

# MINUTES OF THE DECEMBER 17, 2019 MEETING OF THE BOARD OF TRUSTEES OF ST. PETERSBURG COLLEGE

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The Board of Trustees of St. Petersburg College met on Tuesday, December 17, 2019 at the St. Petersburg College EpiCenter, Collaborative Labs, Clearwater, FL. The following Board members were present: Chair Katie Cole, Vice Chair Bridgette Bello, Deveron Gibbons, Thomas Kidwell and Trustee Nathan Stonecipher. Also present were Tonjua Williams, President of St. Petersburg College and Secretary to the Board of Trustees. Proof of public notice of this meeting is included as part of these minutes. Notices were duly posted.

## NOTICE OF MEETING BOARD OF TRUSTEES, ST. PETERSBURG COLLEGE

The Board of Trustees of St. Petersburg College will hold a public meeting to which all persons are invited, commencing at 9:00 a.m. on Tuesday, December 17, 2019 at the St. Petersburg College EpiCenter, Collaborative Labs, Clearwater, FL. The meeting will be held for the purpose of discussing the St. Petersburg/Gibbs Student Success Center Project. However, there are no rules being presented for adoption or amendment at this meeting.

A copy of the agenda may be obtained within seven (7) days of the meeting on the [SPC Board of Trustees website](#) at [www.spcollege.edu](http://www.spcollege.edu), or by calling the Board Clerk at (727) 341-3241.

Members of the public are given the opportunity to provide public comment at meetings of the Board of Trustees concerning matters and propositions on the agenda for discussion and Board action. At the Board meeting, in advance of the time for public comment on the agenda, individuals desiring to speak shall submit a registration card to the Board Clerk, Ms. Rebecca Turner, at the staff table. Policy and procedures regarding public comment can be found on the [SPC Board of Trustees website](#) at [www.spcollege.edu](http://www.spcollege.edu)

If any person wishes to appeal a decision made with respect to any matter considered by the Board, he or she will need a record of the proceedings. It is the obligation of such person to ensure that a verbatim record of the proceedings is made. Section 286.0105, Florida Statutes.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency five business days before the meeting by contacting the Board Clerk at 727-341-3241. If you are planning to attend the meeting and are hearing impaired, please contact the agency five business days before the meeting by calling 727-791-2422 (V/TTY) or 727-474-1907 (VP).

**19-146.** In accordance with the Administrative Procedure Act, the following Agenda was prepared:

## AGENDA

ST. PETERSBURG COLLEGE BOARD OF TRUSTEES  
TUESDAY, DECEMBER 17, 2019

EPICENTER – Collaborative Labs. Tropics Labs  
13805 – 58<sup>TH</sup> STREET N.  
LARGO, FLORIDA  
**SPECIAL MEETING**

- I. Call to Order
- II. Public Comment pursuant to §286.0105 FS
- III. Discussion St. Petersburg/Gibbs Student Success Center Project (*Action*)
- IV. Adjournment

If any person wishes to appeal a decision made with respect to any matter considered by the Board at its meeting December 17, 2019 he or she will need a record of the proceedings. It is the obligation of such person to ensure a verbatim record of the proceedings is made, §286.0105, Florida Statutes.

Items summarized on the Agenda may not contain full information regarding the matter being considered. Further information regarding these items may be obtained by calling the Board Clerk at (727) 341-3241.

**\*No packet enclosure**

Date Advertised: 12/10/19

**19-147. Under Item I, Call to Order**

The meeting was convened by Chair Cole at 11:05am.

**19-148. Under Item II – Public Comments**  
None

**19-149. Under Item III**

Discussion St. Petersburg/Gibbs Student Success Center Project (*Action*)

Chair Cole reminded everyone that in May, the contractor for the Student Success Center notified the College that the completion of the building would be 110 days late. The Board advised the

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team to work with the contractor to expedite substantial completion, originally set as November 29, 2019. Last week, the contractor delivered a revised completion schedule that did not close the gap on the 110 days; and actually extended the gap with March-April 2020 as the new completion timeframe. Chair Cole stated the contract provides for certain remedies and paths to get the project complete, and further stated that she and Dr. Williams believed it would be better that the Board collectively hear the update and options from Diana Wright, who is handling the construction project, and Ty Thompson, College's outside counsel on construction issues and called in when the first notice of the delay was received in May.

Ms. Wright provided an update on the Joseph H. Lang Sr. Student Success Center construction. She first discussed funding. The \$25,000,000 Joseph H. Lang Sr. Student Success Center project includes the construction of the new 48,000 square foot building, the demolition of the 80-year-old administration buildings East and West wings, as well as relocation of staff to the other campus buildings. This project was funded through state appropriations received over three-year increments totaling \$20,000,000, as well as a 25% match equal to \$5,000,000 of SPC's funds. After the three different budgets were set for demolition of the East and West wings and relocation of staff, the remaining balance was \$23,986,967.54.

