

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL MEETING
MINUTES
September 26, 2016
STATE CAPITOL BUILDING, ROOM 317
SANTA FE, NEW MEXICO**

Members Present: Mr. Paul Aguilar, PED Ms. Rachel Gudgel, LESC
 Mr. Joe Guillen, NMSBA Ms. Jessica Kelly, Office of the Governor
 Mr. Gilbert Peralta, PEC Ms. Stephanie Clarke, DFA

Designees: Mr. Charles Sallee, LFC, designee for Mr. David Abbey
 Mr. Rick Martinez, CID, designee for Mr. Pat McMurray
 Ms. Sharon Ball, LCS, designee for Mr. Raul Burciaga (arrived at 8:36)

1. Call to Order—Chair Sallee called the meeting to order at 8:31 A.M.

- a. **Approval of Agenda**—Chair Sallee asked if there was any objection to the agenda as presented, as there was none the agenda was approved.
- b. **Correspondence**—Mr. Gorrell directed attention to the letter from Ted Lasiewicz, Chief of Operations, Farmington Municipal Schools. The district is requesting that funds originally committed for the Tibbetts MS demolition be reaffirmed and the remaining balance revert back to the PSCOC.
- c. **Approval of Minutes (July 25, 2016)** - Mr. Guillen moved for Council approval of the July 25, 2016 minutes, subject to corrections. Ms. Kelly seconded. Motion carried.

2. PSCOC Financial Plan

a. PSCOC Financial Plan (informational)

Ms. Irion presented an overview of changes to the financial plan since the last meeting. Council awarded Alamogordo New Combined ES for design funding for \$1,301,851. Updated revenue estimates were received; reductions were noted in FY17-20 which resulted in a projected total reduction of 11%. In relation to the revenue reductions, the project awards detail schedule has shifted the following projects: Espanola Abiquiu ES was delayed one quarter, Belen Rio Grande ES and Capitan ES/HS were delayed two quarters each and Roswell Del Norte ES and Silver Aldo Leopold Charter School were each delayed one year. Up for Council consideration is Mountainair Jr. /Sr. HS. Originally estimated in the financial plan at \$14,120,000; the current estimate is \$8,644,126 which is a favorable change to the financial plan of \$5,475,874. Mr. Aguilar asked Mr. Ron Hendrix, Superintendent, Mountainair Public Schools to speak on this; Mr. Hendrix stated bids came in substantially lower due to items cut from the project and expressed the districts pleasure in having the project move forward.

Ms. Irion continued noting an adjustment made for SB9. Based upon HB311 decertification of SSTB funds, SB9 estimates were reduced from \$20.4 million to \$18.4 million in FY17-20. Drawing member attention to the handout entitled BDCP Funding Projections: 2017 and 2018

E-rate cycles, Mr. Gorrell stated these are continuing Broadband Deficiencies Correction Program projects and are E-rate matched projects anticipated to come through over the next two fiscal years.

b. Recertification of SSTBs

Discussion: Ms. Irion drew member attention to the SSTB FY16 Spring Recertification Worksheet and stated while the original estimate for the June 30, 2016 bond sale was \$100,880,000 the original certification was for \$138,542,226. Since the actual amount of the bonds sold was \$104,086,200 PSFA will need to recertify the original estimate so it equals the amount of the bonds sold. Reviewing each line item on the worksheet, Ms. Irion noted changes in the recertification applied to the following: Gallup Combined ES, Reserve Glenwood ES, the Reserve for Contingency, Facilities Master Plan and SB9. These changes will be included in the recertification for Council approval in November.

MOTION: Mr. Aguilar moved for Council approval of the staff recommendation to adopt the Resolution, Notification and Certification amendment for reauthorization of bond proceeds as listed in the attached worksheet. Ms. Gudgel seconded. Motion carried.

c. Update on project Closeouts for Potential Reversion (*informational*)

Discussion: Ms. Cano presented the executive summary, highlighting the potential reversion amount of \$16.6 million. This amount was an increase from the estimated \$12 million reversion and is subject to change. PSFA is reviewing project audit documentation and anticipates final completion of audits by November 15th. PSFA has included in the financial plan \$5 million for closeouts to accommodate projects that do not have an assigned budget; if there is a potential amount due to the district to align expenditures to the MOU, PSFA will utilize a portion of those funds. Projects highlighted in green on the handout have been closed out and closeout documentation has been sent to the district. PSFA will continue to provide updates on project closeouts and estimated reversions as necessary. Mr. Aguilar commented some projects were 10 years old and urged Council to keep an eye on this.

