicate it and then get it recorded in the BuildLACCD system. She stated that this is not the reality at this time—it is a goal.

Ms. Marez discussed the Van de Kamp document. She stated that in February 2011 it was reported that project expenditures totaled \$86.4 million. Currently that number is \$89.9 million. The reason for the difference is outstanding costs, which is money that was pending change orders estimated at \$2.78 million and outstanding contract balances that still needed to be paid for \$3.87 million. In October the outstanding costs went down to \$688,709. The only outstanding costs have to do with consultants. \$2.75 million was taken from General Funds to pay the construction contractor for Van de Kamp in resolution of a construction claim. The outstanding liabilities include two items—one is the indemnification fund that was set up when the District bought the Portola property for \$500,000 and possible workforce claims that could be \$750,000 that may or may never come to fruition. The outstanding liabilities might never be paid, so she is not counting them as outstanding costs. In February 2011, it was estimated that the when everything was completed, the total project cost would be \$91.6 million. Currently the estimate is \$91.9 million. During the reconciliation, there were other early project cost transactions that were found and reported and some adjustments made to interest, etc. The second table has to do with how much was overspent and what was originally approved. The original funding allocation was \$81.5 million. Now it is less than that because the CFO's office originally reported a certain amount of interest that was obtained through Certificates of Participation (COPs) money in 2002-2003 and over-reported it by \$1 million. They have since reconciled that and the allocation was reduced by \$1 million.

E. Axelband inquired if this was an error in data provided to the people keeping the books on this project.

Ms. Marez responded that there was a lot going on with COPs. She stated that this was not an error, but that it was misreported. The other reduction was the original \$800,000 that the project received from Los Angeles City College (LACC) was actually a loan to the project. The loan has now been paid back to LACC and therefore, does not count as funding anymore.

E. Axelband inquired if the original amount was not recognized as a loan in the financial system in February.

Ms. Marez responded that the amount was counted as funding. Information was received subsequent to this that changed it to a loan. In February 2011, it was reported that the overspent amount was approximately \$5 million. Through the reconciliation, it was

established that the funding has been reduced, the change orders have been paid, and the other transactions have been added. Ultimately, the project will be \$10.1 million over what the budget was.

Trustee Mona Field stated that the original circumstance of this District taking on the Van de Kamp project was that the building was abandoned and defaced. The District obtained it in part because Senate Polanco, who represented that area, wanted the District to make use of it and restore its historic features. For \$4 million of state funding, the District would work out a way for the building to become a satellite of LACC. She felt that \$4 million would barely be sufficient to make it a usable facility. She stated that the cost has far exceeded what anyone imagined when the District accepted what at the time was considered a gift to the District.

Ms. Marez stated that the amount was actually \$3 million and was initially for the property only.

Mr. Tom Hall stated that there are now four buildings on the site. Most of the buildings did not meet Division of State Architect (DSA) standards and required a great deal of renovation.

D. Smith inquired as to how large the property is.

Ms. Goulet responded that it is approximately 7½ acres. Ms. Goulet stated that the District initially purchased a significant portion of the property and then added two acres later on to help fill out the footprint.

J. Ledkins inquired as to whether the money comes from Propositions A/AA and Measure J funds if the budget has been overspent.

Ms. Marez responded in the affirmative.

N. Carson stated that if some of the overspending does not come under the legal bond issues, the District has to pick some of these costs. Some of the expenditures might not fit the criteria of Proposition 39 or the bond measures.

Chancellor LaVista stated that this issue is under review along with other items that he will be explaining, which are also under review.

N. Carson distributed a document prepared by R. Slawson entitled "Motion regarding the Process for Approval of Los Angeles Community College District Bond Funds for the development of the Van de Kamp Innovation Center – Resolution #2011 – 8." She stated that did not bring this up at the DCOC meeting of September 30, 2011 because there was not a quorum. She stated that this cannot be considered today because it is not on the agenda. She stated that it would be put on the agenda for the next DCOC meeting.

R. Slawson inquired if there could be a motion to present this item today.

Ms. Goulet responded that this item was not noticed, but because it is in the context of the Inspector General's report, the motion is defensible from a Brown Act standpoint.

R. Slawson stated that at the DCOC meeting of September 30, 2011, discussion was held as part of the Inspector General's report. When it was noted in the documents that part of the money that was to be expended on the Van de Kamp project had not been fully approved by the Board of Trustees, he asked if the DCOC should submit a motion to the committee to request and recommend to the Board of Trustees that they provide the DCOC

with that information; i.e., what monies had been approved, what monies had not yet been approved, and what plan under the bond measures they were going to follow that would authorize the expenditure of further funds. He read the resolved portion of the resolution. He stated that if this is adopted, a copy will be sent to the Board of Trustees for action.

