

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL MEETING
MINUTES
March 9, 2020
STATE CAPITOL BUILDING, ROOM 317
SANTA FE, NEW MEXICO**

Members Present: Mr. Joe Guillen, NMSBA Mr. Raúl Burciaga, LSC
Mr. Antonio Ortiz, PED Mr. David Abbey, LFC (arrived 1:39)
Ms. Rachel S. Gudgel, LESC Mr. David Robbins, PEC
Ms. Stephanie Rodriguez, Office of the Governor

Designee: Mr. Martin Romero (for Ms. Marguerite Salazar, RLD)
Ms. Donna Rivera (for Ms. Olivia Padilla-Jackson, DFA)

1. **Call to Order** – Chair Guillen called the meeting to order at 1:35 P.M.
 - a. **Approval of Agenda** – Chair Guillen asked if there was any objection to the agenda presented; as there was none, the agenda was unanimously approved.
 - b. **Correspondence** – Two pieces of correspondence were included in the meeting material; a letter of appreciation to Ms. Casandra Cano thanking her for her many years of dedicated service and well wishes on her future endeavors. The second item was a letter from Mr. Michael Hyatt, Superintendent of Gallup-McKinley County Schools, notifying the Council that the district is going to proceed with roofing work at Tohatchi MS.
2. **Public Comment** – Mr. Guillen had staff and audience introduce themselves.
3. **PSCOC Financial Plan**

Mr. Evans reviewed the changes to the financial plan since the last meeting: two PSCOC actions were taken; one for the Mora request for an emergency award advance of \$150,000 and the other for NMSBVI Sacramento Dormitory HB55 Appropriation for \$114,721. The FY19 audit is now closed and savings were seen from the CID and SFMO actuals of approximately \$275K. The Pre-K appropriation was moved from FY20 to FY21. There was a change in SB9 funding from HB254 resulting in a reduction of \$1.2M. Since SB31 did not pass, the FY21 PSFA Operating Budget changed from \$5.7M to \$5.4M. HB2 had a federally impacted districts allocation of approximately \$18.9M. Retroactive teacher housing standards awards of \$25.0M was eliminated. The federally impacted school district distribution, listed at \$7.5M on the financial plan, will actually be \$18.9M and the entire amount will be drawn from the Capital Outlay Fund. The Projected Fund Balance as of February 24, 2020 is \$417.0M.

Ms. Gudgel asked if an updated number had been received from PED regarding the \$8.9M for school busses or if it was a carry forward; Mr. Evans replied it was a carry forward.

Mr. Evans noted that within the Consent Agenda the Recertification of SSTBs had updated verbiage as requested by the State Board of Finance and stated the dollar amounts remained the same. Members were provided with a new Resolution, Notification and Certification to review prior to approval of the Consent Agenda.

4. Consent Agenda

- a. Approval of Minutes – January 24, 2020
- b. 2020-2021 Charter School Lease Assistance Application Announcement
- c. Ruidoso – O20-015 – Outside of Adequacy - Award Language Change
- d. BDCP – 2016 Grants Schools Category 1 (Fiber) – Re-authorize PSCOC Participation
- e. BDCP – 2019 Category 2 (Equipment) Approved Projects – Award Adjustment
- f. BDCP – 2020 Category 1 (Fiber) – State Matching Preliminary Awards
- g. Recertification of SSTBs

Mr. Guillen read through the items listed within the consent agenda and asked members if any item needed to be pulled for discussion; as there was none, a motion to approve was made.

MOTION: Ms. Gudgel moved for Council approval of the consent agenda. Mr. Robbins seconded and the motion was unanimously approved.

5. 2020-2021 Award Cycle

a. 2020-2021 Capital Funding Program Review of Pre-Applications & Final Funding Pool

Mr. Chamblin reviewed information listed within the executive summary highlighting there were

- o 14 pre-applications received from 12 districts for standards-based awards. The FY21 estimated state match for planning and design is \$15.7M and the future state match for construction is \$148.8M.
- o 16 pre-applications were received from 8 districts for systems-based awards. The estimated FY21 state match for planning, design and/or construction is \$4.4M and the estimated future state match for construction is \$12.3M.
- o 8 pre-applications were receive from 6 districts for Pre-K classroom facilities. The estimated FY21 state match is \$9.5M.

The total estimated FY21 state match is \$29.6M and the estimated future state match is \$161.1M.

Mr. Chamblin reminded members that the amounts have not yet been vetted and were pulled directly from the district's applications. As discussions continue, the approach to the projects may also change. For example, some Pre-K projects may be rolled into prior standards-based awards that are ongoing. Additionally, some applications may drop out by the time final applications are due.

