

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
MINUTES
April 12, 2012—9:00 AM
STATE CAPITOL BUILDING, ROOM 317
SANTA FE, NEW MEXICO**

Members Present: Mr. David Abbey, LFC Mr. Paul Aguilar, PED
 Mr. Gene Gant, PEC Mr. Dee Dennis, RLD
 Mr. Tom Clifford, DFA Mr. Joe Guillen, NMSBA
 Ms. Frances Maestas, LESC Mr. Raul Burciaga, LCS
 Mr. Keith Gardner, Office of the Governor

1. Call to Order—9:10 **Mr. David Abbey, Chair**

a. Approval of Agenda

The clerk called roll noting that the PSCOC reserves the right to change the order of the agenda as deemed necessary.

MOTION: Mr. Raul Burciaga moved for approval of the agenda as presented. Mr. Paul Aguilar seconded, the motion carried.

b. Correspondence

There is no correspondence at this time.

2. Approval of Minutes (March 1, 2012)

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

Mr. Clifford noted a number of follow-up items that are not on the agenda regarding energy efficiency bonds that were delayed due to his absence and a report on Las Cruces Loma Heights Elementary School. With regard to the energy efficiency bonds, Mr. Gorrell informed the Council that the PSFA has worked with the Energy and Minerals and Natural Resources Department (EMNRD) to map the process but that this program is not under the supervision of the PSFA. He stated the staff has briefed various interested school districts on the process. EMNRD has been looking at energy audit vendors but the list has not been submitted to staff.

With regard to the follow up to the Las Cruces Loma Heights School issue, it was noted that the discussion in the minutes was actually related to the layout of the financial plan and that this issue will be addressed later on in the meeting.

MOTION: Upon review by the Council, Mr. Raul Burciaga moved for the approval of the March 1, 2012, PSCOC meeting minutes, subject to technical corrections. Mr. Dee Dennis seconded and the motion carried.

3. District Presentations

-- Chama—Advance Repayment Update

Mr. Gorrell informed the Council that two advances have been awarded to the Chama District. The Awards Subcommittee discussed the advances at its last meeting. The letter sent from the district requests that the Council allow them to delay repayment of the advance to 2015 or 2016. The district discussed the proposals and options for its advance repayment plan. The district owes \$200,000 for middle school/high school and \$2.5 million for Tierra Amarilla Elementary School that is scheduled to be paid by March 20, 2015. The

district presented an amended bonding capacity schedule which indicates the district will have capacity of about \$3 million in 2014 and \$3.7 million in 2015. The Chama school board would like to delay taking a referendum to voters until 2015 or 2016 when the capacity will go toward more than just repayment of the advance and be more likely to succeed.

By way of background, Mr. Eaton informed the Council that the district has received two awards through the Standards-Based process for Tierra Amarilla Elementary School and TA Middle/Escalante High School for a combined participation of the Council of \$24 million. The Council is allowed to extend waivers to districts in good faith when the district is bonded to capacity and lack the ability to pay within a certain amount of time. However, if there is an ability to pay for work within four years, the Council has advanced local match funds but required repayment over time. The Council has approved \$12.1 million in waivers for TA Middle/Escalante HS and TA Elementary. Currently there is a \$200,000 balance on the \$1.4 million for the middle school/high schools and the full amount of \$2.5 million for the TA Elementary.

