

SCHOOL FACILITIES BOARD
August 14, 2008
Phoenix, Arizona

The School Facilities Board held a Board meeting at the Arizona House of Representatives in Phoenix, Arizona. The meeting began at approximately 10:00 A.M.

<u>Members Present</u>	<u>Guests Present</u>
Davidson, Frank, Chair	Jeff Keck, Adolfsen & Peterson Const.
Keenan, Brooks, Vice-Chair	Lee Davis, Peacock, Hislop, Staley & Given
Gober, Patricia	Cathy Rex, School Facilities Group
Ortega, David	Erika Miller, Peacock, Hislop, Staley & Given
Marks, Gary	Rick Freeman, Scottsdale USD
Rushin, Tom	Jim Taylor, Yavapai County ESA
	Rita Leyva, Yavapai County ESA
<u>Members Absent</u>	Fred Czarnowski, Yavapai County ESA
Allee Taylor, Penny	Lisa Reagan, Planning & More
Salazar, Vicki (non-voting member)	Jill Bauer, Planning & More
	Ray Del Zotto, Pinnacle One
<u>Vacant Board Positions</u>	Allison Soriano, WE O'Neil
Private Business Owner Representative	Judy Richardson, Stone & Youngberg
Teacher Representative	Charlie White, State Land Department
<u>Staff Present</u>	
John Arnold, Executive Director	
Kerry Campbell, Public Information Officer	
Dean Gray, Deputy Director	
Amber Peterson – Finance Specialist	
Debra Sterling, Attorney General's Office	
Gerry Breuer, Liaison	
Jim Chang, Demographer	

- I. Call to Order
Dr. Frank Davidson called the meeting to order at approximately 10:00 A.M.

- II. Roll Call
There were six Board Members present at this meeting. Frank Davidson welcomed everyone to the first SFB Board Meeting of the new fiscal year.

- III. Approval of Minutes of June 5, 2008
Dr. Patricia Gober moved that the Board approve the minutes of June 5, 2008. Gary Marks seconded. The motion passed with a 6-0 voice vote.

- IV. Consent Agenda
 - a. Consideration of Preventative Maintenance Plans
 - b. Consideration of FY 2008 3-Year Building Renewal Plans
 - c. Consideration of FY 2008 3-Year Building Renewal Plans-Administrative Correction

Dr. Patricia Gober moved that the Board ratify the plans listed in agenda items IVa., IVb. and IVc. David Ortega seconded. The motion passed with a 6-0 voice vote.

V. Director's Report

a. Recognition of Charles White, Arizona Department of Land

John Arnold presented Charlie White with a plaque in recognition and in appreciation of his service to the State and school districts to acquire land leases for new school sites. Since 2002, Charlie has been instrumental in organizing the leasing of over 870 acres of State trust land.

Charlie White thanked the Board for their appreciation and recognized Tom Halverstadt for his work with the SFB, the school districts and the Department of Land, mentioning that his name should be on the plaque as well.

Frank Davidson expressed the appreciation of the Casa Grande school districts for the assistance Charlie provided in the leasing of sites for their new elementary and high school sites.

b. Budget and Legislative Update

John Arnold provided a brief explanation of the FY09 budget and the resulting changes to the SFB programs.

New Construction Program

The budget provides sufficient funding to complete projects that are currently under construction and specifically states that we are to stop providing funding for the design of any new projects, i.e. a new construction moratorium. This means that for FY09, we are not to engage in any land acquisition activities, design or start of construction for new schools. There exists some confusion over this issue, as the media reported that the Legislature appropriated \$581 million for new school construction, which led people to believe funding would be available. In fact, the budget provides the SFB with \$581 in Lease-to-Own authority, which includes \$344 million to reimburse the FY08 new construction expenditures, \$229 million to fund ongoing projects and \$8 million to fund design of Full-Day Kindergarten new construction projects.

