

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
MINUTES
MAY 3, 2013
STATE CAPITOL BUILDING, ROOM 317
SANTA FE, NEW MEXICO**

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

Designees: Ms. Mary Kay Root for Mr. Dee Dennis, RLD
Ms. Sharon Ball for Mr. Raul Burciaga, LCS

1. Call to Order

Mr. David Abbey, Chair

a. Adoption of Agenda

The clerk called roll noting that Ms. Mary Kay Root would serve as designee for Mr. Dee Dennis, Regulation & Licensing Department, and Ms. Sharon Ball would serve as designee for Mr. Raul Burciaga, Legislative Council Service.

MOTION: Mr. Clifford moved for adoption of agenda as presented. Mr. Gant seconded. Motion carried.

b. Correspondence

There is no correspondence at this time.

2. Approval of Minutes (April 9, 2013)

Upon review by the Council, Mr. Guillen moved for adoption of the April 9, 2013 PSCOC minutes subject to technical corrections. Mr. Gant seconded. There being no objection the motion carried.

3. District Updates

a. Deming Facility Master Plan & High School Bond Election

The district joined the meeting via video conference. Representing the district is Ms. Harvielee Moore, Mr. Ted Burr, Ms. Kim Hernandez, Ms. Mary Lou Camdon, and also in attendance was PSFA Regional Manager Travis Coker. The PSCOC and the district gave an overview of Deming projects. The district presented 2 versions of their project schedule, one including and one excluding education specifications (ed specs) for the high school project.

Staff presented three options for the high school project: (1) partial replacement of high school facilities, renovate Hofacket, demolish a selected portion of high school; (2) abandon Hofacket, relocate department and demolish maintenance and Florida support facilities; and (3) demolition of Hofacket, keep maintenance and Florida support facilities. Option #3 will cost several million dollars higher. Council noted that Deming HS ranked in the top and not much progress has been made which is well overdue.

Superintendent Moore indicated that the Deming Intermediate is not functional as is and has congested space. The district is focusing on the high school but also submitted a pre-

application on the intermediate school. The district attended their community advisory meeting and indicated that the community fully supports the project. The district also met with city and county officials and there was discussion with the understanding that the intermediate school had moved to Option #3. The high school is their main focus at this point because it is in very poor shape. The district will focus on the intermediate school at a later date. The FMP is close to being finalized.

Council cautioned the district regarding their city election as there may be a conflict when holding their bond election. The district indicated that they will complete the RFP by the end of May and incorporate it within their timeframe.

Staff indicated that in lieu of ed specs a campus master plan was requested from the district. The Council was reminded that construction monies have already been reverted and the timeframe on funding for planning should remain a local decision.

Ms. Root advised the district that at the time the contract for construction is awarded that only a single contract for all the types of demolition/renovation/construction be considered.

Motion: Ms. Maestas moved for Council approval of the staff recommendation to accept the information presented and postpone a final decision on the potential decertification of the project funds until the July 2013 PSCOC meeting, contingent on adoption of the Facility Master Plan by the Deming School Board by June 30, 2013. Mr. Gant seconded. There being no objection the motion carried.

b. New America Charter School Facility Lease(s)

Upon discussion, Council voiced concern in regards to the cost per square foot of the existing facility lease for the charter. It was noted that there is a commitment that the charter will bring the cost down to compare to other charter schools.

A letter from the charter school was received April 18, 2013 that states that "the current lease schedules are not subject to renegotiation as it is based on a full amortization of the former and current landlords debt to improve and provide the leased property, all of the site work to support the modular classrooms, the renovation of the main building and the construction of the multipurpose room." Early termination of the lease is not allowed because it would breach the charter's contract with the landlord. The lease expires November 2027 and would allow the charter to pay rent on the grounds. The charter is unwilling to terminate the lease as it would render their students "homeless".

It was noted that the school is committed to the site which is of great concern to the Council as the high lease costs might cause the charter to use their SEG (operational funds). They also voiced concern with regard to the renewal of the lease as the state may be liable for their lease. Staff explained that the lease is with a foundation and there is no obligation to continue with the lease. The charter is attempting to acquire the site from the Archdiocese of Santa Fe. It was noted that the school wants to build a multipurpose room and have negotiated for a longer term for the project as well as long term costs.

Details were provided to the Awards Subcommittee and a Council member noted that the charter was not flexible and would not budge on their request. However, there is a commitment from the school officials that once the charter is approved, the cost would be adjusted.

