

MINUTES
of the
TWENTY-SEVENTH MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

July 7, 2010
Room 322, State Capitol
Santa Fe

The twenty-seventh meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Senator Timothy Z. Jennings, temporary chair, at approximately 9:30 a.m. on Wednesday, July 7, 2010, in Room 322 of the State Capitol, Santa Fe.

Present

Sen. Vernon D. Asbill
Rep. Keith J. Gardner
Dr. Lisa Grover
Leonard Haskie
Robbie Heyman
Scott Hughes for Sec. Katherine B. Miller
Sen. Timothy Z. Jennings
Sen. Lynda M. Lovejoy
Rep. Ben Lujan
Rep. James Roger Madalena
Kilino Marquez
Dr. John Mondragon
Antonio Ortiz for Sec.-Designate
 Susanna Murphy
Mike Phipps
Sen. Sander Rue
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith
Ernesto Valdez

Absent

Rep. Rick Miera, Co-Chair
Sen. Cynthia Nava, Co-Chair
Cecilia J. Grimes
Rep. Larry A. Larrañaga
Elizabeth Marrufo
Rep. W. Ken Martinez

Staff

Sharon Ball, Senior Researcher, Legislative Council Service (LCS)
Tim Berry, Deputy Director, Public School Facilities Authority (PSFA)
Raúl E. Burciaga, Director, LCS
Martica Casias, Planning and Design Manager, PSFA
Robert Gorrell, Director, PSFA
Pat McMurray, Senior Facilities Manager, PSFA
Leslie Porter, Research Assistant, LCS
Mark Williams, Communications and Strategic Planning Manager, PSFA

Guests

A copy of the guest list is in the meeting file.

Handouts

Copies of handouts and written testimony are in the meeting file.

Wednesday, July 7

In the absence of Co-Chairs Miera and Nava, task force members, by consensus, designated Senator Jennings to be the temporary chair.

Unintended Consequences: School District Capital Outlay Solvency Reversions

Antonio Ortiz, director, Capital Outlay Bureau, Public Education Department (PED), whose bureau oversees and accounts for the state and local matches, as well as the offsets, in the computations required for districts applying for Public School Capital Outlay Council (PSCOC) grants, explained that he had requested time on the agenda to bring to the task force members' attention a situation created by the passage of solvency legislation that voided a number of public school capital outlay direct appropriations. By way of background, he explained that the special master's report in the *Zuni* lawsuit, which State District Judge Joseph Rich adopted back in 2000, asserted that direct legislative appropriations to school districts were among the most disqualifying aspects of the previous capital outlay funding formula, against which Judge Rich had ruled. In developing the new, standards-based public school capital outlay funding formula, the current task force's predecessor (the Public School Capital Outlay Task Force) had adopted a sliding scale accounting for local property tax effort and wealth, as well as a system of offsets to account for direct legislative appropriations.

With passage of the solvency legislation in the Forty-Ninth Legislature, First Special Session (SB 29, Laws 2009, 1st S.S., Chapter 7) and the Forty-Ninth Legislature, Second Session (SB 182, Laws 2010, Chapter 105), more than 30 individual school districts had offsets against a current or future PSCOC grant as a result of voided direct legislative appropriations.

Mr. Ortiz directed members' attention to a section of the Public School Capital Outlay Act, Section 22-24-5 NMSA 1978, Subsection B (6)(a), which states, in pertinent part, that a school district's offset total must exclude any appropriation previously made to a school district that has been reauthorized for expenditure by another recipient. In response to task force members' comments and questions on the use of the term "reauthorized" rather than "deauthorized", Mr. Ortiz stated that, in his opinion, statute does not give the PED the specific authority to credit districts with offsets that have already been taken for currently deauthorized appropriations.

In response to additional task force questions and discussion, Mr. Burciaga noted that staff would take a closer look at statutory definitions for "reauthorize" and those definitions' possible relationship to a definition for "deauthorize". In response to additional discussion, Mr. Ortiz noted that in those cases in which a district reverts part of a direct legislative appropriation, the district is not currently credited with the portion of the offset that is based on the unexpended

amount.