Motion by R. Slawson, seconded by E. Axelband, to adopt the resolution.

E. Axelband inquired if there is a timeline associated with this resolution.

R. Slawson responded in the negative.

There was discussion regarding the accuracy of the dollar amounts in the resolution.

R. Slawson stated that the Inspector General has said that the cost of completion of the project from beginning to end is \$91,912,000 and that the DCOC is asking how much has been specifically approved to date and where those funds have been approved from. He inquired, due to the difference between what has been approved and allocated from bond proceeds to get to this \$91 million, where the funds will come from.

M. Hoffman inquired as to how much of the initial funds fit within the A/AA and J measures.

In response, it was stated that this information will be provided when the analysis has been received.

Based on the dollar amounts in the Van de Kamp Innovation Center project expenditure review, the following amendments were made to the resolution:

Whereas, The Office of the Inspector General of the Los Angeles Community College District has issued a "Project Expenditure Review" of the Van De Kamp Innovation Center that has determined that there is a differential between "allocated" funding and the expected final amount that may be expended of ~~\$8,818,286~~ \$12,066,948; and

Whereas, The Office of the Inspector General's "Project Expenditure Review" found that "the 'differences' between the ~~\$86,493,481~~ \$79,845,230 of total project expenditures identified in this review and the total amounts being reported for the project, by BuildLACCD, are the result of project transactions not being recorded or reported in a single financial system;" therefore be it

Resolved, That the Los Angeles Community College District Bond Construction Program's District Citizens' Oversight Committee (DCOC) - whose responsibilities are to reconcile the expenditure of District Bond Funds – requests and recommends to the Los Angeles Community College District Board of Trustees that (1) a determination be made that the expenditures made for the Van De Camp Innovation Center project and site have been within the requirements of the Bond Measures' funding standards; and further be it

Resolved; That the DCOC also requests and recommends that the funds, identified in the Office of the Inspector General's Review, in excess of those "allocated" for the Van De Camp Innovation Center project and site, be reviewed by the Board of Trustees through a LACCD Audit; and further be it

Resolved; That the DCOC also requests and recommends that the Board of Trustees provide a Financial Report on the funding, from Bond Funds, that has been “allocated” and provide a Funding Plan, within the requirements of the Bond Initiatives approved by the Voters, to authorize the “allocation” of those expenditure not yet approved.

The amendments were accepted by the maker and seconder of the motion.

Chancellor LaVista stated that he is not sure if the resolution is necessarily a Board of Trustees directive. He stated that the Board of Trustees would refer it to staff.

APPROVED AS AMENDED: 10 Ayes 2 Abstentions – Ayes: T. Anderson, E. Axelband, N. Carson, M. Hoffman, I. Meksin, H. Porter, D. Saguchi, R. Slawson, D. Smith, D. Swartz; Abstentions: R. B. Jones-Sawyer, J. Ledkins

F. Chancellor’s Report

N. Carson requested that Chancellor LaVista add to his comments the question of whether the DCOC needs to do something related to possible conflicts of interest.

Chancellor LaVista stated that the DCOC members should have in their packets three resolutions that were approved by the Board of Trustees on October 5, 2011. The first resolution has to do with the District’s decision to invite the City Controller to conduct a particular review of the OIG, specifically the selection process for its leader. He stated that discussions occurred largely between Board President Santiago, himself, City Controller Wendy Greuel, and two of her deputies. Within the coming week Ms. Greuel should have completed her selection process, which he hopes will lead to the identification of the individuals who under her direction will conduct the review. He stated that positive discussions have been held that centered largely on the search process and the qualifications. The second resolution has to do with the master budget plan and policies to promote oversight. This resolution addresses the need for more specificity regarding budget reports and individual projects, more attention to procurement, and the implementation of the process for mapping projects for recommended levels of authority and review for the Master Budget Plan. The third resolution addresses concerns that the State Controller’s Office (SCO) raised in its audit. He stated that he has been requested to ensure timely recruitment and has already recommended some names to the Board of Trustees for approval. A DCOC representative will present the DCOC annual report to the Board of Trustees. The leadership of both the DCOC and the Board of Trustees shall meet on a quarterly basis. He stated that when this resolution was presented, there was some interest among the Board members to have more frequent discussions. He stated that these resolutions are part of a longer term set of initiatives that the Board of Trustees has developed. At about the time of the October 5, 2011 Board meeting, he issued a moratorium that essentially called for a pause in the forward motion that developed about the build-out program. This grew out in part from a reference in the State Controller’s audit that urged the District to reconsider its build-out program in its entirety as measured against the State Controller’s assessment of the District’s ability to generate the proper amount of revenue on the operating side to fund these buildings. He stated that the \$400 million decrease in community college funding needs to be studied as well as the Tier 1, 2, 3, system that is driving the budget; the expectation of a midyear reduction for community colleges including in the LACCD a reduction of 500 class sections in which thousands of students were turned away. He stated that the state is not meeting its financial obligations to fund its public education systems. The work that the District is doing that will be useful in the moratorium period includes an assessment of what can be expected from the state. Other things are relevant to the justification for at least a 30-day moratorium. The District is in the process of posting an announcement for the position of Executive Director of Facilities

