

SCHOOL FACILITIES BOARD
September 4, 2008
Gilbert, Arizona

The School Facilities Board held a Board meeting at the Higley Unified School District, Williams Field High School in Gilbert, Arizona. The meeting began at approximately 10:13 A.M.

<u>Members Present</u>	<u>Guests Present</u>
Davidson, Frank, Chair	Bruce Faught, Kitchell CEM
Keenan, Brooks, Vice-Chair	Lee Bauer, Planning & More
Allee Taylor, Penny	Judy Richardson, Stone & Youngberg
Ortega, David	Scott Beck, NTD Architecture
Marks, Gary	Cathy Rex, So. Az. School Facilities Group
Rushin, Tom	Fred Stone, Higley USD
	Ray Del Zotto, Pinnacle One
<u>Members Absent</u>	Mark Busch, Higley USD
Gober, Patricia	Andy Anderson, Pinnacle One
Salazar, Vicki (non-voting member)	Lois Rowe, 1 st Choice Management & Sales
	Dale Genger, Lake Havasu USD
<u>Vacant Board Positions</u>	Darrel G. Williams, Lake Havasu USD
Private Business Owner Representative	Tara Malloy, McCarthy
Teacher Representative	
<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	
Jim Chang, Demographer	

- I. Call to Order
Dr. Frank Davidson called the meeting to order at approximately 10:13 A.M.

- II. Roll Call
There were six Board Members present at this meeting. Dr. Joyce Lutrey, Superintendent of Higley Unified, welcomed the Board and thanked them for their service to the State and the students of Higley Unified. She added that the Williams Field High School is an SFB funded school in its second year of operation.

- III. Approval of Minutes
 - a. Approval of Minutes of August 14, 2008
Tom Rushin moved that the Board approve the minutes of August 14, 2008. Gary Marks seconded. The motion passed with a 6-0 voice vote.

- b. Approval of Executive Session Minutes of September 6, 2007, October 4, 2007, January 10, 2008, February 7, 2008, June 5, 2008 and August 14, 2008

David Ortega moved that the Board approve the Executive Session Minutes of September 6, 2007, October 4, 2007, January 10, 2008, February 7, 2008, June 5, 2008 and August 14, 2008. Gary Marks seconded. The motion passed with a 6-0 voice vote.

IV. Consent Agenda

- a. Consideration of Preventative Maintenance Plans

Penny Allee Taylor moved that the Board ratify the plan listed in agenda item IVa. Brooks Keenan seconded. The motion passed with a 6-0 voice vote.

V. Director's Report

- a. Call for Entries-Governor's Achievement Award for Innovative School Design

John Arnold explained that over the last year, since the SFB published the 21st Century Schools report, staff has been working on ways to implement the recommendations described in the report and recognize those schools that have already put them into practice. We have been working with the Governor's Office to develop an achievement award program to recognize these schools and their successes. The Governor is very excited about the awards and decided she wanted to start it immediately. The awards are based on seven categories of excellence in school design, which are listed in the application. We have adopted an aggressive schedule with applications due by September 29, 2008, and with the awards to be made the end of November 2008. It is our hope that this becomes an annual award and for this first round, any completed project funded with SFB funds or other funds, built in any year, that qualifies for any or all of the seven categories, is eligible to submit an application.

Penny Allee Taylor asked who will be on the panel of judges.

Mr. Arnold responded that the panel will be comprised of qualified design, construction and education professionals. The judges have not been chosen yet.

Dr. Frank Davidson asked if there was an application process.

Mr. Arnold explained that the application is on the SFB website and has been emailed to all of the school districts and architectural firms in our databases. The awards will recognize the district, the architect and the contractor of the chosen project.

Dr. Davidson added that this award program is an excellent plan to draw attention to the 21st Century Schools report.

David Ortega commented that Valley Forward also awards efforts to improve the environment and our local communities, adding that perhaps the SFB should look into what they are doing and provide a link on our website to theirs to inform districts of their awards and programs.