In response to task force comments and questions about what appear to be negative amounts in the offsets column on Mr. Ortiz's handout and attributed to such districts as Eunice, Gadsden and Grants, Mr. Ortiz explained that the negative offsets are a result of the fact that those districts never used their respective direct legislative appropriations. He noted that if or when those districts receive a new appropriation that they decide to use, the offset would be reduced by that negative amount.

Senator Jennings requested that staff research the vetoes of direct appropriations to evaluate the numbers of vetoes for each chamber. In response to a task force question, Mr. Ortiz noted that appropriations that are vetoed do not incur the offset.

Albuquerque Public Schools Facilities Master Plan

Brad Winter, chief operations officer, Albuquerque Public Schools (APS), thanked the task force for the opportunity to present information on the APS capital master plan (CMP) and its process and implementation. He said that the APS CMP is nationally recognized as a model for state school master planning and that both the master plan process and implementation are based on objective standards, not political pressures.

Kizito Wijenje, director, CMP, APS, said that, as the twenty-eighth largest school district in the country, APS serves more than 95,000 students and employs more than 12,000 total staff members. He said that the APS district includes all or portions of 13 jurisdictions, nine of which pay taxes. He explained that the APS CMP process commits the district's local capital resources in increments of five to nine years and follows state planning guidelines driven by the instructional needs of the students. He explained that all district facilities are evaluated based on a comprehensive, independent physical assessment of all district facilities with respect to APS and state facility standards.

Mr. Wijenje explained that district needs are reviewed and prioritized by the district's CMP review committee, which is composed of citizens, principals, teachers and administrative staff. Review committee recommendations are submitted to the superintendent for approval and then to the district's school board, which must approve the package in its entirety or not at all. Mr. Wijenje noted that since 1990, APS voters have approved \$2.93 billion for capital improvements throughout the district using multiple local revenue sources, including general obligation bonds and the Public School Capital Improvements Act (SB 9) and Public School Buildings Act (HB 33) mill levies. He noted that state funding represents about 10 percent of the district's total capital expenditures. He said that since 2004, the PSCOC has awarded APS \$152 million in matching grants and local match advances. He also said that since 1995, APS has received approximately \$128.6 million in special legislative appropriations.

Mr. Wijenje directed task force members' attention to the handout he provided and noted that in 2005, the district adopted an eight-year plan (2006-2013) that budgets nearly \$1.03 billion in voter-approved revenue to meet district capital outlay needs. He noted that in terms of capital

program growth, the number and value of APS capital outlay projects have increased by about 360 percent between 2005 and 2008: from 122 projects in 2005 to 571 projects in 2008, and from a value of \$155.7 million in 2005 to \$715.8 million in 2008.

Mr. Wijenje said that the APS share of Albuquerque-area commercial construction values has grown 68 percent over the three-year period from 2005 to 2008. He added that the capital funding process includes a web-based application that allows the public to access a school project and view the details of the project.

Mr. Wijenje noted that between 2011 and 2016, APS has budgeted for, and has plans for, the following projects:

- \$38.3 million — westside stadium complex;
- \$39.0 million — south K-8 school;
- \$132.0 million — technology (\$30.0 million needed in the first year);
- \$26.4 million — Del Norte High School;
- \$26.1 million — Rio Grande High School;
- \$24.3 million — Atrisco Heritage Academy;
- \$23.0 million — Sandia High School;
- \$20.0 million — district training center;
- \$17.6 million — West Mesa High School;
- \$14.8 million — Chaparral Elementary School;
- \$15.0 million — new technology high school, southwest; and
- \$12.3 million — food services.

