



ACCM Insider

ACCM Officers Sought!

The Association of California Construction Managers (ACCM) invites candidates for three leadership positions for the June 2009 – May 2011 terms and one At-Large Officer to fill a current vacancy. Any ACCM member of good standing is eligible to run for an office. The offices and duties are provided below. These leadership positions offer members a chance to focus the organization on issues that arise from member experience. There are normally three full organization meetings, one Annual Conference, and monthly conference calls that officers participate in. Please e-mail your interest in running and the office that you are interested in to: Meagan Poulos at mpoulos@m-w-h.com by **Friday, May 15.**

President

The President serves as the chief elected officer of the Association

and presides at all meetings of the Board of Directors, Executive Committee and membership of the Association. He shall have, perform, and discharge the duties as the Board of Directors from time-to-time may prescribe. Such duties have included testifying at Legislative and Administrative Hearings. Ed Mierau, President of Neff Construction, will be completing his term this May.

Vice-President

The Vice President shall perform the duties of the office of the President in the absence or indisposition of the President. In addition, past Vice Presidents have coordinated legislative review and advocacy committees and coordinated the annual conference and other workshops. Dana LeSher, Harris & Associates, will be completing his term this May.

Secretary/Treasurer

The Secretary/Treasurer shall be responsible for monitoring the finances of the Association. The Secretary/Treasurer shall be responsible for a complete roll of the names and addresses of the Board of Director and shall be responsible for the taking and keeping of minutes accurately reflecting the proceedings at all meetings of the Association and shall have, perform, and discharge the duties usually pertaining to such office and such other powers and duties as the President and the Board of Directors may from time to time prescribe. Dick Cowan, Clark & Sullivan, will be completing his term this May.

At-Large Officers

The Association has two At Large Officers which are normally elected in October. One of those officers, Jack Moore, President of PHASEOne Construction, has resigned. ACCM is seeking someone to fill that spot. At Large Officers have, perform and discharge the duties as the Board of Directors from time to time prescribe. Such duties have included coordinating studies and reports developed by ACCM.

REGISTER NOW!!

ACCM Annual Conference

May 19-20, 2009

Westin Gaslamp Quarter, San Diego

Registration information on

www.accm.com

or use the registration form

on page 6

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Legislative Update- ACCM Focus on Two Important Bills

By Ernie Silva, Murdoch, Walrath & Holmes

AB 1120 (Niello) was approved unanimously by Assembly Education Committee. Assembly Member Roger Niello has introduced AB 1120 after discussions with ACCM to encourage school districts to perform constructability reviews on projects submitted to the Division of the State Architect. AB 1120 allows DSA to consult with CMs, school districts and other interested parties to develop incentives for school districts to perform constructability reviews. Research shows that such reviews pay return 10:1 on the costs of such reviews.

While many ACCM members offer constructability reviews and many school districts utilize them, now is the time to encourage all districts to save money and time by minimizing change orders on projects. Constructability reviews provide a mechanism for having construction professionals take a hard look at plans while changes can be made in order to clarify or complete planning documents that would otherwise result in delays and change orders in the field.

ACCM members should take the time to send a brief support letter to Assembly Member Roger Niello for AB 1120. Information is available on our website at www.accm.com.

SB 694 (Correa) is being held as a “two year” bill. SB 694 was promoted by several subcontractor associations as a cure to low bid exceptions including lease – lease back delivery methods. ACCM opposed

the bill and was able to convince the author and sponsors that the bill’s language would cause more harm than good. The bill was pulled by the author and will be revised and reintroduced next year with significant revisions. ACCM remains committed to protecting alternative delivery methods for K – 14 education facilities.

ACCM Officers

President
Ed Mierau
Neff Construction
(909) 947-3768

Vice President
Dana LeSher
Harris & Associates
(916) 928-9600

Secretary/Treasurer
Richard Cowan
Clark & Sullivan
(916) 338-7707

Officer At-Large
Paul Bonaccorsi
WLC Construction Services
(909) 476-6005

Publication Guidelines

The *ACCM Insider* is published bi-monthly by the Association for California Construction Managers (ACCM) and distributed to ACCM Members.

The *ACCM Insider* solicits articles from the membership and state agencies on construction management related topics. Articles are due no later than the end of the first week of the publication month. If you are interested in submitting an article, please send it via email to Meagan Poulos at mpoulos@m-w-h.com or by mail to ACCM, 1130 K Street, Suite 210, Sacramento, CA 95814. The views expressed herein are those of the authors and not necessarily those of the ACCM, its board, staff or general membership.

2008-09 Publication Schedule

<u>Month of Publication</u>	<u>Article Due</u>
June	June 5, 2009
August	August 7, 2009
October	October 2, 2009
December	December 4, 2009

Minimizing Potential Construction Litigation in Tight Times

By: *Arne Sandberg, Lozano Smith*

When budgets are tight, what is more frustrating to a public agency owner than claims submitted by a contractor? Litigation filed by that contractor, because now the owner has to incur additional expense for court costs, attorneys, and experts, in addition to lost staff time and amounts paid in settlement. Of course, litigation cannot be entirely avoided – some public works disputes are simply too complex, large or emotional to resolve short of litigation. Luckily, some strategies can help owners minimize the potential for public works litigation:

Well-written contracts.