MOTION: Ms. Maestas moved for Council approval of the Awards Subcommittee recommendation to release the fourth quarter reimbursement of the 2012-2013 Lease Assistance awards to New America Charter School-Albuquerque upon receiving proof of lease payments made.

Taking the concerns of the Council, roll was called resulting in 7 ayes and 2 nos for the above motion. The motion passed with a majority vote.

c. Albuquerque—District Priority& Funding Process

Representing the district were Mr. Brad Winter, Mr. Kizito Wijenje, Ms. Karen Alarid and Mr. Don Moya. The district presented a handout that shows their capital outlay history, their current strategy, timeline, priorities and reconciliation of their master plans. The district indicated that they will repurpose their schools and would not close schools. The district affirmed their commitment in working with the PSCOC and PSFA.

This item is for informational purposes only.

4. Subcommittee Reports

a. Awards Subcommittee

• **Financial Plan**

Staff referred the Council to the financial plan that was made available in their meeting notebooks that reflects action taken by the Council at their last meeting regarding projects and adjustment.

Project and adjustments are listed below:

Corona (M13-011)

Funding for FMP (to correct previous award calculation) in the net award in the amount of \$1,400.

Staff also gave a brief summary the project and encumbrance schedule as well the sources and uses in the financial plan. Staff also provided scenarios for future PSCOC funding.

This item is for informational purposes.

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

- **NMSD – Site Improvements/Cerrillos Road Work – DCP Construction, NMSD – Dillon Hall/Phase 2 – DCP Construction Funding/Above Adequacy, NMSD – Health Center Building – Out-of-Cycle Construction/Local Share Advance**

Mr. Richard Gorman represented the School for the Deaf on all requests.

• ***Site Improvements/Cerrillos Road Work – DCP Construction***

This request is a Deficiency Correction Program request for construction funding for site work and pedestrian safety/accessibility improvements along Cerrillos Road.

This request was reviewed by the Awards Subcommittee at its last meeting. PSFA staff recommends that the PSCOC approve the state DCP funding request totaling \$2,170,381 (100%) as requested to complete Phase II construction to adequacy.

- ***Dillon Hall/Phase 2 – DCP Construction Funding/Above Adequacy Advance***

This request is for Deficiency Correction Program (DCP) construction funding for Dillon Hall Phase 2. This is the second and final phase of major renovation which includes demolishing the old annex building, a new library and remodeling the basement to house school programs and support spaces.

This request was reviewed by the Awards Subcommittee at its last meeting. PSFA staff recommends that the PSCOC approve the state DCP funding request totaling \$3,574,078 (100%) to complete Phase II construction to adequacy. PSFA staff also recommends that the PSCOC approve the NMSD funding request totaling \$698,011 as an advance for support space. NMSD received a 2013 Legislative appropriation totaling \$1,000,000 for the Dillon Hall support space; however the appropriation was not made for the full amount needed to complete the work.

- ***Health Center Building, Out-of Cycle Construction/Local Share Advance***

This request is for a local share advance for the NMSD Health Center. The building is ranked #24 with the weighted NMCI of 55.27%. The recently developed NMSD FMP calls for the replacement of the Health Center building. The decision was to move the health services into the basement of the Dillon Hall and add this additional design work to the existing Dekker/Perich/Sabatini architects contract for the Dillon Hall Phase II renovation. NMSD is requesting an advance of its share. The cost for this project includes \$269,811 (50% state) and \$269,811 advance for district share.

PSFA staff recommends that the PSCOC approve the state funding request totaling \$269,811.25 (50%) as requested to complete Phase II construction to adequacy.

The district has requested an advance for their share amount totaling \$ 269,811.25 (50%) as submitted. Total amount requested \$539,622.50.

MOTION: Mr. Guillen moved for Council approval of the Awards Subcommittee recommendation to amend the 2009-2010 deficiency correction program award, and 2012-2013 standards-based award to include construction of site work and pedestrian safety/accessibility improvements, construction of Dillon Hall Phase 2 Improvements, and relocation of the Health Center, for a total increase of \$7,982,092, which includes approval of the \$1,000,000 Direct Appropriation from the Public School Capital Outlay Fund and an advance of the district share \$967,822. Advance is authorized for 6 months; district must return to the PSCOC with a plan for repayment or provide additional information at the request of the PSCOC if the request is for a waiver (conversion to a grant). Detailed funding is as follows:

Breakdown of Funding

Site Improvements - \$2,170,381 (100% state – DCP)
 Dillon Hall Phase 2 - \$3,574,078 (100% state – DCP),
 Dillon Hall Phase 2B - \$1,698,011 (100% District Support Spaces - \$1,000,000
 Direct Appropriation, \$698,011 advance)
 Health Center Building - \$269,811 (50% state), \$269,811 advance for district
 share

Mr. Gorman indicated that the NMSD did not want an advance but rather a waiver. Council strongly believes that they must ensure that constitutional schools are not treated differently from public schools.