A column of potential waiver requests was added to the list of pre-applications and Mr. Chamblin noted that of districts that applied for standards-based awards none would be coming for local match reduction in the first phase of their request. However, a number of them plan to come when they need construction money in the out years. The ones that may request a local match reduction include the Carrizozo, Jemez Mountain, Gallup, Hobbs, Central and Bloomfield school districts. Detailed spreadsheets were included in the meeting material and reflected the project description, preliminary (unvetted) costs as well as wNMCI, FCI, FMAR and match percentages.

Mr. Guillen asked if the two charter schools were in publicly owned property; Mr. Chamblin replied that Albuquerque Sign Language Academy (ASLA) was yet to be determined as conversations continue with the school. They are interested in co-locating in a building with Bernalillo County on a county owned parcel of land. It is unclear where they will get their local match from and may be an issue for this project going forward. It was noted Mesilla Valley Leadership Academy is a public school, not a charter, and that the application was pulled by the district. The systems application from Mission Achievement & Success is being updated.

Ms. Gudgel reminded members that Council had discussed the Albuquerque Sign Language Academy in December and that the only reason they were coming forth with a request was because Council changed their standards with which they are measured and as a result they were bumped to the number two spot from somewhere in the 600s. Members were also reminded that based on the financial plan, Council is over-subscribed this year based by \$30.0M and \$15.0M of that amount is estimated to come from the ASLA project. This raised concerns for Ms. Gudgel that other schools have been climbing in the ranking and then the ranking changed which put ASLA on top as well as the issue of whether they would have their local match in hand when they are ready. Recalling discussion at the Awards Subcommittee, Mr. Chamblin stated districts could go out to bond and they have a more consistent funding source than charter schools. The school would likely have to go to the Legislature to pick up its share of money. They have over \$200K in offsets that would need to be applied. Mr. Guillen agreed with Ms. Gudgel's concerns and stressed the importance of looking at it in closer detail and discussing further; Mr. Chamblin agreed.

MOTION: Council approval of the Awards Subcommittee recommendation to adopt a 2020-2021 Capital Funding Program final funding pool as follows:

- Standards-based (large projects) facilities within the Top 100;
- Systems-based (small projects) facilities within the Top 300;
- All Pre-K classroom facilities requests for facilities within the ranking.

The PSFA is authorized to perform site visits and work with the districts regarding project scope and total estimated project costs for full application, and will bring back additional information for the June district presentation meeting. As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

b. 2020-2021 Pre-K Classroom Prioritization Criteria - informational

Mr. Chamblin noted this is something that may, or may not, be used for this year's Pre-K applications. Staff is filling out the scoring criteria and doing additional research on the Pre-K requests. Drawing attention to the key issues listed on the executive summary, Mr. Chamblin noted a Pre-K market survey was being conducted on the applicant districts and may be most relevant for the Farmington application. Some of the questions to be asked/answered with the help of the new Early Childhood Education and Care Department, in addition to Pre-K directors at the district level, are relative to the whole Pre-K status of other programs within the district, i.e.: are there private providers and if so where are they and how many kids do they serve? This will allow staff to get a sense of the available capacity within existing Pre-K in the district and any unmet demand that might exist for four-year-old enrollment.

c. Charter School Relocation Notification Requirements

Per Mr. Chamblin, the suggestion is that a new process be started using the form that charters would be obligated to fill out and send to PSFA if they are relocating or are modifying their existing facilities through renovation and changing the way they are using the interior of the building. This form would be the mechanism where PSFA would be notified of such a change. This would help the agency stay in better contact with the charter schools when and if they move. There is some risk that a charter school could move into a facility without contacting PSFA and without knowing the rules and getting into a building that is lower than the statewide average wNMCI. If a charter renovates their square footage, i.e.: to create additional classrooms, and PSFA is notified as it is happening, staff can re-measure the space which would help with the assessment in measuring and verification of the charter school square footage throughout the year rather than waiting until the application deadline and doing assessments.

Mr. Chamblin noted that PEC has similar notification requirements and drew attention to the PEC form. Mr. Robbins acknowledged that PEC does require notification of any change in location or modifications of facilities and ensures that they have E-Occupancy certification. Mr. Robbins added that the PSDA form will make state charter schools and district charter schools communicate on a more consistent basis.