Lease-to-Own

The Legislature did not appropriate any funding for FY09 for new school construction; however, they did provide the SFB with the authority to issue Certificates of Participation for debt financing. This process will involve the district leasing the property to the trustee bank, the SFB raising construction funds through the trustee bank, the trustee bank leasing the future facilities and the properties to the SFB in a master lease, the SFB subleasing the individual facilities and properties to the district, and the SFB paying the annual lease payments. At the end of the term (expected to be 15 years), the ground lease to the trustee bank terminates, the subleases terminate, and title to the facility passes to the district. This is a funding mechanism only; it is not an operating or construction mechanism. The trustee bank does not have any interest in the facilities. Through the sublease, the district will retain full ownership rights of the facilities, as long as the State makes the annual lease payments.

Upon review of the projects that were funded in the last two years, staff estimates 24 will provide sufficient collateral for the debt financing to raise \$344 million.

The legislation does not go into effect until September 26, 2008, after which the Board will need to adopt a general resolution to proceed with the debt financing. This will be presented to the Board in October.

In anticipation of a cash flow need from July 1, 2008 until the effective date of the legislation and acquisition of debt financing, staff requested a \$117 million cash appropriation. The Legislature appropriated the cash; unfortunately, the language was put in a bill that does not become effective until September 26, 2008. This has put the SFB in an undesirable position with no funding for three months. We are spending \$30 - \$40 million dollars per month on projects currently under construction. When we became aware of this error, we contacted all the districts, design professionals and construction professionals affected to explain the situation and discuss the impact on the construction community. All three parties have agreed to work with the SFB to keep their projects in construction. The SFB will have to pay some interest on late payments, but our deepest concern was delay in construction and the negative impact on the contractors and subcontractors. With the help of the districts and construction professionals, we believe this can and will be avoided.

Full-Day Kindergarten

The Legislature changed the law to now recognize a kindergarten student as a whole student, as opposed to one-half, and gave the SFB Lease-to-Own authority to finance the funding required to start design on any project created due to the shift from one-half to a whole student. SFB staff is developing the policy on awarding full-day kindergarten space and is expecting to perform a dual review of district capital plans, with kindergarten students counted as one-half and as a whole student, and compare the need for new space accordingly. We will then make full-day kindergarten awards and have the necessary funding for districts to begin design on these awards. We are still working on a few details, such as how to proceed with an award when the district qualified for the new space with kindergarten students counted as one-half and as whole students. Will we fund the start of design on the full project or just part of the project? We may have to evaluate this on a case-by-case basis to see what is both practical and legal.

Capital Plans

The Legislature approved proceeding with the FY09 capital plan cycle and awarding projects contingent on future appropriations. We believe this to be a critical process that enables us to demonstrate the needs of the districts. If new school construction funding is appropriated next year, we will have already awarded the schools, which will accelerate the construction of those schools by six to twelve months. There is no reason the districts should not be submitting their capital plans, not to mention they may qualify for a full-day kindergarten award. We implore districts to submit their plans despite the fact that there is no funding this year, because the information gathered

during the capital plan cycle will provide us with leverage during the next legislative session to have the moratorium lifted.

Reimbursement

We have received several questions regarding the reimbursement of district expenditures of local funds on design and construction of SFB awarded schools and the acquisition of school sites. We are exploring the answers to these questions and will bring information to the Board in September.

Building Renewal

The Legislature did not provide any funding for FY09 for the Building Renewal formula. However, they did provide \$20 million for a Building Renewal Special Projects fund. This fund becomes effective September 26, 2008, and allows the SFB to award monies to correct deficiencies. The district must show an existing deficiency through an application process; sufficient funds will be awarded to correct the deficiency. We interpret this to be a broader "emergency" fund. There is also a provision that says priority must be given to districts that have local funds to contribute to the project. We are working out the details of these issues and will bring a draft outline for Board review in September and adoption in October when the program becomes effective.

SFB Extension

The SFB has been extended for ten years through July 1, 2018.

Dr. Patricia Gober asked if the SFB would be processing any land donations, considering the moratorium on new construction and the lack of funding for land acquisition.

Mr. Arnold answered that this issue falls under the question of reimbursing the districts and that at this time the SFB cannot guarantee the 20 percent donation factor, nor the costs to appraise or survey sites for environmental conditions. However, if a district wanted to accept a donation, they may. In order for that donation to become a site eligible for an SFB-funded school, there are certain testing requirements. If the district wanted to pay for this testing, they may do so. However, we will have to consider whether these sites would become eligible for the 20 percent donation factor, assuming the moratorium is lifted in future years or if these sites will be considered district-owned.