Upon further discussion, staff noted that support spaces are part of the adequacy standards for the constitutional special schools for which there is a 100% local share requirement. Council noted that the appropriation includes the museum as part of the construction and includes infrastructure. Council agreed that this request for an advance could be deferred pending receipt of the proposals and pricing which may be within the appropriated amounts. Mr. Gorman stated that bids cannot be separated without being redesigned, and are good for 45 days.

AMENDED MOTION: Mr. Guillen moved for Council approval of the Awards Subcommittee recommendation to amend the 2009-2010 deficiency correction program award, and 2012-2013 standards-based award to include construction of site work and pedestrian safety/accessibility improvements, construction of Dillon Hall Phase 2 Improvements, and relocation of the Health Center, for a total increase of \$7,284,081, which includes approval of the \$1,000,000 Direct Appropriation from the Public School Capital Outlay Fund and an advance of the district share \$269,811. Advance is authorized for 6 months; district must return to the PSCOC with a plan for repayment or provide additional information at the request of the PSCOC if the request is for a waiver (conversion to a grant). Detailed funding is as follows:

Breakdown of Funding

Site Improvements - \$2,170,381 (100% state – DCP)
 Dillon Hall Phase 2 - \$3,574,078 (100% state – DCP),
 Dillon Hall Phase 2B - \$1,000,000 (100% district support spaces–direct
 appropriation)

Ms. Ball seconded. There being no objection, the motion carried.

➤ **Espanola – Velarde ES – Out-of-Cycle Construction**

Mr. Art Blea, Superintendent, represented the district. He reported that their School Board rejected the recommendation for the construction firm to proceed with the project; therefore, the district is not prepared to move forward with the project. There is a possibility that the School Board will revisit the possibility of consolidation of the Velarde and Alcalde elementary schools.

MOTION: Mr. Guillen moved to formally table this item until the local school board unites with the Alcalde/Velarde communities for the possibility of

consolidation of the two schools or decision to proceed with the Velarde project. Ms. Ball seconded. There being no objection the motion carried.

➤ **Albuquerque – McKinley - Additional Funding Request (Summer Work)**

Request # 1: To allow the remaining available design funds of \$105,633.65 to be used for summer utility relocation and portable relocation. The summer work required (moving portables, relocating utility lines, etc.) needs to be completed in the summer or the GC hired will have to complete the work while the students are in school. This will cause a major inconvenience to the school during the school year.

Request # 2: Additional funds to reimburse the district for work completed and paid in full by the district for science classroom renovation.

PSFA staff recommends that the PSCOC approve the state funding request in the total of \$218,725.22 (55%) to complete the summer work and to reimburse costs to the district for the science classroom renovation. The district has their required additional funding amount totaling \$178,956.78 (45%) as submitted.

MOTION: Mr. Guillen moved for Council approval of the Awards Subcommittee recommendation to amend the 2011-2012 standards-based award to the Albuquerque Public Schools for McKinley Middle School to include additional funding to complete summer utility relocation, portable work and credit to the district for completed work for the science classroom renovation, with a total increase in the state share amount of \$218,725 (55%), contingent on an additional local share of \$178,957 (45%). Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

➤ **Albuquerque – Chaparral ES – Out-of-Cycle Construction**

The district is requesting Phase 2 construction funds for a 21 classroom addition (including kindergarten, regular and special education classrooms); and addition and or renovation to the kitchen/cafeteria; new kindergarten and bus drop off.

Council voiced concern with regard to the special education students in the kindergarten hub that are housed in portables. Council feels that these students need to be treated the same as other students and need permanent facilities. District informed Council that the hub serves pre-kindergarten students and is a separate campus from Chaparral ES; there is only one Chaparral ES special education class in portables which will be moved to a permanent facility in the near future.

PSFA staff recommends that the PSCOC approve the state funding request totaling \$7,341,794 (55%) to complete Phase II construction to adequacy. The district requested their required additional funding amount totaling \$6,006,923 (45%) be approved as submitted.

MOTION: Mr. Guillen moved for Council approval of the Awards Subcommittee recommendation to amend the 2011-2012 standards-based award to the Albuquerque Public Schools for Chaparral Elementary, to include out-of-cycle construction for renovations/additions to the existing facility to adequacy for 991 students, grades K-5, with a total increase in the state share amount of \$7,341,794 (55%), contingent on

an additional local share of \$6,006,923 (45%). Since this is a subcommittee recommendation a second is not required. There being no objection the motion carried.