Representing the district were Superintendent Anthony Casados, Ms. Annette Garcia, Business Manager, Mr. Leo Valdez, Financial Advisor, and Mr. Donald Valdez, Board Chairman. Mr. Casados noted that the district is looking at a number of options regarding repayment of the \$2.5 million advance. The district sent a letter to the Council dated March 29, 2012 regarding the possibility of using a future bond issue, if successful, to reimburse the Council. Mr. Abbey stated that the Awards Subcommittee discussed this issue and want PED to review the budget to determine if there were possibilities for compliance of a payment schedule. The Council requested an overview and clarification of what the district has agreed to in repayment of the advance. The district is planning a referendum in 2015 or 2016 when they believe they will have a better chance of passing their bond election. The Council noted that the district had promised that they would hold a bond election in 2011 and agreed that the full repayment would take place in 2011. The school board has not agreed to hold a bond election until 2015 with the plan that when the bond election passed the district would repay the advance in full. The Council asked how long it would take to sell the bonds in 2015. The district responded that if they can hold an election in 2015, it would take 90 days to sell the bonds. The Council voiced concern that the repayment would still be contingent of passing a bond election and selling the bonds. The Council asked if the district would be more comfortable with a bond issue in four years rather than now. Mr. Casados responded that a bond election would not succeed now and have a better chance in 2015 or 2016.

Mr. Aguilar noted that the district is an emergency supplemental district and was awarded \$455,000 in emergency supplemental in February 2012, which is down from their initial request. The department required that the district scrub their budget savings and that the award was predicated on the final cash balance projection of 3 percent which is the only funding they have on hand projected for this fiscal year.

The Council asked what the districts commitment or contribution is to their projects. Mr. Casados responded that the previous bond issue passed for \$3 million and the money was used towards projects. Mr. Eaton explained that the district is a 90-10 district so their contribution to their PSCOC projects should have been 90 percent of the cost to adequacy, but with the waivers and advances are actually only about 15 percent of the initial project costs.

The Council voiced concern regarding the district asking the voters to pay for the brand new schools and it would be harder in four years to pay for buildings that are 10 years old as opposed to 3 years old. The Council requested that the district provide a plan that would chip away at their budget to pay the advance, perhaps from their SB-9 funding and go to the voters for a \$3 million bond issue and use half to pay the Council a portion of what is owed. The Awards Subcommittee will continue to add this issue to their discussions.

This item is for informational purposes. No official action was proposed by Council.

4. Subcommittee Reports

a. Awards Subcommittee

- **Financial Plan**

Mr. Eaton presented the financial plan highlighting the action taken by the Council at its last scheduled meeting. The financial plan was provided to both subcommittees prior to this meeting. Projects and adjustments are listed below:

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

This award was 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%). The net award is \$253,331.

- **Ruidoso MS**

The award is for 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.

- With regard to award capacity, Mr. Eaton noted that applications have come in for roofing projects and standard-based projects and he indicated that there are available funds to make awards before June 30, 2012 from a previous appropriation. Mr. Eaton explained that currently there are large fund balances because the PSFA has to sell the bonds for larger projects and many of the awards are based on estimated needs for planning and design not necessarily for construction. The staff will be working with the Awards Subcommittee and financial experts to re-look at the financial plan to make it more transparent. The Council requested that the staff provide documentation for the sale of bonds to validate certification of awards made and to take up the issue of other certifications for larger projects

- **Additional Funding/Emergency Funding/Award Language Requests**

- **Central—Nataani Nez (3 other ES's) – Out-of-Cycle Construction**

Mr. McMurray presented this item stating that the district is requesting out-of-cycle funding for their Phase II construction project. The original estimated budget to renovate Nataani Nez ES was \$15,926,314.00. The revised estimated budget for

the amended MOU to update the three schools (Mesa ES, Stokely ES, Nizhoni ES) was \$8,471,386. The current estimate cost is \$10,120,984.00.

PSFA staff recommends that the PSCOC approve the additional state funding for the Phase II (construction funding) totaling \$5,763,931.85 as requested to complete this project to adequacy. The district has their required matching funds totaling \$3,242,210.15 in place. This request was presented to the Awards Subcommittee at its last meeting.

In regard to the lease issues, Mr. McMurray stated that the leases need to be signed by the President of the Navajo Nation. There is not an approximate date as to when the leases will be signed. Mr. Aguilar informed the Council that there is a group of individuals at Kirkland that have submitted petitions regarding separation of the district. There will be a public hearing on May 16, 2012 at San Juan Community College.