Planning and Development. The District is ready to prepare for the project management component for the BuildLACCD aspect of its work. Within one week to ten days, the District will have recommendations from the Building Program Review Panel (BPRP) that he established. He has started discussing these conditions with the Chancellor's Cabinet and Senior Staff members. On November 1, 2011, the same discussion will occur with the Bond Steering Committee, which is the primary governance committee. He will obtain input from the governance groups that look at bond issues and will then present a recommendation to the Board of Trustees on how he sees this juxtaposition of build-out expense side-by-side with the revenues that will be at hand. He feels that there are many signs that the District is starting to "right the Titanic away from that iceberg." The District needs to make better use of its demands on accreditation, "Achieving the Dream," and private fundraising. The District also needs to work on being forceful with the state—with its partners at the California State University and University of California Systems—in demanding more attention for schools in terms of budget cuts.

M. Hoffman inquired if the 30-day moratorium would be enough;

Chancellor LaVista responded in the negative. He added that for now he is staying with the 30 days and will see what happens in the next set of meetings. He feels that with the progress that has been made in improving this program, care needs to be taken with the next step to be sure when planning for the remainder of the program, that the District does not get itself into financial difficulties that it cannot out of. He feels that great progress has been in the last year or more in bringing many of the colleges into the black. The District has had a long-standing history of permitting deficit spending. He needs to be sure, in his effort to promote quality externally through positive accreditation results and successful student performance measures, that the District can document that it efficiently manages the money it does have. He stated that this includes not having schools in the red. The District needs to rely in the future on grants and private funds because the state is not a reliable partner.

I. Meksin inquired as to which colleges are in the red.

Chancellor LaVista responded that the two colleges in the red are Los Angeles Southwest College (LASC) and Los Angeles Valley College (LAVC).

M. Hoffman stated that he would like to acknowledge the importance of the OIG as the key factor that will help weed out all of the comments from the public and determine which comments are correct.

Chancellor LaVista stated that the two contractor terminations that he wrote were a result of the work of Ms. Marez. The actions that the Board has directed him to take regarding possible debarment or possible termination of the two companies is directly attributable to the work of the OIG.

E. Axelband inquired in the event it is decided that certain projects should not proceed and money remains in the bond fund as a consequence of that, what will happen with those bond funds.

Chancellor LaVista responded that the Board of Trustees has the ability to issue bonds without any temporal restraint. The Board has an indefinite period during which time they can decide to issue bonds. He stated that it is a matter of considering the construction cost increases. He stated that in Fiscal Year 2012-2013, the District will find out what the Governor has in mind with the Legislature. A tax increase might be imposed on November 12, 2011. At worst, this could result in a postponement of reviewing what type of funds will be available. The budget policy side of this is very important.

N. Carson entertained a motion to extend the meeting for 15 minutes

Motion by E. Axelband, seconded by D. Swartz, to extend the meeting for 15 minutes.

APPROVED: 11 Ayes 1 No – Ayes: E. Axelband, N. Carson, M. Hoffman, R. B. Jones-Sawyer, J. Ledkins, I. Meksin, H. Porter, D. Saguchi, R. Slawson, D. Smith, D. Swartz; No: T. Anderson

Chancellor LaVista stated that the BPRP is completing its work and its final report was circulated among the members during the week of October 24, 2011 for the purpose of making final edits. He further stated that the District Attorney has an interest in the OIG. The District Attorney's Office has begun interviews with some of the District Office staff. He referred to this as "a continuing audit tsunami." The work that the District has been doing of late represents much focused important work.

J. Ledkins inquired as to where money will come from after the appropriated funds for the building projects have run out.