➤ **Gallup – Church Rock – Increase Design Capacity**

Ms. Martica Casias presented this item to the Council, noting the redistricting at Gallup Schools has taken place which has affected the projected enrollment at Church Rock ES. District representative Johny Cresto informed the Council that the district is making progress on their projects and the Council encouraged the district to keep moving forward.

MOTION: Council approval of the Awards Subcommittee recommendation to amend the previous 2010-2011 award to the Gallup-McKinley County Schools for Church Rock Elementary School to increase design capacity from 269 students to 330 students, grades K-5.

b. Administration, Maintenance & Standards Subcommittee

There is no report at this time.

5. 2013-2014 Standards-Based Capital Outlay Award Cycle

a. 2013-2014 Standard-Based Applications Update

Staff presented an update noting that districts are currently working on full apps. Staff added map of state that reflects districts that applied for funding. The full application is ready to move forward.

MOTION: Mr. Guillen moved for Council approval of the PSCOC Awards Subcommittee recommendation to reconsider the PSCOC's previous action to deny the late pre-applications submitted by the Albuquerque Public Schools and to authorize staff to assist the district to develop the full applications which are due May 6, 2013. Ms. Gant seconded. There being no objection the motion carried.

b. 2013-2014 Standards-Based Roof Applications Update

Staff gave a brief update on the roof applications received (see attached).

This item is for informational purposes only.

c. Applications Received from Top 100 wNMCI Rankings

Staff gave a brief update in the top 100 wNMCI rankings (see attached).

This item is for informational purposes only.

d. 2013-2014 Proposed Workplan/Timeline

Staff presented this item to the Council noting that both subcommittees have reviewed the workplan/timeline. Various dates were highlighted for changes in the timeline. It is noted that the timeline is still subject to change.

This report is for informational purposes only. No action is required by the Council.

e. District Presentations (Potential Site for June District Presentation Meetings)

Upon discussion the Council agreed to hold the District Presentation meeting on June 17 in Santa Fe, NM and June 20 in the Albuquerque/Los Lunas area.

6. Director's Report

a. Status Reports

➤ PSCOC Project Status Report

Staff presented the Project Status Report to the Council noting that the report was reviewed by the Administration, Maintenance & Standards Subcommittee.

Staff highlighted the various projects in the report along with the projects that are moving forward and projects that are behind schedule.

This report is for informational purposes only. No action is required by the Council.

➤ Master Plan Project Status Report

Staff presented the Master Project Plan Report to the Council noting that the report was reviewed by the Administration, Maintenance & Standards Subcommittee.

This report is for informational purposes only. No action is required by the Council.

➤ FMAR Update

This report is for informational purposes only. No action is required by the Council.

➤ Lease Assistance Report

Staff presented the Lease Assistance Payment Report to the Council noting that the report was reviewed by the Administration, Maintenance & Standards Subcommittee.

This report is for informational purposes only. No action is required by the Council.

➤ Chama Project Update

Staff reported that final pricing for mechanical and electrical work which is scheduled for the summer break is being finalized and would bring back a request for additional funding at the next Council meeting.

This report is for informational purposes only. No action is required by the Council.

b. PSFA Activity Report

Upon discussion the Council voiced concern with regard to the daily news digest. It was suggested that staff cease publishing the high level detailed editorials and published less frequently. This item will be reviewed by the AMS Subcommittee and revisited at the next PSCOC meeting.

7. Other Business

a. Discussion of 2013 Appropriations from the PSCOF

Staff referred the Council to Statute 7-27-12 regarding Severance Tax Bonds and a letter sent from Attorney Jill Sweeny, Brownstein Hyatt Farber Schreck Law Firm, to Secretary Tom Clifford, Department of Finance & Administration (DFA), regarding whether or not school buses may be financed with PSCOC funds. The letter indicates that "in the past, we have advised State Board of Finance staff that school busses may be funded with Supplemental Severance Tax Notes or Bonds. Section 24-25-4 NMSA 1978 provides that "money in the fund can be used for capital outlay expenditures deemed necessary by the Council for an adequate educational program". Vehicles can be considered capital expenditures, albeit with a short useful life. However, the school buses must be owned by the school district and used by the school district to transport students to and from school, an adequate educational purpose. The expenditure would need to go through the Council

process and be deemed necessary by the Council. If taxable notes are used, no federal tax issue is created by the short duration of the useful life of the vehicles. You are correct that Council action on May 3, 2013 fits within the current timetable.”