MOTION: Ms. Maestas moved for Council approval of the Awards Subcommittee recommendation to amend the previous 2008-2009 award (amended July 29, 2011) to Central Consolidated Schools for Nataani Nez/3 Elementary Schools to include Phase II out-of-cycle construction funding to complete the closure of Nataani Nez ES and to make necessary improvements to adequacy for 350 K-3 students transferred to the 3 affected schools with an increase in the state share amount of \$5,763,932 (64%), contingent upon an additional local share of \$3,242,210 (36%) and contingent on final execution of leases. Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

-- **Clovis—Lockwood ES—Out-of-Cycle Construction**

Mr. McMurray presented this item stating that the district is requesting Phase II construction funding to complete this project. The original budget estimate for Lockwood ES was \$14,288,346.00. The project design is complete and the project is shovel-ready. The RFP for construction was issued and the request for additional funds is based on the selected contractors actual cost proposal for construction.

Staff recommends that the PSCOC approve the additional state funding for the Phase II (construction funding) totaling \$10,779,172.58 as requested to complete this project to adequacy as amended. The district has their required matching funds totaling \$2,694,801.42 in place. This request was presented to the Awards Subcommittee at its last meeting.

Motion: Ms. Maestas moved for Council approval of the Awards Subcommittee recommendation to amend the previous 2008-2009 award (amended July 29, 2010) to Clovis Municipal Schools for Lockwood Elementary School to include Phase II out-of-cycle construction funding to complete the construction of a new elementary school to replace the existing Lockwood ES for 364 students, grades K-5 with an increase in the state share amount of \$10,779,173 (80%), contingent upon an additional local share of \$2,694,801 (20%). Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

-- **Pecos—Request for Extension for Repayment of Advance**

The district, in good faith, has repaid half of a \$170,913.20 advance in the amount of \$85,456.60. They are requesting that the Council allow a one-year extension to repay the remaining balance of \$85,456.60 based on the failure of the bond election. This request was presented to the Awards Subcommittee at its last meeting.

MOTION: Ms. Maestas moved for Council approval of the Awards Subcommittee recommendation to extend the emergency advance to Pecos Independent Schools for roof repairs at the high school gym for an additional year until June 30, 2013. Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

-- **Rio Rancho—Colinas Del Norte ES - Out-of-Cycle Construction**

Mr. McMurray presented this item to the Council stating that the district is requesting out-of-cycle Phase II funding for construction of the kitchen/cafeteria & gym addition at Colinas Del Norte. The original estimated budget for Colinas Del Norte ES was \$3,079,425.00. This request for additional funds is based on the selected contractors actual cost proposal for construction.

PSFA Staff recommends that the PSCOC approve additional state funding for Phase II (construction funding) totaling \$1,635,174.38 as requested to complete this project to adequacy as amended. The district has their required match in place in the amount of \$ 1,136,307.62. This request was presented to the Awards Subcommittee at its last meeting.

MOTION: Ms. Maestas moved for Council approval of the Awards Subcommittee recommendation to amend the previous 2011-2012 award to Rio Rancho Public Schools for Colinas Del Norte ES to include Phase II out-of-cycle construction funding to complete renovations to the kitchen, cafeteria, and gym facilities to adequacy for 700 students, grades K-5 with an increase in the state share amount of \$1,635,174 (59%), contingent upon an additional local share of \$1,136,308 (41%). Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

-- **Rio Rancho—Vista Grande ES – Out-of-Cycle Construction**

Mr. McMurray presented this item to the Council stating that the district is requesting out-of-cycle Phase II funding for construction of the kitchen/cafeteria and small administration addition at Vista Grande Elementary. The request for additional funds is based on selected contractors' actual low bid for construction. The original estimated budget for Vista Grande was \$1,735,025.00

PSFA Staff recommends that the PSCOC approve the additional state funding request for phase 2 (construction funding) totaling \$921,297.98 as requested to complete this project to adequacy. The district has their required match in place in the amount of \$1,136,307.62. This request was presented to the Awards Subcommittee at its last meeting.