Mr. Guillen thanked Ms. Cano for the handout which reflected good detail on the projects and suggested prioritizing by those with the largest dollar amounts.

Ms. Clarke asked if the bond proceeds were taxable or tax exempt; Ms. Irion replied they were under the SSTB taxable portion.

3. Out-of-Cycle Funding/Additional Funding/Emergency Funding/Award Language Requests

a. Mountainair – P15-008 – Mountainair Jr. /Sr. HS – Phase 2 Funding

Discussion: Mr. Avila stated the project was \$2.5 million under the anticipated budget of \$14.3 million to adequacy and noted the original award estimate was \$13.3 million.

Mr. Tillotson stated the maintenance plan is current; their FMAR is marginal and their use of FIMS modules indicates they are making improvements. PSFA is working closely with the district to help their maintenance program.

Noting the current enrollment is 130 and the design request is for 170 students Ms. Gudgel asked that it be addressed. Mr. John Valdez, PSFA Facilities Master Planner, stated the building is designed for 170 students per the educational specifications (Ed Specs). The Ed Specs and FMP anticipated a drop in enrollment with gradual recovery based on higher birth rates and a larger kindergarten class moving through the system. The drop in enrollment is distributed amongst seven grade levels; averaging five students per grade. Ms. Casias stated when trying to determine if there are too many classrooms it is not the same as with an elementary school where you can cut two classrooms; because this is a mid/high school and the students change classes it is currently under-utilized however each classroom is used. Ms. Gudgel suggested keeping an eye on this and to pay attention to what happens with enrollment. Mr. Hendrix commented they received five new students in one day and though enrollment fluctuates the district would like to ensure each classroom is able to accommodate up to 20 students.

Mr. Aguilar pointed out that dollar amounts were not listed in the documents presented; Ms. Cassandra Viscarra, PSFA Assistant Field Coordinator, stated the award history listed in the executive summary accounts for Council action and that a running tally of the total project and state share amounts will be provided in the future.

MOTION: Council approval of the Awards Subcommittee recommendation to amend the 2014-2015 standards-based award to the Mountainair Public Schools for Mountainair Jr. /Sr. HS to include construction to adequacy for 170 students, grades 6-12, with an increase in the state share amount of \$3,870,875 (36%), and a waiver of the local share amount of \$4,773,251, for a total adjusted state share of \$8,644,126. The corresponding increase to the local share of \$6,881,552 (64%) shall be reduced by the waiver amount to an adjusted local share of \$2,108,301. Since this is a Subcommittee recommendation a second is not required. Motion carried.

b. Broadband Deficiencies Correction Program Awards

Discussion: Mr. Viorica referred to the handout and mentioned that the Bloomfield School District Category 2 project had been added to the list since the Awards Subcommittee meeting. The seven projects have funding requests from the PSCOC with approved funding commitments from the E-rate program. The current E-rate approved projects total \$1,034,789; of which \$822,652 is E-rate funding. The non-discounted rate is split between the BDCP funding of \$118,652 and the district amount. Ms. Gudgel inquired as to the amount being authorized by Council today; Mr. Viorica replied \$119,188. Ms. Clarke stated the basis of the approval and the motion need to be crystal clear as it would be very difficult down the road to determine what was approved. Ms. Clarke requested the executive summary pinpoint what has changed and what is being presented for approval.

MOTION: Council approval of the Awards Subcommittee recommendation to make Broadband Deficiencies Correction Program (BDCP) Category 2 awards of actual E-rate approved project amounts to provide the state match for application funding year 2016 to the districts set out in the award spreadsheet for the purposes and up to the amounts specified (see attached). Each allocation is intended to fully complete the project, phase, or specified purpose. Since this is a Subcommittee recommendation a second is not required. Motion carried.

