

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL  
MINUTES  
MARCH 1, 2012  
STATE CAPITOL BUILDING, ROOM 317  
SANTA FE, NEW MEXICO 87505**

**Members Present:** Mr. David Abbey, LFC                      Mr. Gene Gant, PEC  
Mr. Joe Guillen, NMSBA                      Mr. Paul Aguilar, PED  
Mr. Dee Dennis, CID

**Designees:** Mr. David Craig, LESC                      Ms. Sharon Ball, LCS

**Absent:** Mr. Keith Gardener, Office of the Governor  
Mr. Tom Clifford

**# 1. Call to Order—9:10 AM**

**Mr. David Abbey, Chair**

**a. Adoption of Agenda**

The clerk called roll noting that the PSCOC reserves the right to change the order of the agenda as deemed necessary. It was noted that Ms. Sharon Ball would represent the Legislative Council Service in the absence of Mr. Raul Burciaga; Mr. David Craig would represent Legislative Education Study Committee in the absence of Ms. Frances Maestas.

The Council recognized new member, Mr. Dee Dennis, representative for the Construction Industries Division.

**MOTION:** Mr. Guillen moved for approval of the agenda as presented. Ms. Ball seconded and the motion carried.

**b. Correspondence**

The correspondence includes various letters that designate various individuals to represent their agency in their absence.

It was noted that an email was received from Mr. Tom Clifford designating Mr. Michael Marcelli to represent the Department of Finance & Administration in his absence. Neither Mr. Clifford nor Mr. Marcelli attended this meeting.

Mr. Abbey noted that there is huge amount of unspent bond proceeds and this is causing members of the Awards Subcommittee to examine the process that goes from authorizing projects, selling bonds, planning and design awards and construction awards. Given the state of our economy, it is in the best interest of the Council to move projects forward.

**# 2. Approval of Minutes (January 12, 2012)**

The minutes were sent to the full Council prior to this meeting.

**Motion:** Upon review by the Council, Mr. Gene Gant moved for the approval of the January 12, 2012, PSCOC meeting minutes, subject to technical corrections. Ms. Ball seconded and the motion carried.

**# 3. Deming Update**

Due to the illness of Ms. Harvey Lee Moore, Superintendent, Mr. Ted Burr and Ms. Mary Lou Cameron represented the Deming School District.

The Council was referred to the letter from the Deming District dated February 14, 2011, that gives a brief update of the district's projects. The letter indicates the district's roof projects are on schedule and are progressing smoothly. The projects were awarded immediately following the December 12, 2011 PSCOC meeting in which an extension was granted. The contractor mobilized at Deming High School on February 6, 2012 and spent several days staging the supplies and equipment necessary to accomplish the project. The roof monitor began his inspections on February 13, 2012 in conjunction with the contractor's initial tear-off of portions of the roof.

The Intermediate School roof project is scheduled to begin on February 27, 2012 with the contractor mobilizing at that site. Since these two projects were awarded to separate contractors they will run concurrently. Both contractors have expressed their confidence with completing their individual projects on or before the June 31, 2012 extension deadline.

Mr. Burr noted the award allocated by the Council, would be adequate to replace the high school. He explained that the district had purchased land and was ready to move to the new site but did not have the adequate funding to move forward as anticipated. At the time of the bond election the board had a resolution stating that they unanimously voted in favor of moving to a new site. They have since modified the resolution and are in agreement to repair the existing site.

Mr. Burr indicated that their projects have begun and are on track. In regard to the Master Facility Plan update (FMP), he stated that the contract has been approved and will be awarded soon. The board has also approved FMP but the contract needs to be signed.

In regard to the original high school award, Mr. Burr explained the award was to move high school students, who are using an old junior high school for part of their classes, to the new site and the intermediate students would move into the school that was to be vacated.

In regard to the district's bonding, Mr. Burr said that since the bonding has been delayed, the bonding capacity has gone up and the district could bond for \$17 million and their matching ratio is 76% (from the Council) and 27% (from the district). The district intends to go out for a bond election by February of 2013.

Mr. Burr informed the Council that the contract for professional designing services for the new high school has expired and the district will have to go out for RFP for an architect.

In regard to the high school, the Council asked if the community and the district have come together to decide where the high school would be located. Mr. Burr responded the school board has agreed on the existing site, the FMP process update will be discussed and at that time the district will be getting a consensus of the location.