Ms. Wright shared that in May of 2016, SPC sought authorization from the Board to advertise for design and construction services. In the memo, the method for delivering the project was explained as a two-pronged approach. The College would engage with a preselected continuing contractor to start the underground infrastructure relocation, relocate staff, and demolish the East and West wings of the administration building. Simultaneous to performing this work, SPC employed the selection process for large capital projects in selecting the design builder through an RFQ.

Ms. Wright noted that typically, a project budget is broken out into two sections. One is the overall budget outside the construction – i.e. architects, reconstruction services, code testing, furniture, and SPC included an owner's contingency. The construction budget of \$19M includes general conditions, subcontracts, design build contingency and owner's contingency. SPC has been fiscally responsible by keeping owner's contingency within the project and construction budget.

Ms. Wright stated that construction was broken into three phases due to distribution of state funding. Phase One was the underground utilities and parking lot improvements. Phase Two was foundation and structural steel. Phase Three was MEP, roof, glazing, and building finishes.

Ms. Wright shared that SPC is currently in the third phase. The original substantial completion date was November 28, 2019, and the original final completion is December 24, 2019. The construction budget increased to \$19,315,424. SPC moved money from the owner's contingency to the construction budget to accommodate owner-requested items such as the café build out.

Ms. Wright provided a project timeline. October 2016: LEMA is selected as the design build firm for the Student Success Project. Board approves \$1,297,000 for design and pre-construction

services. August 2017: Board approves schematic design and Phase I GMP for \$1,566,517. October 2017: Board approves Phase II GMP for \$4,776,444. August 2018: Board approves final accounting for Phase 1. Decreased original GMP by \$414,471 to \$1,082,445.29. October 2018: LEMA submits GMP of \$12,657,039 for Phase III. After reviewing packages, this was rejected. November 2018: Board approved redistributing savings from Phase 1 & 2 totaling \$663,131.92 into Phase 3. Phase 3 GMP is approved for \$13,320,170.92, making the total construction budget for all phases \$19,000,000. Construction drawings for Phase 3 were approved. January 2019: Face-to-face meeting requested by SPC to discuss procurement delays. March 2019: March 29<sup>th</sup>, project schedule shows substantial completion of November 28, 2019. May 2019: May 15<sup>th</sup>, Face-to-face meeting requested by SPC. May 2019: May 20<sup>th</sup>, LEMA sends letter to Brian Miles & Diana Wright requesting a 110-day extension and an additional \$210,000 (from Hardscape). June 2019: June 1<sup>st</sup>, substantial completion changed to Feb 20, 2020 and final completion changed to March 12, 2020. August 2019: LEMA requests \$180K. September 2019: Recovery schedule received decreasing the delay to 100 days from Feb 20<sup>th</sup> to February 10<sup>th</sup>, 2020. LEMA requests additional funding of \$138,692. November 2019: The College received an updated schedule reflecting March 12, 2020 as the substantial completion date, and final completion April 7, 2020.

Ms. Wright noted that Phase One came in under budget. SPC rejected it because after reviewing all of the scopes for all of the subcontractors, it was noted that there was not enough funding. The savings from Phases One and Two were added to Phase Three.

Ms. Wright reviewed the project update. The most recent substantial completion date is March 12, 2020. The most recent final completion is April 7, 2020. The balance to finish is \$6,379,884.15, which is an average payment of \$418K per month. The latest request for payment was the highest at \$1,315,476.26, which included direct purchase payments. The contractor is requesting funds of \$135K to pay his employees for general conditions through substantial completion. Ms. Wright referred to the slide in her presentation which outlined estimated labor costs and costs of general conditions per week, for 15 weeks.

Chair Cole introduced attorney Ty Thompson.

Mr. Thompson noted that he represents the College with respect to this particular issue. He was brought on in June right after the 110-day delay was announced. He was brought in to look at the contract and advise the College with respect to the options pursuant to the contract. In July 2019, SPC served a letter on LEMA and its surety advising it that SPC was considering declaring a contract default and requesting a meeting within 10 days to discuss the contractors' performance. The meeting was held in August. The promises made at that meeting suggested that the work would be done quicker than 110 days. Six months later, nothing has changed. The options include terminating the contract for cause, the cause being if the contract is delayed or if the contractor repeatedly does not perform the work pursuant to the contract. There is also the option that the surety steps in and completes the work if SPC terminates the contract for cause.

Trustee Gibbons opined that there are errors on both sides. He asked if the agreements and promises from the August meeting are in writing.