4. 2016-2017 Standards-Based Capital Outlay Awards Cycle

a. 2016-2017 Standards-Based Awards – District Presentation – Reserve Independent Schools

Discussion: Ms. Cano reviewed the executive summary and reference materials. Mr. Anthony Lucero, PSFA Regional Manager, stated the district is requesting funds for planning, design and construction to replace the current facility with a portable or renovate the current facility which would allow for future student growth.

Mr. Bill Green, Superintendent, Reserve Independent School District, stated the district will have approximately \$100,000 left in local funds after the main campus project is complete and requests allowing the district to take the funds and make repairs to keep Glenwood ES going as their bond request was turned down. There are nine students with one teacher instructing four grades.

The FMP, adopted in 2012, is current. Mr. Valdez stated that during the master plan process the Master Plan Committee discussed several options for keeping Glenwood ES in the Glenwood area with the aim of increasing enrollment. Ideas ranged from expanding grade levels from the current Pre-K to 3rd through 6th grade or even middle school; establishing Glenwood as a charter, and maintaining the school on site with modular buildings. The FMP attributes the low enrollment to parents choosing to home school or students going to Cliff HS which is 32 miles away. Projections reflect a flat enrollment for the next few years. The census estimates the median age at 58.6 years.

Ms. Kelly sought clarification on what was meant by flat enrollment; Mr. Valdez stated the Glenwood area typically has 2 births per year which results in a flat growth with the nine students per year for the next 3-4 years. Ms. Kelly then asked for an example of a family school in the area; Mr. Valdez stated there were family schools in Albuquerque, Belen and Los Lunas but there were none in the area and reiterated it was an FMP discussion, not a recommendation. Mr. Green added that three to four junior and high school students from the Glenwood area go to Cliff and about seven go to Reserve. Expressing concern over the safety of students driving and dodging wildlife, Mr. Aguilar felt Council should move forward with the project.

Mr. Tillotson stated the PM Plan was recently made current; they are progressing in their use of FIMS products; FMAR scores indicate they are improving facility conditions and are responding to recent FMAR findings.

Regarding their financial status, Ms. Irion stated the district submitted their FY15 audit and received an unmodified opinion. PSFA has not yet received a statement of financial position.

PSFA recommends a partial renovation and reconfiguration of the existing Glenwood ES in conjunction with demolition of the north wing and an adjacent structure. This would consolidate all functions into the 1986 addition and remove underutilized spaces to provide a more efficient layout. The renovation and reconfiguration would address existing classrooms while incorporating a restroom, cafeteria and serving kitchen. All site access would remain gravel except for ADA access. Possible project alternatives include the placement of a portable.

When asked if there was a floor plan, Mr. Gorrell replied in the negative and verbally described the site: located on School Road the original portion was built in the early 50s; there is also a 1986 addition. The district desires a working kitchen and small library area, all of which could be done with a portable. During the site visit it looked like the better solution would be to demolish the old portion, place a new roof on the addition and move the HVAC system. Another solution is to tear down the facilities and replace with a portable. A third option would be to place a portable somewhere within the community, i.e.: the park. The request and motion are structured so PSFA can consider the options, come up with real cost estimates, and work with the district on finding the best solution.

Chair Sallee sought clarification on the amount being requested; Mr. Gorrell replied the request is for \$69,333 which is an advance of \$62,400 and a state match of \$6,933. Mr. Sallee reiterated though staff is seeking approval for \$69,000 the total project cost estimate is more than \$743,000. Mr. Gorrell stated staff recommendation is for up to \$700,000 for total project cost. The \$69,000 request is for Phase 1; the district would come back for Phase 2 dependent on the chosen solution. Mr. Guillen moved for staff recommendation in the amount of \$70,000. In response to Ms. Kelly's question on what the money for Phase 1 planning and design would be used for specifically as there were different recommendations; Mr. Gorrell replied it would be for a feasibility study to determine the cost to rebuild the current school including the utility expansion. Other locations would be considered if costs were reduced. Feasibility costs would be \$5,000-\$6,000 of the initial amount of money.

Ms. Clarke, though sensitive to district concerns, is hesitant to make an award where there is the potential that special approval from the PED Secretary is needed to keep the school in the place due to low enrollment. Mr. Guillen reminded members the feasibility study would be used to determine the best option and Council can come back at a later date and act on the best solution; Ms. Gudgel agreed. Ms. Clarke stated she was comfortable approving funding to study consolidation but did not agree with spending \$70,000 to study a rebuild or modification of a school that is high risk.