The Council asked what would happen to the current land purchased where the middle school is located. Mr. Burr responded that the land is close to the new school but not adjacent to it. He noted that the district has a very active agricultural program at the high school and they feel it would be a great opportunity for the agricultural department to open it up for parents who do not have a farm. The land can also be used for crops as a high school project.

The Council noted that parts of the high school are fairly new. Mr. Burr noted that the school got a “facelift” but the school has serious problems that include the sewer line which was built under the school and it would be a creative solution to repair that problem. Mr. Burk indicated that the district has adequate funding to match for the design funding.

Staff was directed to review all outstanding authorization for bond sales to assure that the funds are being expended. The Council thanked the district for their report.

#### # 4. Subcommittee Reports

##### a. Awards Subcommittee

###### • Financial Plan

Mr. Jeff Eaton, PSFA staff, presented the financial plan, highlighting action taken by the Council at their last regularly-scheduled meeting. The financial plan was provided to both subcommittees prior to this meeting. Projects and adjustments are listed below:

Mr. Eaton pointed out that currently there is an outstanding balance of \$7.4 million. The PSFA received a payment of \$416,000 from the Cuba School District for their high school advance award and they now have a balance of \$358,000. The PSFA also received a partial repayment from the Pecos School District in the amount of \$85,000.

###### -- Las Cruces—Loma Heights Elementary School

This award was to amend the previous 2009-2010 award to Las Cruces Public Schools for Loma Heights ES to include Phase II out-of-cycle construction funding to renovate and make additions to the school to adequacy for 500 students, serving grades K-5; with an increase in the state share amount of \$8,056,464 (67 percent), contingent upon an additional local share of \$3,968,109 (33 percent).

Mr. Eaton gave a brief on the sources and uses of funding and the project commitment schedule. He stated that staff would provide a report regarding unexpended funds at the next scheduled PSCOC meeting.

This Phase II project award previously certified and included a project commitment schedule. The net award is for \$8,056,464.

Upon completion of Mr. Eaton’s report the PSFA staff were directed to continue to provide a more detailed report of PSCOC projects.

###### • Additional Funding/Emergency Funding/Award Language Requests

###### -- Los Lunas MS Roof—Additional Funding

Mr. Pat McMurray, PSFA staff presented this request to the Council noting that this additional funding request is for the actual proposed cost in increased material and labor for the project and to maintain the necessary project contingency. The funding request is based on prices received by the district. The district received 6 bids ranging from \$579,500 to \$1,237,120. Five of the bids were within low to high range of \$51,700.

PSFA recommends that the total additional state funds requested \$253,330.88 or 79% be approved as submitted in order to complete this

project as originally intended. The district has their additional required local match totaling \$67,341.12 or 21%. The Awards Subcommittee has reviewed this request and recommends approval of this request.

In regard to the roof awards, Mr. Guillen stated that the Awards Subcommittee had discussion and noted that it is the intent of the subcommittee and the Council that the awards move quicker than usual. The subcommittee identified that there are different types of roof projects of major construction that take quite awhile to complete and shorter projects that are repair jobs. Staff has been asked to identify the projects and provide implementation plan for the projects to assure that the funds move as quickly as possible without sacrificing the quality or procedures of the work. Mr. Gorrell stated that PSFA has drafted a letter for the awards that allows the Council to award \$3 million in June 2012 and to move the schedule to November 2012 for a second award of \$10 million to align the larger projects as well as the smaller projects.

**MOTION:** Mr. Guillen moved for Council approval of the Awards Subcommittee recommendation to amend the previous 2011-2012 roof award to Los Lunas Public Schools for Los Lunas Middle School based on actual cost to complete the work with an increase in the state share amount of \$253,331 (79%), contingent upon an additional local share of \$67,341 (21%). Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

**b. Administration, Maintenance & Standards Subcommittee**

- **NMSD/NMSBVI- Incorporation into the Standards-Based Capital Outlay Process**

- **Legislation**

- Ms. Sharon Ball pointed out that a bill was passed during the 2012 legislature to include the New Mexico School for the Blind (NMSB) and the New Mexico School for the Blind and Visually Impaired (NMSBVI) in the PSCOC standards-based process.

