Committee Members Present:

Maria Cardenas, City Administrative Officer’s Office (CAO), Chair
Karen Kalfayan, Chief Legislative Analyst (CLA) Office
Chris Espinosa, Mayor’s Office
John R. Lewis, Los Angeles Zoo

Others Present:

Cheryl Banares, CLA; Claudia Aguilar, CAO; Jeb Bonner, Connie Morgan, Greater Los Angeles Zoo Association (GLAZA); Charley Mims, John Olinger, Public Works Bureau of Contract Administration (BCA); Rebecca Abano, Gary Moore, Public Works Bureau of Engineering (BOE); Kyla May, Darryl Pon, Los Angeles Zoo.

Ms. Maria Cardenas called the meeting to order at 10:05 a.m.

1. Minutes for Approval – Meeting of November 19, 2009

Mr. John R. Lewis moved to approve the Zoo Bond Oversight Committee (ZBOC) special meeting minutes of January 28, 2010. Mr. Chris Espinosa seconded and the motion passed unanimously.

2. Bureau of Engineering Program Manager Status Report

Ms. Rebecca Abano reported on the progress of the Zoo’s Capital Improvement Program (CIP).

Master Program Budget

Through the end of January 2010, $119.9M has been expended of the $172M approved budget. A more detailed expenditure report is found in Section 3 of the Monthly Report. Ms. Abano presented the Committee with an action item, a proposed revised Program Budget. BOE prepared a proposed revision to the Program Budget, which is shown in Section 5.4 of the Monthly Report. The revision adds $2,041,401 of Proposition CC interest earnings to the budget. $1.8M of these interest earnings is applied to the Rainforest of the Americas project to cover the Municipal Improvement Corporation of Los Angeles (MICLA) funding shortfall. It will reduce the MICLA money by $1.8M. $200K is added to cover arbitrage and other bond processing costs. $41,401 is added to the City staff and office supplies line item for anticipated expenses through the completion of the program in 2012.

In May 2009, the Reptile and Insect Interpretative Center project was funded by $33,900 more in MICLA money.
Also in May 2009, the Proposition CC monies were decreased. When Ms. Abano did this budget, she missed accounting for that $33,900 in Proposition CC accounts that currently sits in the Reptile project. What is also being proposed is to put that amount under Program Contingencies; so Program Contingency will be $33,900.

Minor changes have also been allocated in the monies within the two active projects. The Reptile and Insect Interpretative Center project remains unchanged, but the Design and Construction budgets are increased and the Project Management/Construction Management (PM/CM) budget is decreased. These line items are shown on page 5.0-7 of the Monthly Report. This allocation is necessary to properly fund the architect’s contract, and to correct a reporting of PM/CM costs related to the Swinerton contract to assist the accounting department.

Other minor changes were made to the budget for the Rainforest of the Americas. The Design and Inspection contingency was originally funded by Proposition CC. Since the Portico design contract can’t be paid out of Proposition CC, monies were shifted to MICLA. This resulted in increasing the construction contingency funded by Proposition CC and reducing the MICLA construction contingency. Ms. Cardenas noted that she couldn’t see the difference in design reflected in the Monthly Report. Ms. Abano responded for the Rainforest project, the change is to funding and not to the design. Mr. Gary Moore added that the bottom line doesn’t change.

Mr. Espinosa asked for clarification that one budget revision is an interest allocation and the other one is swapping out money from Proposition CC and substituting it with MICLA. Ms. Abano replied only on the Rainforest. Mr. Espinosa noted that was a separate transaction. Ms. Abano replied that she is seeking the Committee’s approval for the entire revised Program Budget, which will be $171,843,900. It is being changed from $171,568,599. The Committee briefly discussed the increase to the budget.

Ms. Cardenas stated that the budget doesn’t change significantly, because the budget revision is reducing MICLA and replacing it with interest earnings. This is good, since MICLA funding is deferred. Ms. Cardenas continued to state her support of the budget revision.

Mr. Espinosa moved to accept the revised Capital Improvement Program budget. Ms. Karen Kalfayan seconded and the motion passed unanimously.

Ms. Abano continued her report.

Master Program Schedule

Through the end of January 2010, the Zoo’s three active projects are shown on the schedule. A schedule diagram is found in Section 2 of the Monthly Report. BOE is planning on extending the project schedules of the Reptile and Insect Interpretative Center and the Rainforest of the Americas, which will affect the overall Master Schedule.
This is planned for next month, since BOE is reviewing the schedules proposed by the contractor for the Reptile and Insect Interpretative Center as well as the architect.