In response to comments and questions from the task force, Mr. Wijenje explained that the district has what is called the APS "Enterprise Fund", which was established in the 1930s by then-superintendent John Milne. This fund includes all funds derived from the purchase and sale of real property and remains dedicated to supporting the district's educational mission. He noted that, when necessary, this fund is supplemented by general obligation bonds and mill levy proceeds. He said that voters approved \$35 million for estate acquisition over the next six years as part of the current capital strategy.

In response to questions and comments regarding the possible purchase by APS of the First Baptist Church property in downtown Albuquerque, Mr. Winter said that purchase of the property is a possibility for use as a fine arts magnet school, possibly in conjunction with the Public Academy for Performing Arts charter school. He said that the possible purchase is still under consideration, including an analysis of the market value of the property and possible sale price to the district. He added that the majority of the building could be used immediately. In response to a question on the possible source of funding for the acquisition, Mr. Wijenje explained that this purchase would be a part of the \$35 million approved by taxpayers in the current capital strategy.

In response to a question on the clarification of the location of the district training center, Mr. Wijenje said it is located at a former elementary school at Louisiana Boulevard and

Comanche Road, and the funds will be used to retrofit the existing building.

Directing task force members' attention to the second APS handout, Mr. Winter summarized the district's capital program between 2006 and 2010. He said that during that time, APS has undertaken a massive classroom and educational space rebuild and remodel involving more than 300 classrooms. He noted that a substantial number of those classrooms include kindergarten, fine arts and music classrooms. He said that all new construction is using sustainable materials and energy-efficient principles. He noted that to date, two completed projects — Desert Willow Family School and the Barcelona Elementary School classroom block — have been awarded Leadership in Energy and Design (LEED) certification from the U.S. Green Building Council.

In response to task force members' discussion and comments, Mr. Winter said that APS is in the process of phasing out portable buildings for permanent, sustainable and energy-efficient facilities. In response to a task force question, Mr. Winter stated that the district defines "sustainability" as the practice of meeting the quality-of-life needs of the present without compromising the ability of future generations to meet their own needs.

Mr. Winter reported that APS currently has 1,487 portable classroom buildings covering 1.8 million square feet, which amounts to 15 percent of the district's total square footage. He said that over the past four years, APS has moved an average of 160 portable buildings per year for an average cost of \$6.4 million per year — 37 percent of the cost to build a new elementary school. He added that portable buildings have historically been used to address growth, programmatic needs and lack of capital funds to construct permanent facilities. In response to task force questions and comments, Mr. Winter explained that the district has a number of issues with using portable classrooms, including problems with fire-suppression requirements, Americans with Disabilities Act (ADA) requirements, wireless communication and installation and recurring costs for these "temporary" facilities.

Continuing his response, Mr. Winter said that APS spends \$14.9 million each year for gas and electric utility costs, which breaks down to \$41,000 per day. He said that sustainable buildings contribute to better student test scores due to a healthier learning environment, reduce operating costs, enhance teacher performance and satisfaction, increase building life and reduce liability.

2010 Charter School and School District Lease Assistance

Mr. Berry discussed the PSCOC 2010-2011 preliminary lease assistance applications. He mentioned that 86 charter schools and districts applied for funding, including 80 charter schools and six school districts. He reminded task force members about the history of the lease payment assistance program and noted that the 2004-2005 school year was the first year the program was offered at a rate of \$300 per MEM. He noted that subsequently, the rate was increased to \$700 per MEM with automatic cost-of-living increases. He said that the last major legislative change was removal of the \$7.5 million cap on the amount to be spent for leases, allowing for a possible unlimited amount of funding to go for leasing classroom space.

Directing task force members' attention to the handouts provided, Mr. Berry explained that the PSFA had received a total request of \$9.8 million, with approximately \$9.7 million for the 80 charter schools that applied. Of that number, he explained, 32 are state charters, 11 charter schools are in their first year of operations and 22 are in public buildings. In response to a task force question, Mr. Berry explained that one charter school is in a school district building with no lease costs to the charter school (Lindrith), three charter schools are leasing from counties, 11 are leasing from districts, two are leasing from the federal government, one is leasing from a municipality, one is leasing from a tribal entity, three are leasing from higher education institutions and nine are leasing from nonprofit organizations.