Well-written contracts strengthen the owner's position without unreasonably penalizing the other party. Many statutes require or forbid certain contract language, and the owner's agreements should be revised to address practical problems experienced in the industry. Also, the contract documents should be user-friendly to minimize misunderstandings. Lozano Smith has form construction documents that are designed to protect owners in the event of disputes.

Bid protests.

Contractors are entitled to due process, so the owner should develop bid protest procedures in advance and follow them promptly. The bid protest procedures should be included in the bid packet that is given to all prospective bidders.

Proactive project management.

The owner should firmly, but fairly, enforce the contract during the project; document the project thoroughly, especially when potential claims are identified; inspect sufficiently during the project so it can identify when a contractor is not performing adequately; and quickly demand correction of inadequate performance, otherwise the contractor may later argue waiver.

Resolve disputes quickly.

For delay, the owner should cure it promptly and then negotiate a change order. For extra work, it should quickly negotiate a lump sum change order. If not possible, it should immediately order that the extra work be performed to avoid delay, but monitor the work to guarantee an accurate calculation of the force account price. If the parties agree on any change order, it should contain a waiver by the contractor of all claims for additional money or time related to the issue.

Keep the work moving.

If delay is minimized, then the size of the delay claims will be minimized. The owner should push to have the work performed as quickly as possible, and the parties can always negotiate regarding compensation later.

Stop notices.

The owner should try to negotiate with the subcontractor and original contractor for a release of a stop notice in exchange for payment. If

litigation is filed, then the owner should consider quickly depositing the funds with the court ("interpleader") to obtain the owner's dismissal from the case while the contractor and subcontractor pursue their claims.

Early mediation.

Even if not required by the agreement, the owner should consider pre-litigation mediation as a final effort to resolve disputes short of litigation.

ACCM Calendar

May 2009

7 Officers' Conference Call-4 p.m.

19-20 Annual Conference
Westin Gaslamp Quarter,
San Diego

21 General Membership Meeting
San Diego

June 2009

4 Officers' Conference Call-4 p.m.

July 2009

2 Officers' Conference Call-4 p.m.

23 All Member Action-Item Call-4 p.m.

August 2009

6 Officers' Conference Call-4 p.m.

September 2009

3 Officers' Conference Call-4 p.m.

17 All Member Action-Item Call-4 p.m.

October 2009

8 Officers' Conference Call-4 p.m.

Meeting dates and times subject to change.

The Greening of California's Schools is Well Underway

Capturing the green schools movement in California is like trying to describe an image in a kaleidoscope. As California sells bonds to finance school construction, and billions flow in for schools under the American Recovery and Reinvestment Act, and green building codes work their way from idea to mandate, a multitude of green school initiatives are re-starting, revving up or being planned. New schools are being built, old ones refurbished for energy efficiency and sustainability, on-site power is being installed. Alongside these projects, curriculum and student activities based on them is flowering.

There are 103 California schools and over 1,000 nationally that have either received or are working through the process to attain LEED for Schools (the US Green Building Council's Leadership in Energy and Environmental Design) ratings. Fifty-two California schools have been completed or are in progress that meet the Collaborative for High Performance Schools (CHPS) standards. CHPS is now active in 11 states. In addition, over 30 school districts in California have passed resolutions mandating minimum CHPS standards of sustainability for their schools.

The Money Flow is Unplugged

More than 5,000 infrastructure projects have just been restarted in California as of April 22, following the sale of \$6.85 billion in bonds, including \$5.2 billion in Recovery Act-backed "Build America" bonds. California is the first state to

take advantage of these new bonds. Many are school construction projects that have been on hold since December, 2008 due to California budget problems. A complete list of projects will soon be available at the Department of Finance website.

A week before this announcement, Education Secretary Arne Duncan released nearly \$4 billion to California, the first state to benefit from a special fund created under the economic stimulus law. It is earmarked for teacher retention, upgrading teachers' skills, turning failing schools around, allowing more charter schools to open and other enhancements to teaching and learning. Districts can apply for these funds through the California Department of Education in an application process that will be managed by Superintendent of Public Instruction Jack O'Connell. An application can be found here.

"Our goal is to get these funds out to schools as soon as possible to protect jobs and help improve student achievement," said O'Connell. "I now urge our local education agencies to quickly apply for these monies."

Spotlight Los Angeles

The Los Angeles Unified School District (LAUSD) was the first school district in California to adopt CHPS standards. Using these guidelines, the District plans to reach a 10 percent reduction in energy and water consumption by 2012. The New School Construction Program at LAUSD will be delivering 132 new

schools by the 2012-1013 school year, the largest new school construction program ever undertaken in the US. Seventy-six of these schools have been completed.