- **Public Comment to Draft Adequacy Standards**

- Mr. Gorrell informed the Council that a public comment hearing was held on February 14, 2012 at the Bataan Memorial Building. He pointed out that there was only one comment from a vendor that thought that the two standards should have been written into one that was originally considered. It was determined that because the standards are reviewed annually by the Council, they would be hard to manage. The PSFA staff recommended that the standards be separate. There were technical revisions that were recommended by the AMS Subcommittee that includes a redundancy in the language of 6.27.31.2 (Scope) as the Council does not participate in “land: but rather participates in “grounds and sites”.

- **Adoption of PSCOC Rules**

- Mr. Gorrell presented the rules to the Council noting that the only changes were technical corrections.

Dr. Stern, representative for NMSD, expressed appreciation to the Council for the intent from the beginning of this process. He noted that at first they

were skeptical about the ability for the standards to be developed in such a way that they would work for the NMSD and expressed appreciation to the PSFA staff and various individuals for their support and the effort that was put in to get the school to this point. He noted that the NMSD has carefully reviewed the standards and they will work well for them and the State of New Mexico. Dr. Stern informed the Council that they are currently working on their FMP and should have their revised 5-year master plan by June 2012.

Ms. Linda Lyle, representative for NMSBVI, also expressed appreciation to the Council and staff. She informed the Council that their deficiency project is currently out to bid and their FMP should be completed by April 2012. Ms. Lyle also informed they have begun the early design phases related to their education buildings.

Mr. Abbey, Mr. Aguilar and other thanked the Council and staff for the work and the progress of the two special schools.

**MOTION:** Ms. Ball moved for Council approval of the Administration, Maintenance & Standards Subcommittee recommendation to adopt the draft Special Purpose Schools Educational Facility Adequacy Standards new rule (6.27.31 NMAC) as amended, subject to further technical revisions by staff. Since this is a subcommittee recommendation a second is not necessary, there being no objection the motion carried.

## **# 5. 2012-2013 Standards-Based Capital Outlay Award Applications & Funding Pool**

### **a. 2012-2013 Application Announcement**

Mr. Gorrell presented this item to the Council referring them to the letter announcing the application made available to them in their meeting notebooks. He noted that the letter is ready to be sent to districts and charter schools upon approval of Council. Mr. Gorrell stated that there is an additional \$3 million available for the current fiscal year standards-based roof awards.

### **b. Funding Pool (Awards Subcommittee Recommendation)**

Mr. Berry noted that the Awards Subcommittee reviewed this item to establish the funding pool and as part of the announcement to the process to identify the top 100 for the regular Standards-Based projects also in addition to the \$10 million for urgent roofing needs and up to an additional \$3 million which is available this fiscal year for districts that can demonstrate project readiness. Mr. Berry noted that the PSFA will be receiving pre-cycle applications for Council review at its next scheduled meeting.

Mr. Berry referred the Council to the current rankings that were made available in their meeting notebooks. He gave a noted that there are two documents in the ranking portion of the report; (1) rankings sorted by ranking, and (2) rankings sorted by district.

The Council asked what is included in the evidence of no other funding available to districts. Mr. Berry informed the Council that the current waiver/advance form highlights the district bonds, as well as SB-9 and HB-33 funds that may be available but there is also a space for the district to input their cash balances, which are all taken into consideration. The Council indicated that in roofing projects, emergency funds and operational funds are also considered. Mr. Gorrell stated that PSFA

administratively manages a very mechanical process that includes the measure of all repair costs including weighting the educational aspects. Staff also conducts site visits to districts to evaluate their projects and the information is then brought before Council for their approval/disapproval.

Council noted that many of the charter schools in the rankings are in privately-owned buildings and there needs to be an assurance that the charters are working toward moving to their own permanent facilities. Mr. Berry explained that although there is ability for the Council to add additional lease assistance payments if the landowner makes improvements to the facility. If there is a lease purchase arrangement, the district or charter school have an equity stake in the facility. Mr. Gorrell indicated that the lease purchase agreements and the lease assistance may be taken before the Public School Capital Outlay Task Force for their input.

