Committee Members Present:

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

Others Present:

Maria Cardenas, Alma Gibson, CAO; Jeanne Min, Council District 4; Jeb Bonner, Connie Morgan, Greater Los Angeles Zoo Association (GLAZA); John Olinger, Public Works Bureau of Contract Administration (BCA); Rebecca Abano, Gary Moore, Public Works Bureau of Engineering (BOE); Kyla May, Los Angeles Zoo.

Ms. Patricia Huber called the meeting to order at 10:00 a.m.

1. Minutes for Approval – Meeting of March 18, 2010

Mr. John R. Lewis moved to approve the Zoo Bond Oversight Committee (ZBOC) special meeting minutes of March 18, 2010. Ms. Karen Kalfayan 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 April 2010, $125M has been expended of the $172M approved budget. No changes are anticipated to the overall program budget at this time. More detail on expenditures can be found in Section 3 of the Monthly Report.

Master Program Schedule

Through the end of April 2010, the Zoo’s three active projects are all on schedule. At the March 18, 2010 ZBOC meeting, the Committee approved extending the overall Master Schedule completion date from June 2012 to November 2012. Changes included extending two project schedules: the Reptile and Insect Interpretative Center schedule from February 25, 2011 to August 1, 2011, and the Rainforest of the Americas from June 1, 2012 to November 30, 2012.
Status of Active Projects

Pachyderm Forest

Phase III construction is making excellent progress and is now 75% complete. Phase III activities include continuing work to complete the new elephant barn: roofing, interiors and exterior finishes. Also, roofing for the Thai Viewing Structure is being installed, the foundation for the viewing deck at the Cambodia area is being completed, and construction of the south pool is continuing.

Regarding change orders for the project, thirty-four change orders have been executed totaling $725,299. This is approximately 2.8% of the contract. The project also has open and unnegotiated changes, totaling $724K. This means the total change order exposure to the end of April 2010 is approximately $1.5M, which is 5.8% of the construction contract. Contingency for the project is $3,606,450.

AKG/Saifco, the contractor for Phase III, gave a schedule delay update at the last executive meeting. Delays over the last few months were caused by rain, unforeseen conditions, and City-caused change orders. AKG submitted a request for time extension. BOE is currently reviewing that request and will negotiate contract duration and completion. BOE has also discussed the possibility of accelerating the construction completion to ensure the Pachyderm Forest exhibit will complete in October 2010. At this time, the current construction completion date is September 4, 2010, which includes all the time extensions caused by rain.

Mr. Gary Moore stated he wanted to help clarify that. BOE has also started spending money on some extra contractor shifts; so BOE is spending money to try to move forward the schedule. Some proactive things are being done and BOE will continue to look at even greater proactive opportunities to move back the schedule. Mr. Lewis asked where that money was coming from. Mr. Moore replied out of the change order contingency.

The Committee discussed the construction completion date, negotiations of a new extension date, the grand opening date, and the date when the public will be able to view Billy the elephant. Mr. Moore stated that the original contractual completion date was August 4, 2010. BOE knew there would some impact from rain delays, and BOE had said mid-October 2010 was the Master Schedule date that the facility would be turned over to the Zoo. The new contractual completion date is early September 2010, and the contractor is saying that due to unforeseen conditions and errors and omissions change orders, he wants time to mid-November 2010 contractually.

Mr. Chris Espinosa clarified that the contractor is asking for two additional months, to November 2010. Mr. Moore said that was correct. He continued; as of right now, the date the facility would turned over to the Zoo would be mid-November 2010.
But in the executive meeting that he attended with Mr. Lewis, Mr. Moore told the contractor that because this is such an important project, if he doesn't finish, he is subject to liquidated damages and penalties. Mr. Espinosa stated that he has always heard that the project’s really well done and the contractor is really good. Mr. Moore stated that there’s contractual and then there’s realities here. If it was a normal project that wasn’t under the scrutiny it’s under, the contractor could be negotiated with a little differently. But everybody that doesn’t finish the day it’s supposed to contractually, everyone will ask him [Mr. Moore] why isn’t it done. And then Mr. Moore will have to be able to say, well, we’re charging him liquidated damages, because he didn’t finish that contractual day. That’s why the contractor has to protect himself.

Mr. Espinosa asked how much more the contractor was asking for, the dollar amount. Mr. Moore consulted with Ms. Abano; Ms. Abano replied it was about $2200 each day. Mr. Moore stated that it was another $160K; it’s not that the money isn’t in contingency. Mr. Lewis noted that the contingency money is not carte blanche; that contingency money is there to be used as needed and approved. Mr. Moore disagreed. Mr. Lewis stated that the people at the end of the table (GLAZA) are paying for that contingency, which is what he is trying to bring up. Mr. Moore stated that when a contractor has a legitimate unforeseen condition that extends the contract, it’s not an option not to pay it, and the contractor has had unforeseen conditions out there.