Brooks Keenan asked if the Building Renewal Special Projects Fund district applications would go through a competitive evaluation process much like they did when the Emergency Deficiency Corrections Fund was initiated.

Mr. Arnold responded that there are different ways to administer the Building Renewal Special Projects Fund. One would be a competitive grant-type process, but this assumes there are more deficiencies than available resources and we should not make this assumption from the start. However, based on the history of building renewal and emergency expenditures, we may choose to proceed through this fiscal year with the assumption that \$20 million is going to be sufficient to address the needs that arise. If this assumption is incorrect, we will either need to adopt a prioritization scheme or

go to the Legislature to request additional funding. We believe a hybrid of these processes will make administration of the fund more efficient. We would grant funding on an as-needed basis and when we run low on funds, we proceed with prioritizing district requests. We are having discussions about how to apply this new law and will present a recommendation to the Board in September.

David Ortega asked if the percentage of local funds a district is able to contribute to a project would have an effect on the priority of the project and award of Building Renewal Special Project funds.

Mr. Arnold responded that there is still time before the fund becomes effective on September 26th to explore our options and resolve these types of questions. A recommendation on how the fund should be administered will be presented to the Board in September.

Gary Marks asked if consideration is going to be given to the local funds contributed to the cost of construction of a new school now being considered for the Lease-to-Own financing.

Mr. Arnold responded that there has been considerable discussion on this particular issue. The first time we undertook a Lease-to-Own program, this was one of the chief concerns raised by school districts. We addressed these concerns in two ways. First, we gave the districts assurance that the lease-to-own transaction was simply temporary passing of title to the bank for fifteen years. Most districts were receptive to these assurances; a few were not. For those districts, we offered to subdivide the property, resulting in segregation of the school site so the district could retain ownership of part, while title to the rest was transferred to the bank for debt financing. This option has its own challenges, one of which is that each part of a subdivided school site must have its own legal access. We are willing to work with the districts to resolve their concerns with the Lease-to-Own process.

Frank Davidson expressed his appreciation for the cooperation of the school districts and design and construction professionals to resolve the SFB's cash flow challenges and thanked Mr. Arnold for his leadership in getting us through these difficult times.

Mr. Arnold provided a review of the bills we were tracking through the Legislative session. Only one bill was passed, HB2234, the JTEDS bonding bill. This legislation creates a SFB database programming issue that staff will work to resolve. All other bills died or were voted down. SB1032, the SFB Omnibus bill, passed the Senate and the House, but in the flurry of the final days of the session, never got a final read in the Senate. There were no particular objections to the bill; it just didn't get prioritized on the final day. We will resurrect this bill and try again next session.

Tom Rushin commented on behalf of districts that are grateful the Legislature now recognizes kindergarten students as whole students.

Mr. Arnold thanked Mr. Rushin for his comment, adding that while the SFB took some short-term penalties this session, recognizing kindergarten

students as whole students, as opposed to one-half, is a long-term win that affects the facilities program from now on.

c. Litigation Update

Brooks Keenan moved that the Board go into Executive Session to discuss Sahuarita Unified's complaint with Assistant Attorney General, Debra Sterling. Gary Marks seconded. The motion passed with a 6-0 voice vote.

Executive Session was convened from 10:32 A.M. to 10:51 A.M.

VI. Consideration of FY 2008 Capital Plan New Construction Requests

John Arnold explained that the Yavapai County Accommodation District, which serves at-risk high school students, currently has a 3,125 sf facility for 25 high school students, but is currently serving 75 students. In FY07, the district was awarded a 10,050 sf new school to house up to 80 high school students. For FY08, they are requesting a modification to their FY07 award including an increase to 16,000 sf to accommodate an expansion to their program, which includes grades 7-8.

Brooks Keenan moved that the Board approve increasing the Yavapai County Accommodation new school construction award, project 130199000-9999-003N, by 4,600 sf for grades 7-8 and 1,340 sf for grades 9-12 contingent upon available funding.

Tom Rushin seconded. The motion passed with a 6-0 voice vote.