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Mr. Thompson stated that all SPC has in writing is that the contractor was delayed 110 days.

Trustee Gibbons opined that the whole thing has been a comedy of errors and that SPC had too many people working on it. He stated that he wants to see something in writing regarding what the contractor promised at the August meeting.

Ms. Wright noted that she has meeting minutes and that the contractor provided a recovery schedule.

Trustee Gibbons stated that he does not agree with the direction that the Board wants to take on this and that he does not appreciate being interrupted, particularly as he is attending the meeting remotely while in an airport. Chair Cole responded to Trustee Gibbons that the Board and presenters also deserve respect. She clarified that the notice of delay was in writing; a month later, a recovery schedule stating the delay would be 100 days was in writing; and six weeks later, a schedule that provides for a continued delay was in writing.

Mr. Thompson continued with the options. Another option is to pay the contractor and extend the general conditions while assessing liquidated delay damages of \$600 per day from November 28<sup>th</sup> until substantial completion. SPC could also terminate the contractor because they are in default and look to the surety to step in a try to facilitate the project's timely completion. Another option is to do nothing. If SPC decides to declare a default and terminate the contractor, the surety would step in with reasonable promptness to either tender the contractor back, or go out and obtain bids and tender that new contractor, or elect to perform the work by itself, or do nothing. Mr. Thompson stated that in his experience the surety would not elect to do nothing, and would want to facilitate the completion of the project.

Chair Cole clarified that based on the estimate of the monthly costs, a proposed increase in the GMP would be \$315-320K. Ms. Wright noted that LEMA had only requested an additional \$135,000 to reach substantial completion.

Vice Chair Bello clarified that the liquidated delay damages would be \$600 per day.

Mr. Thompson stated that this is correct. He added that it will be \$300 per day if the contractor goes over 30 days from substantial completion to final completion.

Chair Cole clarified that the \$600 per day would be taken from the contractor's payment.

Chair Cole noted that the number one priority is to get the building done. SPC recently completed a state audit of these types of issues. It is a hot button with DOE, which makes it a policy question. This is normally an administrative decision, but in light of the state's concerns with construction, Chair Cole wanted to have a discussion about the best way to get it done.

Vice Chair Bello asked if it is possible to hold the contractor to the \$135K and the \$600 a day.

Mr. Thompson stated that is possible, but if the College pays the contractor additional general conditions it will be difficult to also assess liquidated damages.

Vice Chair Bello asked if SPC has sat down face to face with the contractor.

Dr. Williams replied in the affirmative.

Trustee Gibbons noted that the contractor has not actually come to the Board meetings, as has often been the case in the past. He wonders how much the College has spent on legal fees related to this issue.

Dr. Williams thanked Trustee Gibbons for his comments.

Chair Cole stated that she asked the team to be clinical when describing their meeting with the contractor. She suggested just looking at the facts on the table. She noted that LEMA was not invited to participate in this meeting.

Vice Chair Bello stated that she is wondering if the contractor should have the opportunity to come before the Board.

Dr. Williams stated that is possible.

Trustee Stonecipher asked what SPC has done to contribute to the delay.

Trustee Gibbons replied that SPC had two reviewers, which makes things take longer. He also stated that it is not a design-build contract, which it should be. He opined that there were too many checks and balances that cost time. Additionally, the College has spent too much on legal fees. He stated again that the College should have brought the contractor before the Board.

Dr. Williams stated that Trustee Gibbons is correct that there were two people reviewing the documents, but that the College has always responded well in advance of the agreed upon dates.

Trustee Gibbons stated that the amount of time it took was still too long.

Dr. Williams stated that the average time to respond was six days.

Trustee Gibbons noted that it was 21-25 days in some cases.

Chair Cole stated that this is not a decision that would typically come to the Board. The only reason it would come to the Board is if the Board wants to give direction to increase the GMP or consider the other options presented.

Vice Chair Bello asked if SPC can hold the contractor to \$135,000. She also asked why the liquidated damages option does not make sense. She stated that she has to leave the meeting and apologized for her early departure.

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Chair Cole asked if from a timing standpoint, if the contractor cannot pay general conditions past December, if the Board has time to come back to it in January.

Trustee Stonecipher suggested waiting until January when Trustee Gibbons will be present and when the Board could invite LEMA.

Trustee Gibbons stated that he supports that idea.

Trustee Stonecipher stated that it would give LEMA a few weeks to move up the timeline and give the Board more time to consider the options.

Mr. Thompson stated that the contract requires a change-order request, which has not been done. He noted that it will be difficult to hold the contractor in default if SPC gives more money to the contractor.