Ms. Cardenas asked how that is a difference between the change orders that have not been finalized that take the amount from $800K to $1.6 M. Mr. Moore replied those are the direct costs, and now the contractor wants time associated with those: field office overhead. Ms. Cardenas asked if this was $2200. Mr. Moore replied yes; what happens is, that includes, because when you have to extend the project longer your trailer stays, your superintendent stays, your forklift stays, and those costs add up to approximately $2200. Ms. Cardenas noted that the contractor was busy overseeing actual work that got done and then got paid for, they weren’t just there. Mr. Moore replied they weren’t paid for that, their trailer wasn’t paid for, the electricity for their trailer wasn’t paid for, the superintendent wasn’t paid for; they were only paid for the actual work that was being done. The Committee continued to discuss the completion date and delays.

Ms. Cardenas asked what the acceleration would cost in order to get as close to September 4, 2010 as possible. Mr. Moore replied he thought it would be from $100K to $150K. He stated that there would be more problems during start-up associated with the project, so time is being bought for that; it’s win-win for everybody. Mr. Jeb Bonner stated it wasn’t win-win for everybody, because the more money is spent, the more fundraising GLAZA has to do; and fundraising is very difficult right now.

Mr. Lewis commented to Mr. Moore that he hears what he’s saying, but Mr. Lewis expressed his frustration at last month’s executive committee meeting. AKG / Saifco is a great contractor, but Mr. Lewis was totally caught off guard when they brought these time extensions into the discussion. The executive committee had been talking about meeting the contractual dates all along, and all of a sudden this comes up.
The Zoo has been making plans; of any animal at the Zoo, the elephant exhibit is going
to take the most time and coordination to open. In fact, Mr. Lewis’ staff wasn’t present at
the ZBOC meeting that day, because they were in their offices planning for the exhibit
opening in November 2010, so Mr. Lewis will have to return to tell them that the opening
date is unknown. Also, the opening date is built into the Zoo’s next fiscal year budget,
with consideration to attendance.

Mr. Lewis then stated his questions. He thought Mr. Moore had said two things, which
Mr. Lewis wanted to make sure to understand in regards to potential additional cost.
There’s the negotiated time extension and associated costs, which are still to be
negotiated, which is somewhere in the $100K to $160K range. Ms. Abano confirmed
that this figure was right. Mr. Lewis stated that BOE also mentioned paying the
contractor to accelerate and asked if that was included in that figure as well. Mr. Moore
replied no, but one would believe that the $160K cost would be reduced, because the
contractual completion date would be shortened. Mr. Lewis asked if it was dollar for
dollar, or if premium would have to be paid for the acceleration over time, etc.

Mr. Moore replied that what has happened in all the accelerations that he has done, the
actual hours are already part of the contractor’s cost; so he was going to build the Thai
roof structure and he had ten hours of labor in that, so that isn’t being paid for. What is
being paid for is instead of $10 an hour, it’s $15 an hour, because it’s time and a half, so
that $5 differential is paid for acceleration. Also, with acceleration, there are also
sometimes small inefficiencies for working overtime. In general, the overtime premium is
just being paid for; for instance, you’re not even paying for all the benefits and
everything, because benefits were already covered in the base hours. You’re only truly
paying the raw dollar amount for the person to work overtime.

Mr. Lewis stated that the net of all that acceleration plus the extension should still be
somewhere in the $100K to $160K range. Mr. Moore stated that’s what he’s hoping for.
Ms. Cardenas stated that it’s between $160K and $260K, or hopefully lower.
Ms. Cardenas asked, in terms of project management with time extensions and
reducing the potential exposure on that by accelerating, if that is standard practice on
negotiating. Mr. Moore stated BOE always looks for the lowest cost. Discussion ensued
regarding these negotiations.

Mr. Espinosa asked Mr. Moore if BOE has the negotiating authority to waive liquidated
damages, or if that requires the City Attorney’s involvement. Mr. Moore answered no,
liquidated damages can’t just be waived, but time extensions to the contract would
mean the contractor wouldn’t be subject to liquidated damages. The contractor has said
he will push hard to meet the end date, but if it’s missed by a week, then he wants a
week of time extension of $15K. Mr. Moore stated that the contractor will run into some
problems during the last two or three months of work and will be pushing very hard in
good faith. Mr. Espinosa asked what the time frame is to negotiate this. Mr. Moore
replied that it would be done next week. Mr. Bonner observed that this has a ripple
effect, because GLAZA’s budget needs to be completed by next Friday, which is based
on attendance projection, which is based on when the Pachyderm Forest opens.
Without that, GLAZA can’t go into the fiscal year starting July 1, 2010. The Committee continued to discuss definitively finishing the project and the pending negotiations with the contractor.

Ms. Abano continued with her report.

