

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL MEETING
MINUTES
September 14, 2020
VIDEOCONFERENCE**

Members Present: Mr. Joe Guillen, NMSBA Mr. Raúl Burciaga, LSC
Mr. Antonio Ortiz, PED Mr. David Abbey, LFC
Mr. David Robbins, PEC Ms. Rachel S. Gudgel, LESC
Ms. Debbie Romero, DFA (Interim Secretary)

Designee: Mr. Martin Romero (for Ms. Marguerite Salazar, RLD)
Mr. Victor Reyes (for Ms. Stephanie Rodriguez, Office of the Governor)

1. **Call to Order** – Chair Guillen called the meeting to order at 1:32 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 – None.

2. **Public Comment** – None.

3. **PSCOC Financial Plan**

- a. **PSCOC Financial Plan**

Mr. Evans reviewed the changes to the financial plan since the last meeting: adjustments based on increased awards were made to the out years and phase one funding was about \$1.9M and for the out-years FY23-FY25 for standards awards, there was an impact of \$14.6M in FY22, \$32.0M in FY23, \$14.3M in FY24, and no change for FY25. There was an increase to the operational budget based on projected potential revenue of funds available for the operational funds. It is projected that the CIMS and FIMS software costs will be added back to the operational budget instead of coming out of the capital fund. Per Mr. Evans, uncommitted balances are (\$40.4M) in FY24 and (\$75.0M) in FY25.

Mr. Evans went on to discuss the bond balance and noted that projects are identified with certain bonds. Districts count on the funds from the state at various times during course of the project and need states assurance to develop marketing strategies with their communities. This is a conservative approach as projects are attached and certified to specific bonds; specific numbers tied to projects and revenues will be presented in October. Mr. Guillen sought clarification in the request to change the process; Mr. Evans clarified it was not a request to change the certification of bonds but rather an explanation of why the uncommitted fund balance was so high in FY21 and FY22. Continuing, Mr. Evans explained that funds are certified for projects where construction is still in the out-years (FY21-23) and until those projects catch up with their construction, the fund balance,

though it looks fairly large, is in reality not the case since districts haven't come forth asking for their construction funds.

Mr. Abbey commented that the Council prided itself on "just-in-time funding" where planning would cover 1% of the budget, then design at 10% and so on, and Council would never encumber more money than what was needed. Mr. Abbey expressed concern when Council tries to certify need for another bond issue in December yet, there is \$400.0M reflected that is currently unspent. Mr. Abbey noted that the Legislature and the Executive would look at all of the capital outlay funding to ensure that bonding is not in excess of what is needed. Mr. Abbey suggested that Mr. Evans to find a better way to clarify the money that was committed. Mr. Abbey stated that the conservative accounting process causes Council to infer there is less money available for new projects than there might be if a different method was in place. Ms. Gudgel commented that the reason things are done differently is that in the past PSCOC has not dealt with big Phase II construction projects and in the past, it was easier to do just-in-time funding. Ms. Gudgel clarified that Mr. Abbey's request was for PSFA to show an accounting of a couple of years of no construction awards and how Council was having to catch up and make funding decisions now to fully fund those projects. Mr. Guillen felt both members made good points about Council's ability to show that funds are committed to specific projects and felt the information needed to be known adding that it would be good to go back to Just-in-time funding however, it was directed from DFA that this is how it would be done. Ms. Romero stated that the process was changed before her time and expressed concern about tying up money even though the projects are not ready to proceed. Ms. Romero felt a balance needs to be found between approving funding for a project "phase" while knowing that at some future time a full project will need to be funded and the just-in-time funding that Council was used to in the past.. Ms. Romero expressed concern about certifying for bonds when it is unknown if the funding is really needed and reminded members that interest is being paid for those bonds. Mr. Guillen requested that staff look at the history of when the process changed because it was working and it took quite a bit of effort to get to this point.