Of the applying charter schools, Mr. Berry said that two are in lease-purchase agreements, 49 are limited by their numbers of students and 31 are limited by the actual lease cost.

Representative Gardner and Senator Asbill inquired about the allocation of capital outlay awards that involve local charter schools. Mr. Berry and Mr. Gorrell replied that all schools are ranked despite their charter status. A locally chartered charter school's application for the award goes through the district, and if the district refuses to submit the charter school application, then the charter school may apply directly. In addition, if the superintendent of a given district does not abide by the guidelines of the ranking system, the PSCOC could override the superintendent's decision. Representative Gardner and Mr. Berry discussed offsets and charter schools.

Some task force members expressed concern about the amount of money being spent on renting classrooms from the private sector and suggested that the use of idle portables around the state for charter schools would alleviate charter schools from being in private landlord leases and would allow taxpayer money to remain in the public sector.

Some task force members also expressed concern about using severance tax bond proceeds to pay for leases; specifically, that lease payments are not long-term capital investments. Mr. Berry explained that funds used for lease payments come from short-term bonds that have been determined by the Attorney General's Office to be the same as cash. Mr. Heyman added that only limited amounts of the severance tax bond proceeds can be used as cash and that most proceeds are used for long-term capital investments.

Finally, task force members expressed concern about a lack of oversight on the quality and quantity of space being leased. Mr. Berry reminded task force members that they had endorsed a bill the 2010 session that would have required PSFA approval of facilities being leased. He noted that the bill was introduced, but it did not receive a message from the governor allowing it to be considered in the 30-day fiscal session. Mr. Berry added that a geographic information system (GIS), which the task force would hear about in the afternoon, will assist in locating appropriate public facilities for charter school use.

Prior to the lunch recess, Senator Jennings noted that the August 25, 2010 meeting date

conflicts with a Legislative Education Study Committee (LESC) meeting on the same day. He moved to cancel the meeting and make Thursday, October 7, 2010, the next meeting date. The motion passed.

The task force recessed for lunch at 11:50 a.m. and reconvened at 1:25 p.m., at which time Speaker Lujan became temporary chair of the task force.

GIS (SB 217 (2009)): Implementation and Demonstration

Bill Sprick, facilities master planner, PSFA, reminded task force member that they had endorsed legislation, enacted in 2009, that appropriated \$575,000 from the Public School Capital Outlay Fund for expenditure in fiscal years 2010 through 2012 to contract with the Bureau of Business and Economic Research at the University of New Mexico (UNM) to develop, in conjunction with several different entities, including the PSCOC, the Legislative Finance Committee, the LESC, the PED, the Department of Finance and Administration and the Department of Information Technology, a portable and secure GIS to be used by the executive and legislative agencies. He introduced Shawn Penman, Ph.D., GIS specialist, Earth Data Analysis Center (EDAC), UNM, and indicated that the PSFA has been able to work with Dr. Penman and the EDAC on this project.

In response to task force comments and questions, Dr. Penman explained that a GIS is an organized collection of computer hardware, software, geographic data and personnel designed to capture, store, update, manipulate, analyze and display all forms of geographically referenced information. She added that a GIS can link a geographical location on a virtual map to buildings, vehicles, students, property tax areas and bonding capabilities and allow that information to be analyzed to provide comparative information for decision-makers.

Moving to a demonstration of the currently developed GIS capabilities, Mr. Sprick said that New Mexico is the first state to develop a statewide database for school districts and for state-level applications. He explained that the program desktop can be used for in-house PSFA analysis to share with districts for development of their respective facilities master plans and other activities requiring knowledge of locations and categories of the population.

He added that the web site will have two mapping sites: one is a PSCOC project that includes information on current and incomplete projects; a second is a statewide overview with statewide data sets. He talked about the collaboration with various state agencies and the challenges.