VII. Consideration of Requests for Land

John Arnold explained that the Nadaburg Unified District acquired a donation of land in 2007, which required additional environmental surveying. This added cost depleted the initial Step III budget of \$18,000. The district is requesting additional funding for reimbursement of the ALTA Survey in the amount of \$4,995.

Gary Marks moved that the Board approve Nadaburg Unified's request for \$4,995 to be added to the Step III budget for project 0703841000-9999-005L. Seconded by David Ortega, the motion passed with a 6-0 voice vote.

VIII. Consideration of Square Footage Requests

a. John Arnold informed the Board that Chandler Unified has notified staff of the disposition of two portable buildings at Galveston Elementary. The capacity of these buildings was 42 students. With the advent of Full-Day Kindergarten, this will impact the district's capacity within the next three years, thus requiring the Board's approval. Understanding that the Full-Day Kindergarten law has changed since the district disposed of the portables and considering that the portables probably needed to be retired anyway, staff is recommending Board approval of the district's request to reduce their square footage.

Brooks Keenan commented that he understands the change in the Full-Day Kindergarten law and expressed his concern that districts are bringing their requests for reduction of square footage to the Board after the buildings have already been demolished or sold. The Board's authority to approve the

disposition of school buildings and school sites, as well as grade reconfigurations that will impact the district's capacity within three years is of great importance to the mission of Students FIRST and should be recognized by the districts. As a member of the Board and from this point forward, he intends to vote against approval of any ex post facto requests for reduction in square footage. He believes a re-education of the districts on this requirement would help reduce the number of ex post facto requests.

Tom Rushin moved that the Board ratify the new ADM projections for Chandler Unified which indicate that the removal of Buildings 1008 and 1009 at Galveston Elementary is projected to cause the district to fall below minimum square footage guidelines within three years and that the Board approve the district's request to retire these buildings. David Ortega seconded.

Dr. Patricia Gober asked if some districts follow the required procedure or if all districts make their requests ex post facto.

Mr. Arnold answered that some districts do follow the law and explained the implications when districts retire space. For some districts retiring space will not cause them to fall below the minimum guideline within three years. In this case, the SFB does not have any jurisdiction over the reduction in square footage. However, these reductions are presented to the Board to ratify staff projections that the reduction will not cause the district to fall below the guideline within three years and confirm the SFB does not have jurisdiction. A number of these types of requests are made after the fact. For other districts, the reduction will cause the district to fall below the guideline within three years. In this case, it is entirely inappropriate for the district to retire the building before SFB approval, as pointed out by Mr. Keenan. If the Board does not approve requests such as Chandler Unified's, the SFB will continue to recognize the space, even though it doesn't exist. SFB staff will make a concerted effort to educate the districts of this requirement. Finally, districts may argue that a building has outlived its useful life. In this case, the Board has discretion to review the building and approve retiring the space. For the last two years, the SFB has run legislation to remove the "within three years" qualifier that exists in statute for this requirement. We believe all existing space is part of a statewide system and ultimately the Board should approve the retirement of any space. Unfortunately, the bill did not get a final read this last session, but we will try again in the coming session. Removal of the "within three years" qualifier will eliminate most of the confusion about the retirement of space. We post monthly informational articles on our website and believe one on this topic would be helpful for districts. We will also incorporate this topic in the round of speeches to be made in the coming months to educate district personnel on this important issue.

Dr. Gober asked who initially paid for the Chandler Unified portables that were disposed.

Mr. Arnold responded that the district paid for the portables, adding that since the district is retiring the portables, the SFB will have to pay to replace the space, which will be part of an award of new space this year.

David Ortega commented on the retirement of space in an area of declining growth within a district resulting in the award of new space in an area of increasing growth elsewhere within the district, stressing the importance of the Board's authority to approve the reduction of square footage and the retirement of space.

The Board voted and the motion passed with a 4-2 voice vote. Brooks Keenan and Dr. Patricia Gober voted against approval of the motion.

John Arnold explained that the Peach Springs Unified and Elfrida Elementary requests to dispose of school buildings would not cause the districts to fall below the minimum square footage guideline within three years. He added that the Scottsdale Unified agenda item is for informational purposes only. Scottsdale Unified demolished and replaced several buildings at two high schools. The replacement square footage is slightly less than the total that was demolished; however, some of the buildings received an interior corridor adjustment resulting in an increase in 9-12 capacity for the district.