N. Carson noted that this is the last DCOC meeting for Henry Porter and Isa Meksin. She expressed her appreciation to them for their efforts as members of the DCOC.

(H. Porter and I. Meksin left at 2:00 p.m.)

In response to J. Ledkin's inquiry, Chancellor LaVista stated that when there are insufficient funds, there will be a reconsideration of the bond language and a review of each college's work in terms of the original appropriation to determine how faithful each college has been to this appropriation. This will be done during the 30-day moratorium

J. Ledkins stated that it is a concern to the students that extra money is being spent and where this money is coming from.

With respect to the document entitled "Com. No. BT6. Resolution to Adopt a Master Budget Plan and to Implement Policies to Strengthen Oversight and Spending Practices for the District's Construction Program, R. Slawson stated that the DCOC passed seven resolutions, one of which was to reestablish the baseline of the overall program. He inquired as to who the monthly dashboard report is coming from.

Mr. Hall responded that the report is prepared by BuildLACCD.

R. Slawson inquired if this report is an accurate current accounting of where the District is in the overall bond program. He stated that he did not see in the report information regarding the overall sale of bonds and the comparison between the bonds that have been sold and the money that might still be on hand in the future. He requested that this information be included in the monthly dashboard report. He stated that this information could be used assess the baseline of the overall program.

Mr. Hall stated that he would obtain this information from the CFO's Office.

D. Swartz inquired if the total amount of the bonds set at a specific number or set at a ratio based on debt service from the taxes that were approved to be raised.

Mr. Hall responded that the bond language allows up to the amount of money that was authorized. As the bonds are sold, there might be interest off that sale that will be used on other projects.

Ms. Goulet stated that the Tax Code requires that when the District sells the bonds, they expect to spend them within the next three years.

D. Swartz stated that there must have been an assumption as to what the ongoing tax rate burden would be to pay at six percent interest. He inquired that if the interest is substantially below that, does this mean that people are going to be paying at a lower rate.

Ms. Goulet responded in the affirmative.

E. Axelband requested that schedule variance information be included in the monthly report.

Mr. Hall stated that this information would be included for each project.

G. Program Update Dashboard Report Review/Update

Mr. Hall stated that Chancellor LaVista already covered two of the topics that he was going to address—the 30-day moratorium and the possible termination/debarment of two construction companies. With respect to the construction firm of J.D. Diffenbaugh, Inc., the District has four projects that defaulted. Of those four projects, one was at East Los Angeles College (ELAC), two were at LAVC, and one was at Pierce College. The projects at ELAC and LAVC have been settled. The project at Pierce was in the design process and had gone into construction. He stated that this project should be settled shortly and can be moved forward with the replacement construction company. He stated that the District has a liquidation of a surety, as the result of the economy, where the surety has been ordered to liquidate. This surety is Western Insurance Company, which is out of Utah. This is the first instance with a surety going out of business. As he stated at the last DCOC meeting, UCCI was a company that went out of business. Their surety had taken over the construction process for the project at ELAC. This construction process is very close to completion.

Mr. Hall distributed documents entitled “LACCD Sustainable Building Program Recent Construction Bid Activity Status – March 2011 – September 2011” and “BuildLACCD Project Snapshot.” He recommended that the DCOC members review these documents in their spare time.

With respect to the Dashboard Report, which was distributed, Mr. Hall stated that an estimate at completion has been added. He will be adding information to the Dashboard Report regarding the schedule process. An item to establish project-level budgets will be presented to the Board of Trustees at its Capital Construction meeting on November 16, 2011. Previously, the budgets were established at the college level and the colleges were allowed to manage that money.

R. Slawson inquired if Mr. Hall is seeing costs of materials going up.

Mr. Hall responded that he has not heard specifically from the contractors, but the industry magazines are saying that materials costs are starting to increase. At a six percent increase, some subcontractors start to go out of business. At another six percent increase, general contractors start to go out of business. He addressed the Board of Trustees in April 2011 regarding the issue of contractors not being able to perform because they will not be able to stay in business. Part of this is due to the fact not that they could not manufacture more, but all of the manufacturing companies have reduced their staffing. As the surplus gets bought up and as more projects start to take place, an inflation process starts in material costs. Labor costs will then go up as a result of this.

N. Carson stated that a meeting will be held during the week of October 31, 2011 to work on the Annual Report. She further stated that the next regular meeting will be Friday, December 16, 2011, starting at 12:00 p.m. This meeting will be chaired by E. Axelband in her absence.

H. Adjournment

There being no objection, the regular meeting was adjourned at 2:16 p.m.