Dr. Penman provided a demonstration of the GIS, illustrating various abilities and information sets on both web sites. The first screen in the demonstration illustrated the actual New Mexico public school size compared to the planning guideline table in the adequacy standards. Dr. Penman pointed out, for example, that 83 schools in the state are 80 percent or more than indicated the planning guideline table. Mr. Sprick and Dr. Penman then provided a demonstration of GIS analysis and exploration for the Las Cruces and Clovis school districts, demonstrating the level of detail available. For example, they showed a detailed mapping of a

Las Cruces elementary school's 2009-2010 40-day count for school capacity. Directing task force members' attention to the screen, Dr. Penman pointed out Desert Hills Elementary School in the west part of the district. The data show that Desert Hills had a 40-day count of 709 and a school capacity of 477, with 551 in-boundary students and 158 out-boundary students with a negative capacity of 232. She also provided an illustration on the GIS of the location of all elementary schools in the Clovis district.

Mr. Sprick pointed out that data are inputted using the PED STARS ID number, allowing the PED to connect its information with other GIS data. He emphasized that these connections, linked with geocoding, is the way in which the New Mexico GIS is unique. He emphasized the importance of collaboration with other state agencies to maximize the GIS capabilities. He noted that nothing in statute or rule requires state agencies to share data with other state agencies — and sometimes even within state agencies — which creates a "silo effect" that separates related issues from one another. He said that the GIS' purpose is to do quick analyses for decisions about allocation of statewide dollars and to save agencies and school districts money.

Task force members expressed interest in the possibilities of further development of the GIS. Mr. Gorrell pointed out that within the next year, the PSFA will be looking for a permanent home for the system.

Task force members expressed concern about the challenges of partnering with the PED and other state agencies. Dr. Penman said that the most populated counties were prioritized initially so that the PSFA could obtain the largest amount of information possible. They are now beginning to work with smaller counties in the state.

Public School Facilities Maintenance — 2010 Update: Facilities Information Management System (FIMS) Implementation, Equipment Inventory and Preventive Maintenance Plans

Les Martinez, maintenance specialist, PSFA, provided the task force with some background on the FIMS. He explained that in recognizing the importance of preventive maintenance, the PSCOOTF in 2005 required all districts participating in the PSCOC standards-based process to have preventive maintenance in place, and it began providing FIMS software and instruction to all districts that were willing to commit to the program. He explained that the purpose of establishing preventive maintenance plans is for the district to establish written policies and procedures for maintenance and custodial operations. Preventive maintenance plans document responsibilities and accountability of all maintenance staff. A typical proactive preventive maintenance scheduled work order costs approximately \$150 compared to a reactive work order of approximately \$280.

Martin Montaña, facilities maintenance and operations support manager, PSFA, said that 60 of the state's 89 districts have current preventive maintenance plans in place or are in the process of updating their plans. He said that districts are in the business of education, rather than understanding what maintenance data mean. Directing task force members' attention to the handouts he provided, he pointed out that this matrix helps the districts understand what progress they need to be making. He added that if progress is tracked, it is able to be managed

appropriately.

Mr. Montaña reported on additional challenges to the system. First, the services provided are not regularly maintained. Second, the skill level among staff is often not adequate for improvement without face-to-face interaction. He then explained the assessment tools used to examine existing schools. He said that the physical and management sides of a facility are examined and the districts are scored. He added that schools are evaluated on a calendar-year basis.

Task force members familiar with the program discussed their positive experiences. Mr. Martinez noted that the opportunity to save funds through building management is particularly important during these difficult financial times.

Responding to questions and comments about the statutory requirements for rewards for exemplary maintenance, Mr. Gorrell directed task force members' attention to the handout labeled "Facility Maintenance Assessment Report — 2010". He noted that this tool will be helpful as a measure of exemplary maintenance, and the current study of implementation of the report's assessment measures will help by documenting standards.

Representative Saavedra assumed the chair. There being no further business, the task force adjourned at 3:00 p.m.