Noting that agency budgets were due September 1st, Ms. Gudgel asked Mr. Chamblin if the Council had approved PSFA's operating budget request; Mr. Chamblin replied that the FY22 budget was reviewed and approved earlier this year for \$5.9M. Noting that the specific line-to-line category split has not yet been brought to Council but will be at a future meeting. Ms. Gudgel reiterated that the financial plan is a planning tool and Council must approve the operating budget request and though a dollar amount was reflected in the financial plan, it did not necessarily mean Council acquiesced to what was proposed. Mr. Chamblin stated that the budget request would be brought to the October meeting.

b. Recertification's of SSTBs

Mr. Evans noted this recertification request was to move some of the money from the June sale to the \$18.86M that was allocated for HB2 for the Impact Aid appropriation. Mr.

Abbey noted there was \$34.0M listed for standards-based awards yet the financial plan reflects only \$2.0M

MOTION: Ms. Gudgel moved to adopt the Resolution, Notification, Certification/Decertification and Resolution of unexpended bond proceeds as follows:

- STB20SB-E0003 in the amount of \$18,867,000 to PSCOC awarded projects totaling \$18,867,000.

Mr. Burciaga seconded and the motion was unanimously approved.

Additional Discussion: Mr. Chamblin added that most of the MOU's for the projects tied to this appropriation have been started and are in the districts courts. The projects are expected to begin moving forward rather quickly; only two districts have yet to return their acceptance letters.

4. Consent Agenda

- a. 2020-2021 Facilities Master Plan (FMP) Application Announcement Letter
- b. 2019 Broadband Deficiencies Correction Program Category 2 (Equipment) Awards
- c. 2020 Broadband Deficiencies Correction Program Category 2 (Equipment) Awards
- d. 2021 Broadband Deficiencies Correction Program E-rate Program Support for Charters and Small Districts
- e. 2020-2021 Pre-K Awards – Los Lunas Peralta ES Award Language Modification
- f. 2020-2021 Pre-K Awards – Los Lunas Raymond Gabaldon ES Award Language Modification

MOTION: As there was no objection to the consent agenda, the motion to approve was unanimous.

5. Other Business

a. Selection of SB-9 Program Units

Ms. Gudgel explained that there is a statute on the books that calls for using program units on the 80th reporting day and the 120th reporting day of the prior year; however, there are no program units calculated on those dates, there are membership counts taken. Over the last year, Ms. Gudgel and Mr. Ortiz have collaborated to determine a methodology that works and concluded that no methodology they can use will comply with the statute. The recommendation is to adapt last year's final funded units as the program units that SB-9 will be allocated on and continue to use prior year total funded units that will provide consistency and ensure that the SB-9 program funding gets allocated to districts promptly. The recommendation also includes working with the Oversight Task Force and/or LESC to endorse the bill to fix that statutory language problem during the upcoming legislative session. Using this methodology will not significantly change how funding will be allocated to districts and charters for the SB-9 state program guarantee. Mr. Ortiz agreed with Ms. Gudgel summation.

MOTION: Council approval of the Awards Subcommittee recommendation to use the prior year land valuations and the prior year total funded program units to calculate the state match of the SB-9 program guarantee for FY21. As this was a Subcommittee recommendation, a second was not needed and the motion was unanimously approved.

b. Districts Acceptance/Rejection of Legislative Appropriation

Ms. Gudgel noted that the potential motion as presented did not capture the full subcommittee motion and clarified that the motion was to accept Gadsden's rejection of their direct legislative appropriation that was made in 2019, excluding that amount from their calculated offset balance; in particular, because they had notified the public education department prior to June 1st of the fiscal year. What didn't happen in this instance is that Gadsden failed to notify DFA what the Awards Subcommittee felt like they had in good faith notified PED that they did not intend to accept the appropriation because they were concerned of it creating an offset. In this particular instance, Council felt like they had met the intent of the law while they had not actually notified DFA. Mr. Guillen clarified this only affected one project; Ms. Gudgel responded that the intent of the Subcommittee was only to address Gadsden's request not to be brought as the motion is currently stated in the eBook.

Ms. Romero stated that DFA had a conversation with Gadsden and felt like the district did make their best effort to notify PED but did not notify DFA. The district was reminded that they also need to notify DFA however; DFA feels they did what needed to be done and have no concerns at this time. Ms. Gudgel requested that Mr. Chamblin correct the motion, specific to Gadsden's rejection, and update the eBook on the PSFA website Mr. Chamblin agreed to do so. Ms. Gudgel added that the motion should be specific regarding dates and the actual appropriation that is being rejected as well as including the fact that Gadsden notified PED before June 1st. Per Mr. Ortiz, the verbiage regarding any fiscal year needs to be removed. Mr. Guillen agreed and stated a revised motion and second would be needed since it was no longer the Subcommittee motion.