**Rainforest of the Americas**

The project is still in design. In February 2010, the architect submitted 100% construction documents. BOE have completed the constructability review and the Department of Building and Safety (DBS) have completed the plan check. All the comments have been returned to the architect, Portico, who is working on incorporating all the comments. Portico will be resubmitting the documents in June 2010. Once the documents have been submitted, BOE will prepare a new Class A estimate, because the previous Class A estimate made on the earlier submittal showed the project approximately $500K over the $14M design budget. The project is anticipated to go to bid in August 2010.

BOE is also processing Amendment Number One to the Portico contract, which will extend Portico’s contract by two years. The amendment will require Board of Public Works (BPW), Mayor, and City Council approval.

**Reptile and Insect Interpretative Center**

Construction is 13% complete through the end of April 2010. As previously reported, the contractor has experienced a lot delays, but now progress is starting to be seen. Earlier in May 2010, the contractor completed shotcrete at the site of the existing polar bear exhibit. That week, the contractor had poured all the footings for the two buildings in the project.

Fourteen change orders have been executed totaling $299,613.00, which is less than 3.7% of the contract. Within these change orders are included the time extension and the compensation for that time.

BOE also have open and unnegotiated changes totaling $220K. This means the total change order exposure through the end of April 2010 is $519,613.00, approximately 6.3% of the contract. The committed construction contingency is $1.3M. The contractor was compensated $98K for extended, compensable time. The contract completion is also being extended from October 13, 2010 to April 12, 2011. Mr. Lewis asked when the Zoo will receive the facility. After discussion, Ms. Abano replied August 1, 2011.

Mr. Espinosa asked if the $98K figure for compensated time was in addition to or part of the $299K for change orders. Ms. Abano replied part of. The contractor was supposed to be complete on October 13, 2010, and the project schedule has been extended to April 12, 2011. Mr. Espinosa asked if the schedule was still accurate. Ms. Abano replied yes.
Mr. Espinosa stated that he visited the construction site last month; he described the work being done and the impact of delays. The Committee discussed this further.

Ms. Abano continued. BOE is processing Amendment Number One to the Portico contract. At the last Committee meeting, Ms. Abano reported that BOE needed to add $75K to the Portico contract. Since then, the Zoo has asked for changes to the project, so the architect needs to be paid additional fees for those change orders. Ms. Abano asked the Committee to approve to increase the fees for that amendment from $75K to $100K, adding another $25K to the amendment. This doesn't change the overall project budget on the contract; it's simply shifting some dollars from the excess project contingency to the design fees. A revised project budget for this contract is shown in the Monthly Report, Section 3.0-6.

Ms. Cardenas asked Mr. Lewis if the changes were needed. Mr. Lewis stated that he recused himself from voting on the motion. He noted that the Zoo recently lost its oldest alligator, Methuselah, and subsequently put a female alligator with Reggie the alligator in the exhibit in front of the Zoo. The Zoo wants to convert the project’s alligator pool to crocodiles, but to do that requires adding a heater, which wasn’t included in the original design. This addition would give the Zoo the flexibility of exhibiting either alligators or crocodiles, but the Zoo is focusing on crocodiles at this point.

Ms. Huber asked for a motion to add $100K to the design budget for the Reptile and Insect Interpretative Center. Mr. Espinosa so moved and Ms. Kalfayan seconded. The motion passed without objection, with Mr. Lewis having recused himself from the vote.

Ms. Huber asked for a report on the Zoo’s Gorilla Exhibit waterfall issue. Ms. Abano reported that as instructed by the Committee in November 2009, BOE has explored alternative repair methods in lieu of replacing the Gorilla Exhibit waterfall’s damaged water pipes. BOE consulted experts, including the Department of General Services Department (GSD), who arrived at the same repair methods. BOE got a bid estimate from an outside contractor that was substantially less than the first estimate received, less than $100K. BOE is going back to the original instructions given by the Committee in November 2009, and will prepare bid documents to bid the repair. Mr. Espinosa asked what the original estimate was. Ms. Abano replied the estimate was for over $200K. BOE is preparing bid documents and is also planning, after the contractor is engaged, to not issue a Notice to Proceed (NTP) until the Pachyderm Forest is open, since the Gorilla Exhibit waterfall repair is right next to the Pachyderm Forest entrance.

Ms. Abano concluded her report.

Mr. Espinosa commented that he is working on a project with Mr. Lewis, the CLA, the CAO, and the Council Office on a new governance report back to the City Council. He will be coming by and calling to solicit advice and recommendations for the project, which may involve the Zoo’s CIP.
3. Greater Los Angeles Zoo Association (GLAZA) to Report on Capital Improvement Project Fundraising Activities

Ms. Connie Morgan reported that in the last month GLAZA has received a legacy gift of $350K from a long-time GLAZA member.

Public Comment

There was no public comment.

Next Meeting: June 24, 2010

Ms. Huber adjourned the meeting at 10:41 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.