Referring to verbiage within the executive summary, *“when a charter school moves into a facility with a wNMCI score lower than the statewide average wNMCI, the school may move higher up the list in the statewide ranking, therefore eligible for PSCOC funding”* Ms. Gudgel stated she reads 22-8B-4.2 NMSA as prohibiting that and felt Council should set guidelines about how 22-8B-4.2 would be interpreted for charter schools. Ms. Gudgel felt the intent of the law was not to have charter schools jump the queue in front of school district schools that have been in the queue for longer. Mr. Chamblin agreed and noted that the follow-up language in the same bit of statute is if the school is going to move into a facility that is in worse condition than the statewide average they have to have an approved corrective action plan that obligates them to spend their money to improve the facility first before they get any state funding. Ms. Gudgel did not think the language was that clear noting it reads *“...receive a condition rating equal or better than the average condition of all New Mexico public schools...or demonstrate within eighteen months of*

occupancy...the way in which it will achieve...” and stressed it does not say you “*have to achieve*”.

The AMS Subcommittee was tasked with coming up with guidelines as to what Council expectations are.

MOTION: Mr. Burciaga moved to approve the Charter School Relocation and Facility Alteration Form, including distribution of the form to charter schools. Ms. Gudgel seconded and the motion was unanimously approved.

d. 2020-2021 PSCOC Workplan Timeline – *informational*

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

a. Los Alamos – P19-007 – Barranca Mesa ES – Award Language Change

Dr. Kurt Steinhaus, Superintendent, was in attendance representing the district.

Dr. Steinhaus thanked Council for their support of the Barranca Mesa ES project and stated the district was fine with the proposed motion. He noted that the Los Alamos National Laboratory planning to spend \$500.0M per year for the next five years on infrastructure and maintenance. In addition, they are planning to spend \$10.0B total over the next ten years for facilities. Dr. Steinhaus stressed that the nation is investing in national security, which is having an impact on student growth and housing in Los Alamos.

MOTION: Council approval of the Awards Subcommittee recommendation to amend the 2018-2019 standards-based award to the Los Alamos Public Schools for Barranca Mesa Elementary School from 450 students to 529 students, 3&4 year old DD Pre-K-6th grade. The additional cost due to the increased design capacity shall be absorbed within the project contingency with no further funding participation from the state including the reversion of the remaining project balance in the amount of \$613,580. As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

b. Los Alamos – S18-010 – Mountain ES – Additional Funding Request

Ms. Gudgel stated she had spoken with Dr. Steinhaus and noted he was okay with the Subcommittee recommendation. Dr. Steinhaus acknowledged that both he and his construction manager are not experts in fire suppression and noted they live in a town that has been evacuated twice due to fires and 400 homes have burned to the ground in the neighborhood where Mountain ES is located. Dr. Steinhaus stated for him to fight the Fire Marshal on reducing fire protection in the school would be political suicide and is why the district went with the inspection they were given at the time. The individual that gave the district the requirement was overridden by his boss however, that happened after the work was started. Mr. Guillen thanked Mr. Steinhaus for providing additional information to the Council.

Ms. Gudgel reiterated there had been robust conversations on both Los Alamos projects and it seemed more appropriate to approve the larger project and pass on the smaller project especially since it was a Fire Marshal recommendation that they reversed after the project started. Mr. Romero requested that CID be involved on the front end to deal with the issue if this happens again because Council should be able to push back on some of this otherwise we will be approving waivers every meeting because the requirements we think we should have are actually wants. Mr. Romero reiterated at the end of the day what matters is what the code says and is what needs to be interpreted and enforced. Ms. Casias thanked CID for their assistance with working with Fire Marshal.

Mr. Guillen thanked Dr. Steinhaus for his attendance and for the work he does in Los Alamos, not only the building projects but on the academic side as well.

MOTION: Council approval of the Awards Subcommittee recommendation to deny the Los Alamos Public Schools request for an increase in funding due to unforeseen State Fire Marshal Code requirement. The district is requesting an additional \$131,471 at a state share of \$63,106 (48%), and a corresponding district share of \$68,365 (52%). As this was a Subcommittee recommendation a second was not needed and the motion was unanimously approved.

c. Aztec – T19-073 – Aztec HS – Project Update

Mr. Kirk Carpenter, District Superintendent, was in attendance representing the district.

Mr. Chamblin noted this item was essentially a continuation of the discussion on the previous agenda item. The schools security project is underway and has gone through design and is ready to move in to construction. They are having an issue that may involve potentially larger conversations with CID, SFMO, Homeland Security and others; other districts are also beginning to have the same type of issue. There is the potential requirement to add panic hardware to gates and exterior site fencing at the perimeter of the school; that the fencing be designed and constructed with pedestrian gates that have full push bar panic hardware, illuminated exit lighting above the gate, as well as pathway lighting to the gate, in the event of a fire. PSFA believes this is a misinterpretation of the code and is well beyond what would be considered the path of egress as has been traditionally understood.

The SFMO requirement to add the panic hardware to site fencing gates would increase costs fairly substantially; for Aztec, the increase is estimated at \$200K and would potentially threaten the whole project.