MOTION: Council approval of the staff recommendation to make capital outlay project awards under the standards-based capital outlay process to the district set out in the award spreadsheet for the purpose and in the amount specified, which is further subject to the Additional Conditions presented in the document in the meeting notebook (see attached). Each allocation is intended to fully complete the project, phase, or specified purpose. Out-of-cycle design or construction funding may be considered at any future regularly scheduled PSCOC meeting upon completion of early planning, construction documents or equivalent PSFA phase approval and conformance with all contingencies.

AMENDED MOTION: Mr. Guillen moved for Council approval of the staff recommendation, with modification to the award language for a feasibility study to explore all options for the facility to adequacy for 9 students, grades K-3. The current phase local share is advanced, and may be converted to a grant subject to verification of available district resources. Ms. Gudgel seconded. Ms. Ball, Ms. Clarke and Ms. Kelly objected. By a vote of 6 to 3 the motion carried.

b. 2016-2017 Lease Assistance Awards

Discussion: The total request for lease assistance is \$13,911,814. As stated in the financial plan \$14.6 million is currently certified towards this amount.

Mr. Guillen thanked Ms. Gudgel and all entities involved in working to identify charters that are/are not in compliance and noted the recommendation is reasonable; allowing time for charters to come in to compliance and not penalize them at this time. Ms. Ball inquired as to what happens with schools that are non-compliant, receive the 50% and continue to remain non-compliant. Ms. Gudgel stated it was included in the motion that they would remain at 50% of the award for FY17. Ms. Clarke asked how the non-compliant charter schools will be notified of what they will receive this year and if they remain non-compliant they may receive nothing next year. Mr. Gorrell stated there has been discussion and correspondence with all non-compliant charters.

Mr. Sallee expressed concern about a possible rush of lease agreements coming forward and asked how staff would get in front of that so charter schools are not negotiating items that may raise concerns. Ms. Gudgel added that PED recently sent denial letters to four charters as they had represented to Council they had entered in to lease purchase agreements. Staff has also identified some schools that claim to have a lease purchase agreement but don't; there are different statutory requirements under the public school building qualifier. The biggest issue is who is responsible for maintaining adequacy standards; PSFA is working with those schools to ensure appropriate language is in the lease agreement. Mr. Gorrell added PSFA is working with PED to develop new protocols; listed on the website are items required for a lease purchase agreement and it needs to be clear what the charters have to do as a lease purchase agreement is not the same as a lease with option to purchase.

Ms. Gudgel stated there seemed to be a disconnect in terms of who is overseeing facility acquisition. If the governing board decides it is in the best interest for a lease purchase agreement, the decision is made, however in many instances the lease purchase agreements are not brought to PED and it is unclear how authorizers are addressing this, if they are addressing it or if they know they are entering into lease purchase agreements.

MOTION: Council approval of the Awards Subcommittee recommendation to make awards for charter schools identified in the attached spreadsheet behind 4B as compliant with Section 22-8B-4.2 1978 and the Council documentation requirements to fund charters that are in compliance at 100 percent of the maximum allowable lease assistance amount. Make awards for charter schools identified in the attached spreadsheet as non-compliant with 22-8B-4.2 or PSCOC documentation requirements limited to 50% of the maximum allowable lease assistance amount. Awards for non-compliance charter schools may be adjusted by the Council upon proof that the charter school has come in to compliance with these requirements. Proof of compliance must be submitted by PSFA by December 31, 2016 for consideration of an award adjustment. Charter schools that do not come into compliance by December 31, 2016 will continue to receive 50 percent of the maximum allowable lease assistance amount for the remainder of the fiscal year 2017. It is the Council's intent to require compliance with Section 22-8B-4.2 in future years to be eligible for lease assistance awards. Upon acceptance of awards by charter schools and school districts, the Council authorizes PSFA staff to distribute award

amounts quarterly on a reimbursement basis upon receiving proof of lease payments made. The Council authorizes PSFA staff to make reductions to award amounts subject to PED certifying in writing to PSFA that a condition exists that warrants an award adjustment or suspension which may include: school closure, charter revocation, financial violations or irregularities, adjustment to certified attendance numbers (MEM counts), lease termination or amendment. The Council may also authorize reductions if scheduled attendance does not fully utilize the facility, or operations use changes from classroom to non-classroom uses. Since this is a Subcommittee recommendation a second is not required. Motion carried.