MOTION: Council approval to accept a district's rejection of a direct legislative appropriation made in any fiscal year, excluding the amount from the district's calculated offset balance, if the district notifies the public education department prior to June 1 of that fiscal year.

REVISED MOTION: Ms. Gudgel moved for Council approval to accept Gadsden's rejection of the 2019 direct legislative appropriation in the amount of \$200,000, excluding that amount from the districts calculated offset balance because Gadsden notified PED prior to June 1, 2019. Mr. Robbins seconded and the motion was unanimously approved.

Additional Discussion: Ms. Romero acknowledged that Gadsden would not be the only school district that does this and suggested sending some guidance to all school districts notifying them at the time appropriations come out that they should notify both PED and

DFA of the option to decline a legislative appropriation. Mr. Ortiz reiterated that the projects were administered by PED and notification is done every year.

6. Informational:

a. Quarterly Maintenance Status Report

Mr. Tillotson reviewed the executive summary, highlighting the Maintenance Program Status Report as well as the current Facility Maintenance Assessment Report (FMAR) status. Currently, New Mexico has 51% of districts with current and approved preventive maintenance plans; 48% do not. Methods have been implemented for districts to improve their ratings. There is positive news regarding the Facility Information Management System (FIMS), which shows an all-time high of 81.32% usage of maintenance direct and a high of 83.52% on the preventive maintenance direct module. This information infers that New Mexico school districts are focusing more on preventive maintenance. There is opportunity for improvement in the utility direct module as currently only 54% of the state uses this module effectively. Moving forward, it is also an opportunity to help districts collect data to advance their energy programs which lies in their Facility Master Plans (FMP's). The FMAR indicates a statewide average of 71%; districts continue to perform at a higher level than in previous cycles. Staff has completed 535 of 784 schools for a 64.2% statewide completion rate. The highest rating is 98% and the lowest is -3.02%; staff is working with this district to help them improve performance on PM planning and improving facility conditions. The Meaningful Maintenance Metrics (M3) continues to reflect a 12.1% use of the product. Moving forward, different methods will be implemented to help districts improve the use of this product.

Mr. Tillotson drew member attention to the Maintenance Status Report and FMAR pie chart, both of which were included in the meeting material and noted they were included for Council to review. Mr. Abbey sought clarification if preventive maintenance criteria was discussed this year before districts received awards; Mr. Chamblin replied in the affirmative and noted the thresh-holds for each program requires a PM Plan, FMAR score, and use of FIMS. Referring to the Maintenance Program Status Report, Mr. Abbey asked how Hobbs qualified if they did not have an updated PM plan; Mr. Tillotson stated Hobbs had recently submitted their maintenance plan and their PM plan score garnered an outstanding rating. Mr. Tillotson acknowledged the table presented reflected a potential error regarding Hobbs and stated the information would be reviewed for clarification. Mr. Abbey also questioned the poor scores for Zuni and Gallup; Mr. Tillotson replied that staff is working closely with Gallup to improve their performance and over the last six months the district has made significant progress. Additionally, the Zuni district has submitted a current preventive maintenance plan with a good FMAR rating. Additional assistance is needed in order for the district to improve facility conditions using the 60-day response process. Mr. Abbey requested that the spreadsheet be updated and reflect current information; Mr. Tillotson apologized and agreed to update the information. Ms. Gudgel requested that Mr. Tillotson to send her the average FMAR score for F1-F6 for each year; Mr. Tillotson agreed to do so.

b. Broadband Status Report

Mr. Chamblin reviewed the executive summary, specifically, the potential program changes, short-term and long-term, to expand state funding participation on Broadband projects.