Brooks Keenan moved that the Board ratify staff's projections for Peach Springs Unified. Gary Marks seconded. The motion passed with a 6-0 voice vote.

David Ortega moved that the Board ratify staff's projections for Elfrida Elementary. Tom Rushin seconded.

David Ortega commented regarding local control of school buildings and the district's decision to dispose of square footage.

John Arnold responded that staff would do a better job of communicating to the districts the SFB Board approval requirement when retiring buildings.

Frank Davidson added that with the high level of turnover of district administrative staff, the SFB is faced with the challenge of continually training the districts on issues such as this and offered his assistance as a Superintendent and member of an administrators association to get word out about what is required of districts.

Dr. Patricia Gober asked if district staffs are truly unaware that the State and the SFB are responsible for constructing public schools and that there's a formula based on square footage.

Frank Davidson responded that districts are aware of the State's responsibility, but lack the capacity to keep up with everything that needs to be done. This is especially prevalent in smaller districts with fewer administrative staff.

The motion passed with a 4-2 voice vote. Brooks Keenan and Dr. Patricia Gober voted against ratifying staff's projections for Elfrida Elementary.

b. Other Square Footage Issue

John Arnold explained the Window Rock Unified request to use their 23,074 sf metal building to temporarily house their alternative high school students

while constructing a new building for this program. During the Deficiency Corrections Program, it was determined that the metal building did not meet the minimum guidelines. Replacement space was built and the Tribal community continued to use the metal building for community programs. Staff has reviewed the original assessments of the building, which revealed issues with the roof, lighting and HVAC. Since that time, the roof has been corrected, but temperature control and lighting issues still exist. Staff recommends the district be granted a waiver and allowed to use the retired metal building for an alternative high school for a period of not more than two years.

Gary Marks asked if there were any liability issues with the Board's approval of the use of this space for classrooms.

Mr. Arnold responded that the SFB is not the building authority responsible for reviewing safety or other occupancy requirements. The local building authority makes those determinations. However, the SFB is responsible for determining if the building has sufficient quality to provide for the academic needs of the students. By granting this waiver, we are putting these students at risk of not having the best educational environment. This is a temporary solution for the alternative program and staff does not believe there to be a liability issue.

Debra Sterling offered to research this issue for the Board and provide a response to Mr. Marks' question at a future meeting.

Brooks Keenan moved that the Board approve Window Rock Unified's request for a temporary waiver. Gary Marks seconded. The motion passed with a 6-0 voice vote.

IX. Consideration of Emergency Deficiency Requests

Brooks Keenan requested that the Camp Verde Unified and Snowflake Unified requests be voted on separately so he could recuse himself from the Camp Verde vote. The Board agreed and Mr. Keenan recused himself at this time.

John Arnold explained the Camp Verde Unified request for a new water utility line and accessories due to a citation issued by the State Fire Marshal for inadequate water flow and volume of water to the campus fire hydrants. The district's well also exceeds allowable arsenic levels in their potable water supply and has been granted an extension by ADEQ to bring the arsenic levels into compliance. After extensive review of the options available to correct these deficiencies, the district has decided the best solution is to bring municipal water to the site. The district is requesting Emergency funding for the expansion of the on-site water service from the new water meters throughout the campus. Staff recommends Camp Verde Unified be granted emergency funding in an amount not to exceed \$300,000 for the design and construction of the domestic water supply system.

Gary Marks moved for Board approval of the Camp Verde Unified request. Dr. Patricia Gober seconded. The motion passed with a 5-0-1 voice vote. Brooks Keenan had recused himself.

Mr. Keenan returned to the Board at this time.

John Arnold explained Snowflake Unified's request for emergency funding for the repair of glulam beams in the junior high gym/cafeteria. These beams support the roof structure and have started to crack due to being overstressed. Staff recommends granting the district's request for \$106,680 for the design and construction to repair the beams.

Dr. Patricia Gober moved that the Board approve staff's recommendation. David Ortega seconded. The motion passed with a 6-0 voice vote.