Mr. Arnold responded that this was an excellent suggestion, adding that the SFB will look for other awards available to districts and make this information available.

Tom Rushin thanked staff for developing this award program and commented that there may be fewer applications due to the short deadline, which would increase the importance of holding the competition again next year.

Mr. Arnold responded that the SFB is trying to be sensitive to the short deadline and the effort that is involved in the application process. There will certainly be some flexibility this first year as we establish the program and work with the Governor's Office. But regardless of the outcome this year, we hope to institutionalize this award program, and hope that over time it grows in prestige and notoriety.

b. Building Renewal Project Fund Overview

John Arnold informed the Board that in lieu of funding the building renewal formula this year, the Legislature created a new program, the Building Renewal Project Fund. This is a new fund created by statute that has been appropriated \$20 million and is an application-based program. Districts will have to apply for monies. The only projects eligible for funding are ones that would correct a deficiency that is a violation of the minimum guidelines. For example, until a roof is leaking, a roof repair or replacement is not an eligible project. Also written in the statute, the SFB is to prioritize the projects from districts that are current on their preventative maintenance and to look at the ability of districts to provide matching local funds. Staff has developed a policy for how we will review the applications and award funding, which is similar to the Emergency Policy requiring a district to submit an application that includes a description of the problem, a description of the proposed solution and the associated costs. One difference is that we have incorporated some deadlines because of the potential competitive nature of this new application process. Applications are required at least two weeks before a Board meeting. Any applications turned in after the deadline will be reserved for the following Board meeting. We also included a provision for the Executive Director to award up to \$30,000 for investigative studies prior to Board approval of project funding in the interest of expediting the correction of the deficiency. This policy is before the Board for information only today and staff will make it available on the SFB website for public comment. Since this new fund does not become effective until September 26th, the policy will be brought back to the Board for approval in October and any applications that come in will be considered at the November Board meeting.

Gary Marks asked if there will be a formal written application provided for the districts.

Mr. Arnold responded that the SFB will provide the districts with a formal written application form which will be presented to the Board with the final policy for approval in October.

Dr. Frank Davidson asked if the provision for \$30,000 for investigative studies was intended to be used in the event that a project request cost less than

\$30,000, effectively giving the Executive Director the authority to award funding for an entire project as well, prior to Board approval.

Mr. Arnold responded that the intent of the \$30,000 provision is to allow staff to assist districts to acquire the information necessary for the Board to make a decision on whether or not to correct the deficiency. Ultimately, it is still the Board's prerogative to determine if a project meets the requirements, especially if we get into a competitive review situation where we have to prioritize the district's requests. The \$30,000 would strictly be for investigative studies, not for complete project award.

c. Moratorium Implementation

John Arnold informed the Board that during the last legislative session the Legislature placed a moratorium on new school construction for FY09. We have received numerous questions as to what this means for the SFB and the districts. Staff reviewed the moratorium language written in statute, which is provided verbatim in the Board packet for convenience. It is very brief and does not provide much explanation. SFB staff believes there are areas where the Board can clarify potential reimbursement of local expenditures on SFB projects.

Private Funds:

Currently, there is a statute that allows districts to enter into an agreement with a private vendor to build a new school with private funds and then be reimbursed for that expenditure when the district becomes eligible for SFB funds. This statute was originally intended to allow districts to build schools before they qualified for SFB space within the three-year window. However, we believe the language is broad enough that a district could enter into an agreement with a private vendor on a project that has already been awarded by the SFB, build that project with private funds, and then when SFB funds become available, the district could use the SFB funds to reimburse the private vendor. Please note that the statute is very clear that the school has to be built with 100% private funds. This statute assumes that the land on which the new school is built is either included in the agreement as a donation or is already owned by the district. If the land is donated as part of the agreement with the private vendor, the district would be eligible for a 20% donation factor for the land subject to future appropriations, assuming there are no future changes in the statutes.