**MOTION:** Ms. Ball moved for Council approval of the Awards Subcommittee recommendation to establish the initial funding pool to the top 100 of the amended Preliminary wNMCI ranking, and for release of the 2012-2013 application announcement and timeline. Council may consider limited approval of requests for waivers or advances upon districts qualifying under certain conditions and evidence that no other funds are available. Standards-based roof awards are available up to a maximum of \$10 million. Council may consider approval of requests for advances for this funding program upon districts qualifying under certain conditions and evidence that no other funds are available. Early awards of up to an additional \$3 million may be made available to applicant districts who demonstrate project readiness and commitment to be under construction during the summer of 2012. Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

**c. 2012-2013 Proposed Workplan/Timeline**

Mr. Berry presented this item to the Council, noting that both subcommittees have reviewed the workplan/timeline. This item is for informational purposes. No action is required.

**# 6. Legislative Changes—Review**

Mr. Gorrell and Mr. Berry presented this item to the Council noting that it is for informational purposes. The matrix provided to the Council in their meeting notebooks was reviewed in both subcommittees.

**# 7. Director's Report**

**a. PSFA FY12 Quarterly Budget Projection**

Mr. Eaton presented the quarterly PSFA operating budget to the Council referring the Council to the summary that was made available in their meeting notebooks. The summary reflects the projected budget expenditures for FY12 for and a detailed report on prior year expenditures. Mr. Eaton stated that 41% of the PSFA operating budget has been expended and projected expenditures for the agency through the end of the fiscal year will be approximately \$5.5 million which is reflective primarily of the vacancies at the beginning of the fiscal year. Mr. Gorrell informed the Council that the agency is currently staffed at 47 with 3 vacancies. Due to the 3% cut the PSFA will need to trim back on contracts and other portions of the budget in order to break even in the future years and the agency will not be able to add to staff and does not have the budget to fill the 3 vacancies. Mr. Gorrell

indicated that the agency would be able to continue with FMAR and FIMS for the current year.

Mr. Eaton briefed the Council on the categories of expenditures through June 30<sup>th</sup>. He explained that the expenditures consist of 54% on salaries, 3% for contracts, and pointed out that the “Other Cost” category is larger than it would be otherwise because there was a 1-time budget adjustment request to complete the Construction Management System (CIMS) that was awarded in a prior fiscal year and only \$250,000 the contract has been expended through FY-11 which caused the agency to do an additional BAR to complete the work for this fiscal year.

**b. Energy Efficiency Bond Initiatives**

Due to the absence of Mr. Clifford, Mr. Abbey requested that this item be deferred until the next scheduled PSCOC meeting.

**c. PM Plan and FIMS Status**

Mr. Gorrell Mr. Les Martinez, PSFA staff, presented this item to the Council. Mr. Gorrell reminded Council that the FMAR system measures maintenance effectiveness. He noted that well over half of the districts are in the marginal area, which means that any capital improvements funded by the Council will have approximately 80% of expected life. Mr. Gorrell noted that the districts in the marginal area will most likely return to the Council for funding 20% faster than should be expected. Mr. Les Martinez added that staff is seeing deferred and neglected maintenance. Staff is looking at non-users of the FIMS system and districts that are not keeping their preventive maintenance plans active.

The Council asked if staff is sharing this information with districts. Mr. Martinez explained that each district receives a constructive feedback of what is observed at their schools with recommendations, templates, tools, guidance, assistance and mentoring to assist them and make them aware of the opportunity to improve maintenance and operations at their district.

**d. Project Status Reports**

Mr. Gorrell presented this item to the Council, stating that the AMS Subcommittee has reviewed the report and that it was sent to the full Council for their review prior to this meeting.

**Yellow Flag/Behind Schedule Report**

Mr. McMurray presented the Yellow Flag/Behind schedule report that reflects what projects are behind schedule.

In regard to the Eunice School District—Canton Middle School, Mr. Gorrell noted that the superintendent stated that the planning of this project could be 2 or 3 years and possibly 7 years down the road. Mr. Gorrell informed the Council that the district has decided not to move forward on this project. Staff has requested that the district provide a letter that states that the project will not move forward. Mr. Gorrell reminded the Council that the district was advised not to over-build the elementary school, but they did, and now they do not have funds for the middle school. The PSCOC may want to consider reverting the award.