Mr. Viorica noted that the Council funded matching dollars for approximately 190 projects between 2016 and 2019. This year 29 projects have already been approved. Half of the projects are closed out and financially complete. Approximately 86 projects are under construction. The volume of work spans multiple years and the BDCP team works on 2-3 years' worth of projects at a time. Mr. Guillen asked if the recommended projects would help districts with remote learning; Mr. Viorica replied in the affirmative and noted that these projects were the reason why most of the schools had better and in most instances, adequate connectivity at the school location. There is always more work to be done, but the objective is to do it in a reasonable step-by-step process for better education technology.

Ms. Gudgel recalled that the Awards Subcommittee had requested Mr. Chamblin bring recommendations on the BDCP expansion to the Council and the Task Force and reiterated the recommendations were not listed and should be discussed. Mr. Chamblin referred members to the information in the eBook that discussed the short-term and long-term expansion based on the education technology infrastructure language. Possible strategies to expand PSCOC funding include short-term strategies where the fund could be used to purchase a variety of things, i.e.: teacher and student based connectivity equipment that is needed for remote learning. Another idea is Wi-Fi equipment. Lastly is the procurement for equipment that is necessary to connect a district with Wi-Fi coverage. Some long-term concepts include expanding the language for the education technology initiative as well as the information technology infrastructure. In all likelihood, these things would not qualify for E-rate in the future and would be a state funding model through the fund with some change in the language to make it more expansive. Mr. Guillen asked when this would be presented to the Task Force; Mr. Burciaga replied that a date has not yet been set. Mr. Abbey asked Mr. Chamblin if this list would go to the Council in October or if it would go to the Task Force; Mr. Chamblin replied it would go to the Council with more detail for discussion. Additionally, Mr. Chamblin said staff would bring numbers for Wi-Fi equipment to broadcast signals for districts and estimated it would be more than \$10K to purchase hardware that will broadcast an effective signal in the district. Mr. Abbey sought clarification on the definition of E-rate and why these things would not be eligible; Mr. Viorica replied that the E-rate program was intended for hardware at the school site and stressed that current discussion includes the potential to modify the language to fit the current pandemic. Additional discussion took place regarding the need for emergency funds to go to this issue as well as the concern of not having a clear goal as a state and not having collaborations around the state to align with the ultimate goal. Mr. Robbins suggested that staff work with the Public Regulation Commission and telecom providers and stated though PSCOC has the funding it is important to have a goal and understanding of the target to prevent misusing the funds. Mr. Viorica stated the Public Regulation

Commission did not have jurisdiction over the broadband program. Per Mr. Viorica, another potential problem is that all the research and studies can be done before proceeding with the expansion of the program but may not guarantee success. Acknowledging that there is no “one solution” and that every district may need something different Mr. Viorica stated that the Council were to approve the proposal the Broadband staff would engage in meeting needs and developing specific solutions for each district. Mr. Guillen suggested developing a priority list by neediest districts for the next discussion; Ms. Gudgel agrees and Mr. Abbey commented it was important to prioritize the right districts. Mr. Abbey clarified that the request was for PSFA staff to bring a proposal for the Broadband program expansion for the next meeting.

c. Project Status Report

Mr. Chamblin acknowledged that within the last two to three years there have been significantly larger awards made in dollars and in total. As a result, there are projects that are moving out of the design phase and into construction and even with the COVID shutdown, and some projects slowing down, the previously awarded projects are beginning to move forward into larger phases of funding. Mr. Avila highlighted the Alamogordo Holloman ES project and conveyed how the district and PSFA’s Field Group utilized the financial plan to anticipate when the district would return to Council for construction funding. It takes a collaborative effort between both parties to anticipate the timeline this is a good example of a project following what it anticipated in timing.

Prior to adjourning the meeting, Mr. Guillen thanked Mr. Romero for his work with the Council over the years and acknowledged looking forward to working with Mr. Clay Bailey in the same capacity. Mr. Romero thanked Council and stated he would be around and Director Bailey would attending while he was away.

Mr. Victor Reyes was also welcomed from the Governor’s office.

7. Next PSCOC Meeting - Proposed for October 13, 2020.

8. Adjourn – There being no further to come before the Council, Mr. Guillen moved to adjourn the meeting. Mr. Robbins seconded and the motion was unanimously approved. The meeting adjourned at 2:56 pm.



Chair

10/14/2020

Date