c. 2016-2017 Master Plan Assistance Program – Application and Procedures

Discussion: Upon Council approval the FMP application will go out. Applications are due back October 21st and have a potential award date of November 10th. There are sixteen districts with FMPs that will expire in 2017 with an expected state share of up to \$503,929. Mr. Aguilar asked if the three districts without an FMP (House, Elida and Tatum) were part of the list presented; Ms. Casias replied in the affirmative.

MOTION: Council approval of the Awards Subcommittee recommendation to send the 2016-2017 Facilities Master Plan application and procedures to all school districts and state authorized charter schools in accordance with the timeline presented. Since this is a Subcommittee recommendation a second is not required. Motion carried.

d. 2016-2017 Work Plan/Timeline (*informational*)

Discussion: Ms. Cano reiterated there were limited items for the October PSCOC meeting and at the recommendation of the Subcommittees those items were placed on today's agenda. The October meetings are cancelled; the next meetings will be in November.

5. 2017-2018 Standards-Based Capital Outlay Awards Cycle

a. Weight/Rank Methodology – NM Condition Index (wNMCI)

Discussion: The executive summary lists the factors that go into the ranking; included in the meeting material is a descriptor of every deficiency and their weights.

MOTION: Council approval of the AMS Subcommittee recommendation to continue the current NMCI Weight Ranking Factors for the 2017-2018 Standards-Based Award Cycle. Since this is a Subcommittee recommendation a second is not required. Motion carried.

b. Variance Renewal – Charter and Alternative Schools

Discussion: Ms. Casias reminded members this is approved annually and is a variance for the charter schools so they don't receive a deficiency on educational adequacy standards.

MOTION: Council approval of the AMS Subcommittee recommendation to approve the variances for all alternative schools and those charter schools that have not been renewed. The charter schools that are in at least their first renewal period will be evaluated based on their current programs, enrollments and alternative facility use to determine specific facility needs and will be ranked accordingly. Since this is a Subcommittee recommendation a second is not required. Motion carried.

c. Draft 2017-2018 wNMCI Ranking

Discussion: Ms. Casias referred to the handout on the Top 50 and Top 100. Analysis shows nine schools ascended into the Top 50 and 18 ascended into the Top 100. Describing the process, Ms. Casias stated that every year when the ranking is done the aging button is pushed in December, however because of an error in the ranking a secondary ranking was performed in July and the aging button was pushed again. The new draft ranking was done within the same year as aging therefore if there is no change to the wNMCI it means the school already aged as it was supposed to and staff didn't do an assessment on that particular school however, if the wNMCI changed there was an assessment done or there was a change in enrollment since the aging was already accounted for. Ms. Gudgel clarified since they have already been aged, they won't age for the 2017-18 ranking but will be aged in 2018-19; Ms. Casias replied in the affirmative.

MOTION: Ms. Ball moved for Council approval of the staff recommendation to release the Draft wNMCI Rankings, including charter schools that have been reassessed based on educational program needs after completing at least one renewal period, for the 2017-2018 standards-based award cycle based on criteria and weightings adopted by the Council. Districts are encouraged to review and provide feedback to the PSFA based on technical corrections to the data in order for a Preliminary wNMCI Ranking to be released by the PSFA in December and subsequent release of the application which is tentatively scheduled for late February 2017. Ms. Gudgel seconded. Motion carried.

6. Other Business

a. Systems Initiative (*informational*)

Discussion: Work continues on the procedures and scoring criteria. The systems initiative, passed in 2014, is currently limited to \$15 million per year and is intended to extend the life of current K-12 schools. The three variables to having sustainable facilities include: adequate funding, gross square footage and maintenance effectiveness. With decreased funding this will allow another program to try and sustain schools and remain below the critical level for longer. The average conditions of schools has greatly improved over the years, FCI has dropped from 71% to 33%. Included in the material are district comments with PSFA responses, an explanation of the systems criteria and an example elementary school project. Based on feedback, staff adjusted both the qualification and point criteria to address district and Council concerns. The systems initiative ranking standards consist of two categories; the first is the qualification criteria the district must meet in order to be considered for an award; the second is the point allocation criteria which assigns points on a requested project. Mr. Jerge reviewed both in detail.