MOTION: Council approval of the Awards Subcommittee recommendation to amend the previous 2011-2012 award to Rio Rancho Public Schools for Vista Grande ES to include Phase II out-of-cycle construction funding to complete

renovations to the kitchen, cafeteria, and administration facilities to adequacy for 700 students, grades K-5 with an increase in the state share amount of \$921,299 (59%), contingent upon an additional local share of \$640,224 (41%). 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**

-- **PSCOC Rule Changes & Adequacy Planning Guides**

Mr. Burciaga informed the Council that there are a few changes in the rules, Adequacy Planning Guide, and the guide for special schools. The majority of the changes are technical in nature but parts may have to go to the taskforce for their review and some edits may require law changes.

The staff is directed to submit the changes to the AMS Subcommittee for their approval and then present the guidelines and rules to the full Council for adoption.

MOTION: Mr. Burciaga moved for Council approval of the Administration, Maintenance & Standards Subcommittee recommendation to approve the draft statewide adequacy standards 6.27.30 NMAC as amended, and draft changes to the Adequacy Planning Guide, subject to technical corrections, to go out to public comment, and to be brought back for final approval at the June 2012 PSCOC meeting. Draft changes to the Special Purpose Schools Adequacy Planning Guide are approved to receive public input and subsequently be published and incorporated by reference in the Special Purpose Schools Adequacy Standards 6.27.31 NMAC, which were approved at the February 2012 PSCOC meeting. Since this is a subcommittee request a second is not required. There being no objection the motion carried.

-- **QZAB Application/Approval**

Mr. Antonio Ortiz presented this item to the Council explaining that the QZAB (Qualified Zone Academy Bonds) program was developed in 1997 by the federal government that allows the state to issue authority for school districts to issue interest free bonds. Essentially, a school district would go through the normal process by going to the voters, get approval to sell a certain amount of bonds and if they apply to the Council, the program can actually work in that the financing mechanism where they would sell the bonds in the open market interest-free. The entities purchasing the bonds get a tax credit instead of interest on the bonds. The last school district to take advantage of this program was the Albuquerque Public School District in 2004. There is a 10% contribution as part of the project. The program has not been extended by the federal government in 2012 so the remaining balance of authority is approximately \$14.5 million. The allocations will be granted at the July PSCOC meeting.

Mr. Ortiz informed the Council that PED has a reference manual on their website that provides reference material on the QZABs. The Council requested that Mr. Ortiz provide the manual to the full Council.

MOTION: Mr. Burciaga moved for Council approval of the Administration, Maintenance & Standards Subcommittee recommendation to authorize release of the 2012 Qualified Zone Academy Bonds (QZAB) application. Applications are

due May 25, 2012, and tentative award date will be at the July 26, 2012 PSCOC meeting. Since this is a subcommittee request a second is not required. There being no objection the motion carried.

5. 2012-2013 Standards-Based Capital Outlay Award Applications and Funding Pool

a. 2012-2013 Standard-Based Pre-Applications Received

Mr. Berry presented this item to the Council stating that 13 districts that have applied for standard-based projects with a total of 18 projects in the amount of \$241 million and a potential state share for just planning and design in the amount of \$13.4 million. Potential out-of-cycle for construction amounts to \$120 million. There were two requests for Gadsden School District that were outside the top 100 and based on the motion of the Awards Subcommittee, only the top portion of the list would be considered, minus the 2 projects for Gadsden which were ranked at 124.