Mr. Lewis stated that he hopes Royal Construction isn’t allowed to lag on; they need to start to step up to the schedule. Mr. Moore noted that at the next Committee meeting, BOE would share a couple of the strong letters that BOE has written to Royal Construction. Ms. Cardenas specified that the Reptile schedule may change due to construction issues and the Rainforest schedule may change because of design issues. She asked how many projects Royal Construction was working on with the City right now. Mr. Moore replied that he didn’t have that immediate number. Ms. Cardenas replied that should be known. This and Royal Construction’s history of City construction was briefly discussed. Mr. Moore stated that BOE would provide accurate information at the next meeting, and would also share Royal Construction’s responses to the letters.

Mr. Charley Mims stated that the Bureau of Contract Administration (BCA) had written Royal Construction a non-compliance note for lack of progress, informing them that no payment will be made this month because no progress was made. Mr. Espinosa volunteered to attend a meeting with Royal Construction. Ms. Cardenas asked Mr. Mims if that meant that the contractor hadn’t shown up and worked. Mr. Mims replied it means that not enough acceptable work has been done to be paid for. The contractor is showing up, but not making any progress. Mr. Mims noted that only work that is acceptably completed is paid for. Ms. Cardenas asked how much their monthly payment usually is. Mr. John Olinger replied around $80K right now. Mr. Mims restated that the contractor isn’t paid for making effort, but for acceptably completed work.

Ms. Abano reported on the Reptile and Insect Interpretative Center, in order to give information to the ongoing discussion.

**Status of Active Projects**

**Reptile and Insect Interpretative Center**

Ongoing work is 10% complete. Notice to Proceed (NTP) was issued in July 2009. While performing excavation and grading activities, the contractor encountered several undocumented underground telecommunications and electrical lines, as well as geotechnical issues. Rain has also been experienced. When the construction site has been excavated, graded, and not compacted, the work can’t continue until mud is dry.

Mr. Lewis noted that the compaction has been done, but the contractor doesn’t want to disturb it. He added that he isn’t denying that the contractor has done work, but he thinks Ms. Abano is being too nice to them. Part of the problem is that on another project is the other end of the pendulum; a contractor that not only gets work done, but when they run into an obstacle, come in with two or three solutions. He observed that on President’s Day, it was disheartening for him to watch one contractor working like crazy, and watch the other one sit in a bucket all day hammering rocks while another guy sits in a pick-up truck. This is what he is responding to.
Ms. Cardenas asked if BOE has a construction manager on site every day and if they notice anything that can be improved. Ms. Abano replied yes, every day, but the contractor really can’t get out of the ground until all the geotech is resolved. That has been resolved and the Department of Building and Safety (DBS) has looked at it. The contractor now has the go-ahead to go and was going to start last week, but it rained again. The contractor is mobilizing to do an issue at the existing polar bear exhibit that has to get done first.

Ms. Cardenas asked Mr. Mims how rain delays get factored into progress payments or completion for BCA. Mr. Mims answered it’s a calendar day project and BOE is responsible for keeping time on calendar day projects. Normal rainfall is calculated into that, so the contractor would only be given additional time for rain that exceeded the normal rainfall. Ms. Cardenas asked if the rain has exceeded the normal rainfall in the project schedule calendar. Mr. Moore replied that basically rain delays are non-compensable extensions. The contractor isn't paid for rain-caused delays. Mr. Moore stated that he supports Mr. Lewis 100%. The Committee discussed this issue briefly.

Mr. Darryl Pon pointed out that another issue is that Royal Construction has been consistently behind on their submittals. It’s not only that their construction has been slow, but their planning of their work has been a little slow. BOE staff has been working hard with the contractor to get their submittals and work on time. A major duct bank work is coming in; if this goes into the Zoo’s summer season that becomes an operational problem for the Zoo. Mr. Mims observed that at the partnering meeting before any construction started, several BCA staff emphasized the importance of the contractor getting submittals in very early.

Ms. Abano continued with her report on the Reptile and Insect Interpretative Center. Royal Construction submitted a time impact analysis, which is being reviewed. This submittal shows a delay of 82 calendar days, of which 35 were caused by rain. The project currently has a schedule float of four months. BOE is reviewing that schedule and any anticipated delays before proposing a revised schedule for the project. Ms. Cardenas asked what this means in terms of potential costs. Ms. Abano replied that the contractor has only asked for time extension and not compensation for that time extension at this time. If the contractor has delayed themselves, it's noncompensable time. Mr. Lewis asked if the contractor loses money if they don’t get a time extension. Ms. Abano replied, yes, they start being charged liquidated damages. Mr. Moore asked how much the damages in this budget are. Ms. Abano replied $3K a day.