Local District Funds:

If a district chooses to move forward with an SFB awarded project with local district funds, there are two issues that need to be addressed. The first involves reimbursement of expenditures incurred during the preconstruction phase of the project. It has been common practice for the SFB to reimburse these expenditures and there have been numerous districts that have started the design of a new school prior to and in anticipation of an SFB award. Staff believes that a project designed with the cooperation of the SFB remains an SFB project during the preconstruction phase and that expenditures incurred during this phase are eligible for reimbursement if and when the moratorium is lifted. The second is the question of when an SFB awarded school becomes a locally funded school and is no longer eligible for SFB funding. Staff believes this occurs when a district signs a construction contract, which

effectively certifies that the district has the funding available to complete and pay for the construction. To date, there are no historical examples of a district receiving reimbursement from the SFB for a school constructed with local funds before SFB funding is available. Therefore, staff believes that once a contract is signed, the project becomes a locally funded school. We are aware of one district with one project scheduled to construct an SFB awarded school with local funds in the next few months. Vail Unified has made the argument that until construction reaches Substantial Completion and the district takes ownership of the building, the project should still be eligible for SFB reimbursement of the formula amount. In this scenario, the district would not be eligible for funding beyond the formula awarded by the Board. Vail's argument also raises a question of whether we are creating an obligation for the State. Staff is considering this argument and will make a recommendation to the Board at a later date.

Land Acquisition:

Regarding land acquisition, the moratorium statute is very clear. The Board is not authorized to approve any land acquisition; therefore, no land acquisition activities, including appraisals, environmental site assessments and closing costs, are eligible for reimbursement. If a district chooses to accept a donation during the moratorium, the donation is not eligible for the 20% donation factor and the land will be considered district-owned land for any future dealings of the SFB.

David Ortega asked if the SFB tracks district land purchases. Mr. Arnold answered yes; the SFB keeps data on district land acquisitions. Mr. Ortega continued by asking what happens in the case of a district building a locally funded school on previously purchased or donated SFB funded land. Mr. Arnold responded that the statute is not clear about the land ownership rights after the SFB purchase of land for a district, other than requiring the district to provide land for the next SFB awarded school. In the case of Vail Unified, they may not need another middle school. SFB staff is seeking legislation to clarify this issue.

Brooks Keenan commented that the Board should not gamble with issues such as Vail's and should make a policy statement before they get too far into the process.

d. Litigation Update

Debra Sterling, Assistant Attorney General, informed the Board that the Tempe Union case has been put on hold for a year. The Sahuarita Unified case will have briefings over the next two months with closing arguments at the end of January. The Roosevelt Elementary (Building Renewal) case has a hearing scheduled for September 22, 2008, to hear whether Tempe Union should be allowed to enter as a plaintiff and whether to extend the discovery period to allow the new judge to be caught up on the case.

VI. Energy Grant

a. Energy Grant Program Update

John Arnold provided an update on the Energy Grant Program. The SFB awarded a total of 41 projects to 27 districts. Of those, 39 projects have

signed contracts, and of those, 4 have been completed. Two districts are requesting an extension to sign contracts.

b. Consideration and possible vote on Energy Grant Extensions

John Arnold explained that due to a misunderstanding and problems encountered during the procurement process, Buckeye Elementary and Sacaton Elementary are requesting an extension of the time allowed to place their projects into contract to September 15, 2008.

Brooks Keenan moved that the Board approve the extension. Penny Allee Taylor seconded. The motion passed with a 6-0 voice vote.

VII. School Facilities Board Policy Review

a. Policy Approval

John Arnold informed the Board that there have been no changes to the Preventative Maintenance Policy since presented to the Board last month. Staff received one comment regarding the SFB requiring districts to use 8% of the building renewal formula amount for preventative maintenance. Statute is clear on this issue; the SFB is obligated to enforce this requirement. Additional comments were received today just prior to the meeting. Staff will review these comments and, if necessary, bring any changes to the policy to the Board at the next meeting.