All new LAUSD schools are designed to meet CHPS criteria. These high performance schools not only create healthy learning environments and save millions of dollars in reduced energy and water costs, they also open pathways to learning. Students learn about alternative energy from rooftop solar panels. They study biology in the organic gardens they have planted and the mathematics of energy saved using efficient lighting.

Back in Los Angeles, students of the Los Angeles Infrastructure Academy will soon be taking part in a four-month audit of at least 120 LAUSD middle and high schools. They will check for leaky fixtures and pipes, lawn sprinklers and irrigation systems. A calculation of how much water is used each year by each school will be made by reading water meters.

Spotlight Lafayette

A Lafayette district school, Acalanes High School, received the Contra Costa Solid Waste Authority's Wastebusters Award for its recycling program. The campus' 1,300 students and 60 teachers recycle classroom paper, cans, bottles, batteries and printer cartridges, food scraps and garden clippings. Each year the students perform a trash audit with assistance from the Waste Authority. They also conduct a com-

munity e-waste event to help deal with electronic equipment discards. Money received is used to help build schools in developing countries.

Spotlight Santa Cruz

At Soquel High School in Santa Cruz County, students in a new Regional Occupational Program receive instruction in natural and environmental science and job training. Included are field trips, field studies and guest speakers. They work as interns, paid or unpaid, for up to eight hours a week constructing ed-

ible landscapes, building solar panels, planting fruit trees. The Green Careers Center at Natural Bridges High prepares students for careers in things like natural resource protection to green retailing. They get individualized counseling to get prepared to enter the job market. There is even a class called Digital Media, which teaches students how to communicate to the public.

Shaping the Future

Green schools help give form and substance to the dreams of many

students who have strong desires to live in a healthy, sustainable world. As more and more schools in California and around the world green their buildings, their operations and their curriculum, they engage a new generation of problem solvers and thinkers who will be unraveling the environmental puzzles of the future.

Parts of this article were excerpted from the Green Technology Magazine.



Cowan's Corner

**News from DSA
by Dick Cowan, Clark & Sullivan**



The mandatory furlough and limits on overtime and contracting-out are having their effect at DSA. Bin time has increased from 4 weeks to 12 weeks. Different industry groups, including ACCM, are continuing to appeal to the Governor to lift the furlough and overtime limitations on DSA. Stay tuned to ACCM for news regarding this issue. In the meantime, DSA adopted a four-rank priority system for review with 55% of the available hours being spent on rank 1, plans that have all the money in hand

There still seems to be plenty of work, 76 Districts passed \$26 billion in bonds last Fall. There was a small downtick in submissions in March and it is too early to tell if it will become a trend. Very few of the Prop 1D Seismic upgrade funds have been applied for and DSA and OPSC are looking to expand the eligible project criteria.

An outside consultant is starting a review of the DSA processes to look for faster and less expensive ways to accomplish the DSA mission. In response to Senate Bill 588, DSA and the Community College sys-

tem are collaborating on ways DSA can review plans against the CBC, but not necessarily the Field Act.

DSA will join the AIACC in a study of the costs of building California schools. Dick Cowan, Secretary/Treasurer of ACCM will be our representative to that effort.

The code amendment cycle is underway. Many, many access code changes are in the pipeline. This area continues to grow in impact on design and construction. DSA and CAL-OSHA Elevator Inspection department are attempting to reconcile their different standards for Wheel Chair Lifts. Remember Access Compliance is triggered by most modernization. Also, the green Building Code will have some elements mandatory in 2010 Dennis Bellet at DSA HQ is the point contact for emerging Technologies and how they play into approvable designs and construction. A PC-style approach to approval for some items such as wind turbines and solar panel structures is under study. Commissioning is voluntary for now, but will become a mandatory element for grid neutrality accomplishment.

ACCM 5th Annual Conference

REGISTRATION FORM

Name: _____

County Office/Company: _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

E-mail: _____

CONFERENCE INFORMATION

When: May 19-20, 2009

**Where: Westin Gaslamp Quarter
910 Broadway Circle
San Diego, CA
(619) 239-2200**

Topics Include: Alternative Delivery Services for Community College Districts, Legal Issues for Construction Managers, The Status of California's Budget, The CM Role in the Collaborative Process

PAYMENT INFORMATION

Check

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REGISTRATION FEES

ACCM Members:
Standard Rate

\$ 495.00

Non-Members:
Standard Rate:

\$ 695.00

Please return this registration form to:

Fax: (916) 441-3893

Mail: ACCM Annual Conference
1130 K Street, Suite 210
Sacramento, CA 95814

Cancellation Policy:

Notice of cancellation must be received in writing.

Prior to May 1 Full Refund

May 2-11 \$125 Charge

After May 11 No Refund

Please fax cancellations to (916) 441-3893 or email mpoulos@m-w-h.com.