Motion: Ms. Maestas moved for Council approval of the PSCOC Awards Subcommittee recommendation to authorize PSFA to assist those districts that have submitted pre-applications within the top 100 of the revised preliminary NMCI rankings to develop the full applications and perform site visits as appropriate to gather additional information on behalf of the Council. Full applications are due May 4, 2012. Since this is a subcommittee request a second is not required. There being no objection the motion carried.

b. 2012-2013 Standards-Based Roof Applications Received

Mr. Gorrell noted that \$3 million must be awarded prior to June 2012. He stated that projects have been identified and a little over \$2 million in projects could move very quickly. Roof consultants have been utilized and is a quality control component that is an additional 3.5% cost.

With regard to the Escalante roof project, the Council asked if there was a roof consultant for the project and what was their liability. Mr. Gorrell answered in the affirmative stating that when the roof failed, there was a specified material and the contractor substituted the material for a cheaper material without alerting anyone to the change. The Council voiced concern that no one is checking on the roofs and there is no liability. Mr. Gorrell stated that there is a contract requirement in that when PSFA purchases material from a contractor, they expect the contractor to provide and abide by its contract. The roof consultant and the design professional have an obligation to report to the PSFA their observations that are outside the contract and they can be held responsible for not doing a professional job.

Mr. Gant inquired about ownership and who would be responsible for the match for the various charter schools. Mr. Berry replied that the PSFA is awaiting responses to a number of questions raised concerning the roofing projects. In the case of the Las Cruces Charter School, there is a question as to who will pay the match. The district must answer this as well as other questions before the award is made.

The Council voiced concern regarding the contracts for the roofing projects and the 3% payment. Mr. Berry informed the Council that each district hires their own roof consultant and PSFA has a list of consultants. An RFP has been completed so districts can solicit responses or proposals for the roof projects in the districts. Each district will select its own consultant. The scope of the consultant is to validate the work and to look at the

cost in their professional opinion. PSFA will be bringing back updated costs and scopes of work on individual projects.

Mr. Berry explained that there are a few projects in the approximate amount of \$2 million that have the design completed or be repaired and ready by the summer. The remaining applications will get full assessments by roof consultants and they will be prioritized and brought back after they have been validated and these awards will be made in July 2012.

MOTION: Ms. Maestas moved for Council approval of the Awards Subcommittee recommendation to consider early awards of up to \$3 million to applicant districts who demonstrate project readiness and commitment to be under construction during the summer of 2012. The project scopes and projected costs shall be verified by PSFA staff and award recommendations brought back to the PSCOC at the May 1, 2012 meeting. The remaining new standards-based roof applications shall be accepted and may proceed in accordance with previously adopted criteria. Districts are encouraged to move expeditiously with the hiring roof consultants from the PSFA-approved pool to evaluate these critical roof projects and submission of the required reports to the PSFA for final review and analysis such that award recommendations may be brought to the July 26, 2012 PSCOC meeting. Districts must provide evidence of claims against roofing warranty or demonstrate evidence that original roof warranty has expired or contract did not require warranty; as well as, notification to NM Construction Industries Division with evidence that contractor has been contacted to repair roof but has been non-responsive. Since this is a subcommittee request a second is not required. There being no objection the motion carried.

c. 2012-2013 NMCI Rank Appeals

Mr. Berry presented this item to the Council noting that an informal appeal from Las Vegas City Schools was received. The PSFA has reported to the district to assure them that staff will work with them on all their other facilities. The district applied for a roof project and a standard-based project that is currently in the rankings and they will wait for their other projects until the next award cycle.

Mr. Berry noted that the staff will be receiving full applications and staff will conduct site visits at the districts that have applied. A schedule will be sent to the districts and the PSCOC members are encouraged to go on the site visits.

MOTION: Ms. Maestas moved for the PSCOC acknowledgment of the letter from the Las Vegas City Schools appealing the wNMCI rankings of all of its schools. The administrative procedures for updating the data for these schools were not adhered to for this request and the current ranks of the subject schools are to remain for this award cycle. Timely evaluation of the rankings can be completed prior to the next funding cycle.

d. 2012-2013 Proposed Workplan/Timeline

Mr. Berry presented this item to the Council, noting that both subcommittees have reviewed the workplan/timeline. He noted that the Awards Subcommittee meeting scheduled for July 18, 2012 has been rescheduled for July 16, 2012.