Cathy Rex with the Southern Arizona School Facilities Group requested to address the Board. She directed the Board's attention to the written comments she provided to them this morning and highlighted the main points, adding that this policy is of major concern to the districts she works with. The State is moving in the direction of not funding building renewal and yet increasing the requirements placed on districts. She expressed concern that the lack of funding precludes districts from performing all required tasks, which reflects poorly on them during the inspection period.

Mr. Arnold clarified for the Board that at this time, all preventative maintenance tasks are required. Staff is currently reviewing, consolidating, and clarifying the tasks, while classifying each as either required or recommended. This review is actually decreasing the number of required tasks, not increasing what is required of the districts. SFB staff is very aware of the lack of funding for the districts and does not intend to use the inspection process as a way to punish the districts. Rather it is our intent to use the information gathered during the inspection as a tool to tell the district's story to the Legislature and explain how the lack of funding for building renewal and preventative maintenance is causing lasting damage to school buildings.

David Ortega moved that the Board approve the proposed changes to the Preventative Maintenance Policy as recommended by staff. Tom Rushin seconded. The motion passed with a 6-0 voice vote.

b. Policy Revisions

John Arnold explained that there were some lingering questions from last month's Board meeting regarding the Capital Plan Policy and the impact of the new Full Day Kindergarten legislation on capacity. Staff thought some

clarification might be helpful for the Board. One question raised during the policy review was, "Should the SFB re-calculate the capacity for all schools (including pre-SFB space) to count kindergarten as whole students vs. one-half?". Upon review of the formulas and the resulting capacity calculations, staff believes there is no compelling reason to change the currently assigned capacities for pre-SFB space or SFB awarded space. Further, the Board has recently implemented policies to clarify that once capacity of a school is established, it does not change. Of greater importance is the Board's establishing precedence that statute changes will only impact future space, not existing space. This is a critical principle to have in place. Another issue yet to be resolved was including a provision in the Capital Plan Policy for the dissolution of a district that had an SFB awarded school on the books. Staff has drafted an addition to the policy, 'L. Dissolution or Consolidation of a School District with a SFB Project', which terminates a SFB awarded project if a district were to dissolve or consolidate with another district and describes how expenditures will be handled for projects that have yet to begin construction.

David Ortega commented that he is pleased with the addition to the policy to govern how the SFB handles the dissolution of a district, adding that incorporating the consolidation of districts in our policy puts the SFB ahead of the curve considering the work of the Re-Districting Commission and the upcoming vote.

Brooks Keenan asked what the SFB policy would be for the dissolution or consolidation of districts with projects under construction.

Mr. Arnold answered that at this time, there is nothing in statute to address this, and the SFB policy only addresses projects not under construction. Since the Board may modify a policy at any time, staff recommends the Board adopt the dissolution/consolidation addition today with the acknowledgement that it may be changed at a future meeting.

Dr. Frank Davidson agreed that the Board should act on this agenda item today with changes possible in the future.

Gary Marks commented that consolidation of two districts could result in the new district qualifying for additional space versus disqualifying for a previously awarded school.

Tom Rushin added that the termination of the previously awarded project would allow more local control for the new district administration to evaluate the size and location of a potential new school rather than be forced to deal with what was previously awarded by the SFB.

David Ortega moved that the Board approve the proposed changes to the Capital Plan Policy. Brooks Keenan seconded. The motion passed with a 6-0 voice vote.

VIII. Preventative Maintenance Inspections-District Selection

John Arnold explained that ARS §15-2002 requires the SFB to randomly select 20 districts every 30 months for PM Inspection. The district selection process

included having a spreadsheet program randomly assign each district a number between 0 and 1. The list of districts was then sorted in descending order by that random number. The first twenty districts on the list are being recommended for Board approval to proceed with PM Inspections.

Gary Marks moved that the Board approve the randomly selected list of districts as recommended by staff. Penny Allee Taylor seconded. The motion passed with a 6-0 voice vote.

IX. Future Agenda Items

There were no future agenda items requested.

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 11:13 A.M.

Approved by the School Facilities Board on October 2, 2008

Frank Davidson
Chair