The three most common responses from the districts include: 1.) Districts believe the funding pool should not be limited to the top 50 and should instead be open for all schools. It was per Council direction to limit the pool based on limited funding availability. 2.) Districts are concerned excess costs for feasibility and utilization assessments would be a financial burden for smaller districts. Staff recognizes this concern and have developed a pre-application tool for districts to easily input information utilizing available documents from the FAD and FIMS which may supply systems information on their own without having to contact a design professional. 3.) Districts are concerned the point allocation was weighted heavily for gross

square footage reduction and recommended consideration be based on square footage as it relates to adequacy. Staff recognizes that the reduction of square footage is critical to operating costs and encourages districts to reevaluate their costs for maintaining excess square footage. The “building by partial campus factor” criteria was added and allows for additional points if reduction of campus square footage cannot be attained and targets project specific square footage only.

Ms. Diaz presented an example of what a potential systems application could look like. Beginning with the FAD executive summary, Ms. Diaz stated all districts have access to this report which is the primary basis for the systems application. Subsequent pages prepopulate with information entered on the initial page.

Ms. Kelly commented that the qualification criteria reads “the schools FMAR score is 60% or better” and suggested it read “60% or higher.” Mr. Tillotson agreed.

Mr. Sallee thanked staff for their hard work.

b. FY17 CID Budget and Reimbursement

Discussion: Ms. Kelly stated during the AMS Subcommittee it was discussed that general updates from CID would be helpful, specifically where PSCOC projects are in relation to other projects. Per Mr. Martinez, CID prioritizes PSCOC projects, especially when it comes to the final review.

MOTION: Council approval of the AMS Subcommittee recommendation to allocate an amount not to exceed \$330,000 to reimburse the Construction Industries Division for estimated inspection expenses for FY2016 for PSCOC funded projects. This allocation is based on average full cost per inspection that has been agreed upon between the PSFA and CID of \$193.72. CID shall provide quarterly billings certified by the Director that sufficient inspections occurred to warrant at least one quarter of the authorized amount and shall include an analysis of the average turn-around time of school project permits and inspections as compared to other CID inspections. Since this is a Subcommittee recommendation a second is not needed. Motion carried.

7. Informational

a. Broadband Deficiencies Correction Program Status Report

Staff presented the executive summary included in the PSCOC notebooks for this item.

As requested by Council the number of responses received per RFP was included in the meeting material; in some instances many responses were received, in others there were very few. Originally some districts had no responses and the RFPs were reissued. Ms. Kelly confirmed PSFA is cautioning schools about funding availability; Mr. Viorica replied in the affirmative.

b. PSCOC Project Status Report

Staff presented the executive summary included in the PSCOC notebooks for this item.

PSFA was copied on a letter to PED indicating the Española school board has voted to proceed with the Velarde ES project. Staff has reached out to the district and additional information will be brought to the November meeting. Correspondence has also been received from Aldo Leopold; they are ready to move forward with rescinding their award and a staff recommendation will be brought to the November meeting. Mr. Gorrell added that Aldo Leopold would like to retain \$50,000 in funding to proceed with a feasibility study to determine their available options. Upon visiting with the interim Superintendent and walking the facilities, Mr. Gorrell stated there was a portion of the high school that could be carved out for Aldo Leopold and the feasibility study could determine if that would work.

c. Master Plan Project Status Report

Staff presented the executive summary included in the PSCOC notebooks for this item.

d. Lease Assistance Status Report

Staff presented the executive summary included in the PSCOC notebooks for this item.

e. Maintenance Program Status Report

Staff presented the executive summary included in the PSCOC notebooks for this item.

f. FY17 PSFA Budget Projection and Personnel Update

Staff presented the executive summary included in the PSCOC notebooks for this item.