Trustee Stonecipher made a motion to table until January, invite LEMA to that meeting, encourage LEMA to diligently work on the project and perhaps cut the timeline down, and decide in January. He added that he is leaning towards a default or liquidated damages, but he wants to give LEMA the benefit of the doubt. Trustee Gibbons seconded the motion. The motion passed, with Vice Chair Bello absent.

Chair Cole advised that the team communicate to LEMA that the expectation in January will be that LEMA provide a realistic timeline, recovery schedule, and budget request. She noted that the expectation is that when someone signs a contract, they perform.

#### IV. ADJOURNMENT

Having no further business to come before the Board, Chair Cole adjourned the meeting at 11:54am.

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**Tonjua Williams**  
Secretary, Board of Trustees  
St. Petersburg College  
FLORIDA

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**Katherine E. Cole**  
Chair, Board of Trustees  
St. Petersburg College  
FLORIDA

**Attachments**  
**Board Memos and**  
**Supplemental**  
**Materials**

**Board of Trustees Meeting**  
**December 17, 2019**



### III. Joseph H. Lang, Sr. Student Success Center Construction Update



ST. PETERSBURG COLLEGE  
TITANS


#### Project Funding

- **Total Project Funding of \$25,000,000**
- **PECO Appropriated Funds**
  - FY2016/2017- \$10,000,000
  - FY2017/2018- \$ 6,500,000
  - FY2018/2019- \$ 3,500,000
- **SPC 25% Match (\$5,000,000)**
  - SCIF (Student Capital Improvement Funds)- \$3,286,349
  - CO&DS (Capital Outlay & Debt Services)- \$1,713,651



## Project Budget

Project Name	Status	Project Budget
Demolition of East Wing	Complete	\$339,964.54
Utilities Relocation & Moves for Student Success Center	Complete	\$352,355.62
Demolition of West Wings	Complete	\$320,712.30
Student Success Center Project Budget	In Progress	\$23,986,967.54
<b>Total</b>		<b>\$25,000,000</b>



## Student Success Project Budget

**Total Project Budget \$23,986,968**

**Project Cost \$4,671,544 (Outside of Construction budget)**

- Architect/Engineering fees, pre Construction Services, FI Building Code, Testing/surveys, Furniture, Technology, Owners Contingency
- **Construction Budget \$19,315,424 (Originally \$19,000,000)**
  - General Conditions, Subcontracts, DB Contingency, DB Buyout, Owners Contingency
  - Three Phase Project (Due to distribution of State Funds)
    - 1<sup>st</sup> Phase- Underground utilities and parking lot improvements
    - 2<sup>nd</sup> Phase- Foundation and structural steel
    - 3<sup>rd</sup> Phase- MEP, Roof, glazing, building finishes
  - Original Substantial Completion Nov 28<sup>th</sup>, 2019
  - Original Final Completion Dec 24<sup>th</sup>, 2019



## Project Timeline

Oct-16	LEMA is selected as the Design Build Firm for the Student Success Project. Board approves \$1,297,000 for design and pre-construction services
Aug-17	Board Approves Schematic Design and Phase I GMP for \$1,506,517
Oct-17	Board Approves Phase II GMP for \$4,776,444
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Oct-18	LEMA submits GMP of \$12,057,039 for Phase III. After reviewing packages this was rejected
Nov-18	Board Approved redistributing savings from Phase 1 & 2 totalling \$663,131.92 into Phase 3 Phase 3 GMP is approved for \$13,320,170.92, making total construction budget for all phases \$10,000,000 Construction Drawings for Phase 3 were approved
Jan-19	Face to Face meeting requested by SPC to discuss procurement delays
Mar-19	March 29th. Project Schedule shows substantial completion of November 28th, 2019
May-19	May 15th. Face to Face meeting requested by SPC
May-19	May 20th. LEMA sends letter to Brian Miles & Diana Wright requesting a 110 day extension and an additional \$210,000 (from Hardscape)
Jun-19	Jun 1st. Substantial completion changed to Feb 20th, 2020; Final March 12th, 2020
Aug-19	LEMA requests \$180K
Sep-19	Revised schedule received decreasing the delay to 100 days from Feb 20th to February 10th, 2020. Request additional funding of \$116,692
Nov-19	Nov 26/2019. Substantial completion changed to March 12th, 2020; Final April 7th, 2020



## Project Update

- Most Recent Substantial completion- March 12<sup>th</sup>, 2020
- Most Recent Final completion- April 7<sup>th</sup>, 2020
- Pay App- Balance to Finish \$6,379,884.15
  - Average payment is \$418K/mo
  - Latest request for payment was the highest at \$1,315,476.26 (includes direct purchase payments)
- Contractor requesting funds to pay his employees
  - Labor cost per week \$7,116
  - General Conditions cost per week \$21,046
    - GC for an additional 15 weeks approximately \$315,690