Mr. Chamblin reiterated there are a number of projects, statewide, that involve site fencing that have been awarded/funded and this is one where the district and CID need to have additional discussions with the SFMO to get this concept nullified.

Mr. Carpenter reiterated that funding is an issue and noted the difficulty with mill levies in the district. Mr. Guillen asked if this issue was holding up the project; Mr. Avila replied that it was not technically holding up the project and that the additional request has not

been incorporated into the construction documents. As this project moves forward it will go out to bid but at this point the panic bars, path lighting, exit lighting, and additional pedestrian gates are not incorporated because staff feels this is a question of jurisdictional authority which, when it comes to egress, lies with the building code (CID). PSFA, CID, the district, SFMO and the architect have met to try and resolve the question of jurisdictional authority, but the Fire Marshal did not back down. The legal building interpretation from CID is that these elements are not required and as they are not required, they are not part of the work as it stands right now.

Ms. Gudgel sought comment on a statement made by the Fire Marshal that if it wasn't done now the district would be cited later and would be required to do so at the annual review. Ms. Gudgel asked what would happen if the SFMO came back after the fact; Mr. Carpenter replied that they could be cited and made to tear up or redo the project. The district would push back and appeal as their concern is only the additional cost, but rather what is being suggested based on the idea of securing a campus. Because of where panic hardware is being suggested they would also need to make sure no one was reaching over and tapping the panic buttons.

Ms. Rivera inquired as to which state agency would be responsible for mediating this while Mr. Guillen asked what the timeframe was to settle this and if there was a plan of action. Mr. Romero replied that during the Subcommittee, it was agreed that Mr. Chamblin would schedule a meeting with PSFA, SFMO, CID and possibly a representative from the AG's office to push back on this, otherwise it would never end. Mr. Romero reiterated one cannot read part of the building code, you need to read the whole section/chapter and within the building code are four exceptions that the district potentially falls under; based on those exceptions the only thing you would be required to have is an area of refuge, which they do.

Ms. Gudgel noted that the district had a half million-dollar project for nine items and asked what the cost of the fencing was and what percent the \$200K increase would be. Mr. Chamblin replied that a breakout of the different project types would be sent via email. Mr. Avila added that though this issue starts with Aztec, there are a number of security projects that are being reviewed that include fencing.

Mr. Chamblin stated members would be notified when a meeting is set up.

7. Informational

a. Revised Statement of Financial Position Template

This is a comprehensive revision to the statement of financial position template used by PSFA. The form was modified into a format that is much more familiar to the district personnel responsible for completing it. Information has been divided into four separate tabs (operational, SB9, HB33 and bonds) and is categorized in the way districts think about their money. PEDs review and signature was removed from the final summary tab since PED has given Mr. Evans access to all districts budget information through OBMS. This form will be circulated to Stan Rounds, Jvanna Hanks and other district volunteers for feedback and will be brought back for Council review and approval.

b. Legislative Update

Mr. Chamblin reviewed the executive summary which highlighted key legislation that passed with implications for PSCOC and PSFA. Since SB31 did not pass PSFA will bring a request next month to modify the FY21 budget, similar to the way the budget reduction was accommodated for FY20. It was also noted that HB254 and SB96 were signed and chaptered.

c. District Response to FMAR Findings

Members were reminded that the FMARs have been done since 2011 and in this third cycle the 60-day response process was implemented. This process can also be used for fire marshal surveys and districts can use the FIMS process to repair things identified as broken.

In 2019, 20 school sites were identified; over 10 school districts responded, improving their FMAR scores from between 3 points and 33 points. This has a profound affect on the states FCI as there are two ways to reduce the FCI; to put more money into brick and mortar and/or do better maintenance.

Some of the recommended directions we have is to identify districts moving forward with the Ben Lujan Maintenance Achievement Award as Most Improved. One of the exciting things being done in 2020 is looking deeper into the details i.e.: tracking the costs of how much, per work order, it takes to go from point A to point B. The response rate time is also tracked to see how fast districts respond to improve facility conditions. Moving forward, it will be easier to determine how much it costs to go up one point, five points, ten points on the FMAR.

d. PSCOC Project Status Report

Mr. Chamblin reviewed information listed within the executive summary.

e. BDCP Project Status Report

Mr. Chamblin noted that the cybersecurity item was tabled in Subcommittee and will be brought back at a future meeting after the July awards cycle.

9. Next PSCOC Meeting - Proposed for April 13, 2020

11. Adjourn – There being no further business to come before the Council, Mr. Robbins moved to adjourn the meeting. Mr. Burciaga seconded and the motion was unanimously approved. The meeting adjourned at 3:06 p.m.



Chair

4-13-2020

Date