In regard to the Ruidoso School District—Nob Hill Elementary, the staff was informed that the district has stopped work on design pending review of master plan

and re-establishing priorities. PSFA requested an update via electronic mail on 07-22-11 and received the following response from the District on 09-14-11: "We have halted plans on the project. We plan to work on the design of this project in 2013". Mr. McMurray informed the Council that the construction funds would not be needed as quickly as anticipated. The PSCOC may want to consider reverting this award as well.

This report is for informational purposes, no action is required.

**Master Plan Status Report**

Mr. Gorrell presented this item to the Council, stating that the AMS Subcommittee has reviewed the report and that it was sent to the full Council for their review prior to this meeting.

This item is for informational purposes, no action is required.

**d. Lease Payment Assistance Report**

Mr. Gorrell presented this item to the Council, stating that the AMS Subcommittee has reviewed the report and that it was sent to the full Council for their review prior to this meeting.

This item is for informational purposes, no action is required.

**# 8. Other Business**

After discussion, the Council unanimously agreed to hold its next PSCOC meeting on April 12, 2012.

**# 9. Public Comments**

There is no public comment at this time.

**CALL ROLL TO GO INTO EXECUTIVE SESSION**

**# 10. Consideration for Approval to Adjourn to Executive Session Pursuant to the Open Meetings Act NMSA 1978, § 10-15-1 (H) (7) for the purpose of discussing "pending litigation" of a PSCOC-funded project**

**MOTION:** Ms. Ball moved for Council approval to adjourn to Executive Session pursuant to the Open Meetings Act NMSA 1978, § 10-15-1 (H) (7) for the purpose of discussing "pending litigation" of a PSCOC-funded project. Mr. Gorrell, Mr. Berry and Mr. McMurray are requested to attend this session. Mr. Guillen seconded and the motion carried.

The clerk called roll and the meeting room was vacated by all except the Council, Mr. Gorrell, Mr. Berry and Mr. McMurray.

**Members Present (vote):**

David Abbey, Chair (Yes)

Sharon Ball, LCS Designee (Yes)

Gene Grant, PEC (Yes)

Joe Guillen, NMSBA (Yes)

David Craig, LESC Designee (Yes)

Paul Aguilar, PED (Yes)

Dee Dennis, CID (Yes)

**# 11. Reconvene to Open Session**

The Council reconvened at 11:15 AM.

**Motion to Reconvene:** Ms. Ball moved for Council approval to reconvene from Executive Session pursuant to the Open Meetings Act NMSA 1978, § 10-15-1 (H) (7) for the stated purpose of discussing “pending litigation” of a PSCOC-funded project. Only the above-referenced item was discussed and no votes were taken.

The clerk called roll.

**Members Present (vote):**

David Abbey, Chair (Yes)

Sharon Ball, LCS Designee (Yes)

Gene Grant, PEC (Yes)

Joe Guillen, NMSBA (Yes)

David Craig, LESC Designee (Yes)

Paul Aguilar, PED (Yes)

Dee Dennis, CID (Yes)

# 12. **Statement of Closure**

Ms. Ball moved for Council approval of the settlement agreement between the various parties for the rough grading package for the Ruidoso Middle School project. The owner’s share of the agreement of \$1,965,000, including GRT, will be divided between the PSCOC/PSFA and the Ruidoso Municipal School District at the state/local match percentages applicable to the project, with an increase in the state share of \$609,150 (31 percent), contingent upon an additional local share of \$1,355,850 (69 percent), which is advanced and is to be repaid by June 30, 2014. The previously awarded project authorization for Nob Hill Elementary School is hereby rescinded, but shall remain at its current ranking and the district can reapply for the project in a future award cycle. Mr. Guillen seconded and the motion carried.

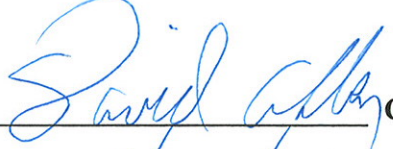

It was noted that the district would have to move forward on this project using district funding sources.

The AMS Subcommittee is directed to look at possible alternatives to the current surety bond process including self insuring or other options to provide those services.

The staff was directed to exercise greater due diligence and to be proactive in advising members of when there are concerns about local control and have a stronger oversight in district schools and projects.

**Adjourn**

There being no further action by the Council the meeting adjourned at 11:30 AM.

  
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Chair  
  
\_\_\_\_\_  
Date