This item is for informational purposes. No action is required.

6. Director's Report

a. PSFA FY12 Quarterly Budget Projection

Mr. Eaton presented this item to the Council referring them to the summary table that is made available in their meeting notebooks. The summary shows the status of the PSFA expenditures by category. He noted that the agency appears to be under-budget by 7%. The report is generated by the New Mexico SHARE system.

b. FY2011 Audit

Mr. Eaton presented this item to the referring them to the agency audit that is available in their meeting notebooks. He noted that there are two findings that include:

1. The deficit fund balance --Most of the cash the PSCOC fund had been swapped out for bond proceeds in 2008 when the state was experiencing hardships so there is a very low level of fund balances.
2. The audit was not submitted in a timely manner. The individual from the audit firm took maternity leave resulting in a late audit submission.

Mr. Eaton referred the Council to an email that was sent to the Board of Finance that was prompted by Secretary Tom Clifford, who indicated in December that the bond proceeds for the PSCO program can be deposited directly into the PSCO fund thus eliminating the need for cash balances. This was confirmed by the Bond Council (Sutin, Thayer and Browne) that it is the case under Section 7-27-12.3 NMSA 1978. Mr. Eaton stated that if that could be the practice going forward it would eliminate the draw process that PSFA currently uses. PSFA will work with the DFA and BOF to determine if this will work administratively for them.

Mr. Clifford requested that the staff provide a report on how to address deficiencies in great detail as they go forward.

c. PSCOC Strategic Issues

Mr. Gorrell presented this item noting that the strategic issues are a work in progress. There was good feedback from the Awards Subcommittee. Mr. Gorrell stated that the process must be made easier as they present the strategic issues to the subcommittees.

The PSCOC Strategic Issues and the PSCOOTF suggested topics include; general issues regarding qualifications-based construction, surety bonds, local share funding for charter schools, size of schools for standard-based funding, lease payment assistance costs and terms, integrating Preventive Maintenance Plans into Facility Master Plans and potential dates for PSCOOTF meetings.

The suggested topics also include significant problems the task force might consider that includes; available funding for K-12 facilities, current state/local share calculations for urban and rural areas, limit total gross square footage of all school facilities in the state, increase maintenance effectiveness.

Council directs staff to provide an editable Microsoft Word version of the PSCOC Strategic Plan Issues. Mr. Abbey recommends that Mr. Burciaga work with Council members and staff to circulate updates of the document.

d. FMAR Update

Mr. Les Martinez, PSFA staff, presented this item to the Council noting that a 10% improvement in maintenance will result in a cost avoidance of \$23.2 million per year. This issue will be looked at next week.

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

e. 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.

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

f. Master Plan Status

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.

g. Lease 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.

7. Other Business

• Pre-K Appropriations

Mr. Abbey noted that there is \$2.5 million legislative appropriation for Pre-K that the governor signed for Pre-K classrooms that needs to be allocated. He indicated that it is a PSCOC process. Mr. Abbey requests that Mr. Gorrell circulate Mr. Burciaga's email response of 'legality' of the expenditure (HB-191). Mr. Abbey directed the staff to bring forward a plan and application for the allocation proposal at next Awards Subcommittee, the AMS Subcommittee, and finally to the full Council at its next meeting.

• Next PSCOC Meeting

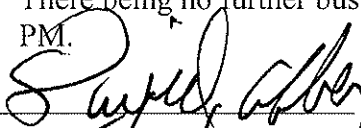
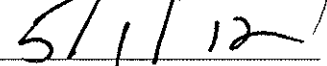
After discussion, the Council unanimously agreed to hold its next PSCOC meeting on May 1, 2012.

8. Public Comment

There was no public comment at this time

9. Adjourn

There being no further business to come before the Council, the meeting adjourned at 12:20 PM.

 Chair
 Date