This report is for informational purposes only. No action is required by the Council.

b. Potential SSTB Certification

Staff gave a brief summary noting that the timing for the resolution is late May or early June; the Board of Finance will sell the bonds at their June 18th meeting. Some amounts from appropriations for various projects were reduced to correspond with timing of projects that are only in the planning and design phase within the resolution. Staff will meet with the Bond Council to discuss whether the language will cover the portion of resolution for loan to Animas.

Chair Abbey and Secretary Clifford will meet to review the certification/resolution.

MOTION: Mr. Guillen moved for Council approval to adopt a Certification and Resolution to sell SSTBs subject to review by Secretary Clifford and Chair Abbey verifying the amounts. Mr. Aguilar seconded, motion carried with no objection.

c. 2013-2014 Lease Assistance Awards Application

Staff presented the lease application noting that the application and certification were reviewed by both subcommittees. There were no specific recommendations to send the application as there may be more parameters as well as questions regarding applying the CPI (Consumer Price Index) and lease costs per square foot.

Staff referred the Council to the application that was made available in the meeting notebooks/e-book. There was discussion regarding constraints, percentage of SEG used to pay lease costs, sq. foot per MEM in terms of making adjustments to the application. The current statute covers \$700 per MEM adjusted by the CPI.

There were questions and concerns by the Council that includes the fact that the leases are not subject to the procurement code and the Council requested more transparency in regard to their selection process, evaluation of alternative sites and terms of the current leases.

Staff met with Mr. Ken Hunt, Attorney, Hunt & Davis Law Firm, regarding development of the new standardized leases and feel confident that he is the right individual to move forward. Part of the discussion included working on a template which divides the leases into 2 parts, one with standard terms which change with each lease, and one part with boilerplate language. Mr. Hunt suggested that a cover sheet be included in the standardized lease that provides the general items that the charter is looking for in its facilities, including number of students, grades served, educational programs, timeframes and payment terms and to identify the owner of the facilities. Staff is in the process of drafting a contract with Mr. Hunt. Staff explained that at their last PSCOC meeting, the Council agreed to allow a BAR that includes up to \$50,000 to create standardized leases.

It was noted that LFC did an evaluation and realized that there was controversy regarding actual rates. Council felt that more guidelines should be set in the application process, especially in respect to cost.

Upon further discussion, the Council recommends that the Awards Subcommittee revisit this item to review the application and format of the application for this cycle. It was noted that there is a need to adopt specific guidance and expectations in regards to lease assistance program and determine whether or not a CPI is necessary. Staff noted that it is important to send the application by May 8, 2013 because of the summer break as many charter schools will be closed with no administrative staff to receive and return the application.

Council agreed that the Award Subcommittee would hold a special meeting for further discussion to make necessary changes including the CPI and SEG to allow the process to go forward.

MOTION: Mr. Abbey moved for Council to delegate that the Awards Subcommittee meet by May 17, 2013 to discuss concerns regarding the lease assistance application for Council approval. Mr. Gant seconded. There being no objection the motion carried.

d. Review of PSFA/PSCOC Strategic Issues

Staff gave a brief overview on the PSCOC/PSFA strategic plan issues. The Council delegated the Administration, Maintenance & Standards Subcommittee to take the lead on the strategic issues. The subcommittee is directed to present a report of strategic plan at the next PSCOC meeting.

This report is for informational purposes only. No action is required by the Council.

e. QZAB Application Extensions

Council reviewed this item briefly and agreed to extend the 2013 application deadline for the QZAB to July 26, 2013.

MOTION: Ms. Ball moved for Council approval to extend the 2013 application deadline for Qualified Zone Academy Bonds (QZAB) to July 26, 2013, with awards to be made at a future PSCOC meeting. Ms. Root seconded. There being no objection the motion passed.

f. Next PSCOC Meeting—Proposed Dates

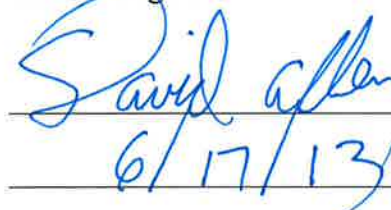

Upon discussion the Council agreed to hold the District Presentation meeting on June 17th in Santa Fe, NM and June 20th in the Albuquerque/ Los Lunas area to be selected with consultation with Mr., Guillen.

Public Comments

There is no public comment at this time.

Adjourn

There being no further action to go before the Council, the meeting adjourned at 1:00 PM

 **Chair**
 **Date**