8. Election of Chair and Vice-Chair

MOTION: Ms. Kelly moved for Council approval of Mr. Paul Aguilar to serve as Chair, and Mr. Gilbert Peralta to serve as Vice-Chair of the Public School Capital Outlay Council for Fiscal Years 2016-2017 and 2017-2018. Ms. Clarke seconded.

Roll call:

Ms. Clarke – Yes	Ms. Ball – No	Mr. Peralta – No
Mr. Aguilar – Yes	Mr. Martinez – No	Ms. Gudgel – No
Ms. Kelly – Yes	Mr. Guillen – No	Mr. Sallee – No

By a vote of 6 to 3 the motion failed.

MOTION: Mr. Guillen moved for Council approval of Mr. David Abbey to serve as Chair, and Mr. Pat McMurray to serve as Vice-Chair of the Public School Capital Outlay Council for Fiscal Years 2016-2017 and 2017-2018. Ms. Gudgel seconded.

Roll call:

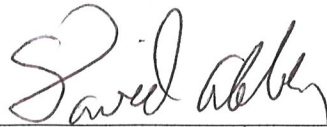
Ms. Clarke – Yes	Ms. Ball – Yes	Mr. Peralta – Yes
Mr. Aguilar – Yes	Mr. Martinez – Yes	Ms. Gudgel – Yes
Ms. Kelly – No	Mr. Guillen – Yes	Mr. Sallee – Yes

By a vote of 8 to 1 the motion passed.

9. Public Comment

- Ms. Patricia Matthews, Attorney, Matthews Fox Law Firm, expressed dismay and surprise with Council's vote to not grant the full award to all charter schools. Ms. Matthews understands what 22-8B-4.2 NMSA 1978 says and that Council has the authority to use that statutory requirement to withhold the grant awards, however, she thinks it is important for all members of the Council, particularly Member Peralta as he sits on the Public Education Commission, to have a perspective from the charter schools as there was no warning that the grant would be used to enforce that statute. Ms. Matthews stated that prior to the grant application going out, Mr. Gorrell had contacted her and invited her to assist him in preparing the application. Upon asking Mr. Gorrell whether or not Council would use the application, or this cycle, to deny grant awards Ms. Matthews claims she was told he didn't know and gave the indication it probably wouldn't happen and also stated Ms. Gudgel, at the recent LESC meeting, stated affirmatively it wouldn't happen. Ms. Matthews questioned if the charter schools knew this was a potential for this cycle and though some may have been aware she is sure none thought they were going to have their grants denied. Ms. Matthews insists the basis for denial is incorrect as it is based on an incorrect interpretation of the statute, an incorrect understanding of what is in the lease and a lot of misinformation. Ms. Matthews is concerned the Subcommittee met in a closed session and schools were denied the opportunity to attend the meeting and to assist the Subcommittee with information to clarify various leases that had been misinterpreted. Ms. Matthews is also concerned that the charters were not given notice or the opportunity to be heard at today's Council meeting. Under the Administrative Code Section 6.21.2 charter schools have a right to appeal the decision of the Council. Per Ms. Matthews it is incumbent upon Council to state in writing to each and every school that they will be denied the full award, that they will be given the opportunity to correct their deficiencies and those deficiencies need to be articulated specifically by Council as to why they are being denied the full amount of the grant. Ms. Matthews reiterated there is a misunderstanding and misinterpretation of 22-8B-4.2 NMSA 1978 as well as other sections of the Charter Schools Act that play into 22-8B-4.2 NMSA 1978. On behalf of the list of charter schools denied lease reimbursements responses will be provided.
- Ms. Gudgel inquired as to the status of the Director's evaluation as it has been several months. Ms. Kelly stated the AMS Subcommittee has worked diligently with Ms. Sawyer on updating the evaluation. Ms. Sawyer recently reviewed the evaluation with Mr. Gorrell. Comments have been added and will be sent to the Chair for initial review. During the November Council meeting Members will go into executive session to discuss and allow for input at that time.
- Mr. Sallee thanked everyone for all their hard work and for a good meeting.

10. **Adjourn** There being no further business to come before the Council, Ms. Ball moved to adjourn the meeting. Ms. Gudgel seconded. Motion carried. Meeting adjourned at 11:07 a.m.


 _____ Chair
 11/10/16
 _____ Date