X. SFB Policy Review
a. Policy Approval

John Arnold explained that there will be additional changes to the Capital Plan Policy presented at next month's Board meeting. We continue to receive public comment and have yet to address David Ortega's request to include a provision for the dissolution of a district with a new school award. Additionally, to incorporate the recent changes in full-day kindergarten, we have added language to the policy to explain the affect the new law has on how we calculate capacity for districts that have K-8 and K-12 buildings. For any building built prior to 1998, the capacity calculation will not be affected. However, we did change how we calculate the capacity of future buildings to include Full-Day Kindergarten. Staff recommends approval of the policy as presented today with the knowledge that a few more changes are coming. This will allow the SFB to start this year's capital plan cycle with a written policy that is in alignment with our actual practices.

David Ortega commented that his request stems from the instability of new districts, in particular accommodation districts, that seem to come and go more easily than more established districts. He also asked about the upcoming district reporting deadline and the effect of Board approval of the Capital Plan Policy as presented today.

Mr. Arnold responded that based on the Policy Review Schedule we would not review the Capital Plan Policy for another year. However, recognizing the importance and intricacies of this particular policy, we recommend Board action today with the understanding that the Board may choose to review or change any of our policies at any time in the future.

Frank Davidson introduced Judy Richardson of Stone & Youngberg who requested to address the Board regarding this issue.

Ms. Richardson expressed her concern regarding the capacity calculation for Full-Day Kindergarten. She believes the capacity of all SFB funded schools from 1998 to the present should be recalculated to account for Full-Day Kindergarten, not just those SFB funded schools from FY09 forward.

Mr. Arnold added that it may be appropriate for staff to bring to the Board at the next meeting some specific examples to show how changing the methodology will impact some schools. This will help the Board make a better decision. We will include the number of districts this will affect and their total capacity as well as some specific examples.

Dr. Patricia Gober asked what was intended in the Full-Day Kindergarten legislation.

Mr. Arnold responded there is no language in statute that explains how the SFB should apply the change in Full-Day Kindergarten.

Gary Marks asked if the Board should table this agenda item for a future meeting.

Mr. Arnold responded that it is preferable for the Board to act on the policy today with the understanding that additional changes will be made in the near future and/or as they arise.

Dr. Gober asked about the Chandler issue that was addressed under a previous agenda item and whether the Full-Day Kindergarten change was factored into the staff's projections.

Mr. Arnold explained that in the Chandler discussion we assumed the capacity of their existing schools would remain the same. What changed was the number of students we would recognize in the next few years. In Chandler's case, when counting kindergarten students as one-half, the district will not need space over the next three years, but if they are counted as whole students the district will need space within three years.

Gary Marks asked if changes to the policy had to be voted on individually.

Mr. Arnold responded that they did not. The Board has broad authority to review any part of the policy at any time.

Brooks Keenan moved that the Board approve the staff recommended changes to the Capital Plan Policy. Gary Marks seconded. The motion passed with a 6-0 voice vote.

Frank Davidson thanked Judy Richardson for her comments.

b. Policy Review

John Arnold explained that the entire Preventative Maintenance Policy has been revamped and rewritten. The policy now includes a Preventative Maintenance Definition, the PM Categories and Tasks, District PM Plans and Reports, an explanation of the inspection process and an explanation of Building Renewal use for Preventative Maintenance.

Tom Rushin reminded everyone that he served on the original PM Task Force that put together the categories and task lists and remembers grappling with designating tasks as either required or recommended. He is pleased to hear this designation is being revisited because of the assistance it will provide for district facilities managers to prioritize tasks and work orders.

Frank Davidson reminded everyone that the proposed policy changes will be posted on the SFB website and open for public comment. Please comment by the cut-off date to allow staff the opportunity to consider your comments.

X. Future Agenda Items

Gary Marks requested an update on the Energy Grant and David Ortega requested an update on the Tempe Union District, Corona del Sol High School HVAC issue.

XI. Public Comment

There were no additional requests to address the Board.

XII. Adjournment

There being no further business, Dr. Frank Davidson adjourned the meeting at approximately 11:45 A.M.

Approved by the School Facilities Board on September 4, 2008

Frank Davidson
Chair