Mr. Mims stated that as Mr. Moore said earlier, rain delays as time extensions, are extensions of time, but are non-compensable. This issue is muddy, because the underground delays which are the City’s responsibility may be compensable depending on the impacts.

Ms. Cardenas asked if BOE had reported on percent done of change orders. Ms. Abano answered that no change orders have been issued on the project yet, but potential change orders are being negotiated to approximately $10K at this time.
Ms. Cardenas asked if contingency was being used. Mr. Moore replied that in the construction contract that went out to bid was a line item anticipating unforeseen conditions, so the change order contingency hasn’t been used.

Ms. Abano continued with her report on the Reptile and Insect Interpretative Center. BOE had a meeting with Portico on the design contract. As reported last month, Portico submitted an additional fee request of $655,540 on this project. After negotiations, it was agreed to increase their total contract cost ceiling by $75K and extend their contract to July 30, 2012. A contract amendment is currently being processed to memorialize that agreement. The amendment requires the approval of the Board of Public Works (BPW) and the Mayor.

This contract had an ASA budget of $255K, of which $35,840 had already been used to cover various unforeseen work during the design phase. The balance wasn’t enough to cover the lump sum agreed amount of $293K. So $75K needs to be added to their contract via this amendment. All that money is within the approved budget and doesn’t require an increase of the project budget for the Reptile and Insect Interpretative Center. Ms. Cardenas asked if that matched with the calendar, because it’s for additional time because the project schedule has been extended, so the amount added covers through when. Ms. Abano replied it covers them all the way to July 30, 2012. Mr. Espinosa clarified that from a $693K request, an agreement has been reached at $293K, just for this only, not for other projects; there are other claims for the others. Ms. Abano replied yes. Mr. Moore stated that the payment for the extra time for Portico to stay to July is on a month-by-month basis; so if things go well, those last few months won’t be paid. Given his experience, he suggested that a few months be added to the schedule. Ms. Claudia Aguilar asked if Ms. Abano meant 2011, not 2012. Ms. Abano replied yes, 2011.

Rainforest of the Americas

The project is still in design. Earlier this month, the architect submitted 100% construction documents, which BOE is reviewing for constructability. The Zoo is also involved in the review since design had changed. The design involves deleting the jaguar exhibit and revising the tapir and keeper areas. These plans are also going to be submitted to DBS for plan check review. BOE is also preparing a detailed estimate based on these drawings and the project is anticipated to go to bid in late May/early June 2010.

On issues related to the Portico contract, BOE met with Portico, and at the same time did the Reptile and Insect Interpretative Center, and resolved the architect’s issues. The resolution included extending their contract two years, from September 30, 2010 to September 30, 2012. The construction administration period was also increased from eighteen to twenty-four months, which increases the fees by $93K for construction administration. The resolution also provides $15K spread over the construction and post-construction phases to pay Portico for extended overhead and cost-of-living increases which the contract has extended beyond the anticipated time of completion.
Schedule and delay issues have also been resolved. The original contract includes an additional services budget of $405K, of which $202,340 was issued in Additional Services Agreement (ASA) #1 for the redesign work just described. The remainder is sufficient to cover the $108K agreed to add to the architect’s fees and will retain a balance of $94,660 for any unforeseens that may be encountered during construction. An amendment is being processed to memorialize this agreement and will include extending the contract term by two years. This will require the Mayor's and City Council’s approval. No dollars are added, time only. The Committee briefly discussed the negotiations proceedings with Portico.

**Pachyderm Forest**

Construction of Phase II work is 64% complete. Phase III construction activities include continued installation of the caging in the new elephant barn as well as roof construction, building up the Cambodia and Thai structures, rockwork carving at the India waterfall, and work on the north and south pools.

The contractor experienced rain in January 2010, which will move the contract completion date, but overall the project schedule remains unchanged. The Pachyderm Forest will complete in October 2010. Ms. Abano distributed progress photos of the project. Ms. Cardenas asked about change orders. Ms. Abano replied the change orders are at 1.86%.

Ms. Abano concluded her report.

**4. Greater Los Angeles Zoo Association (GLAZA) to Report on Capital Improvement Project Fundraising Activities**

Ms. Connie Morgan reported that GLAZA has had a $50K gift.

**Public Comment**

There was no public comment.

**Next Meeting: March 25, 2010**

Ms. Cardenas adjourned the meeting at 10:38 a.m.

Minutes prepared by Ms. Kyla May of the Los Angeles Zoo’s Planning and Development Division. Revised by BOE, CLA, CAO, and the Zoo.