

SCHOOL FACILITIES BOARD
March 5, 2009
Phoenix, Arizona

The School Facilities Board held a Board meeting at the Arizona State Capitol Building in Phoenix, Arizona. The meeting began at approximately 10:01 A.M.

<u>Members Present</u>	<u>Guests Present</u>
Chair, Dr. Frank Davidson	Rich Pena, Adolfson & Peterson Constr.
Gary Marks	Jeff Keck, Adolfson & Peterson Constr.
David Ortega	Judy Richardson, Stone & Youngberg
John Corcoran (via telephone)	Heidi Birch, Gilbane
Tom Rushin	Cathy Rex, So. AZ School Facilities Grp.
Penny Allee Taylor (arrived mid-meeting)	
<u>Members Absent</u>	
Dr. Patricia Gober	
Vicki Salazar (non-voting member)	
<u>Vacant Board Positions</u>	
Private Business Owner Representative	
Engineer Representative	
<u>Staff Present</u>	
John Arnold, Executive Director	
Kerry Campbell, Public Information Officer	
Amber Peterson, School Finance Specialist	
Debra Sterling, Attorney General's Office	

- I. Call to Order
Dr. Frank Davidson called the meeting to order at approximately 10:01 A.M.

- II. Roll Call
Initially, there were five Board Members present at this meeting. Penny Allee Taylor arrived mid-meeting.

- III. Consideration and possible vote of Minutes of February 5, 2009
Gary Marks moved for approval of the Minutes. David Ortega seconded. The motion passed with a 5-0 voice vote.

- IV. Consent Agenda
 - a. Consideration of Building Renewal Plans
Tom Rushin moved that the Board ratify the plans listed in agenda item IV.a. David Ortega seconded. The motion passed with a 5-0 voice vote.

- V. Director's Report
 - a. Legislative/Budget Update
John Arnold started with an update on the federal stimulus package and how it may or may not affect the SFB. There are several opportunities to access funding as described below.

State Fiscal Stabilization Funds (Title XIV) - The State is scheduled to receive \$843.5 million in fiscal stabilization funds to be used to restore elementary, secondary, and postsecondary primary funding formulae to FY 2009 levels. It does not appear that the Building Renewal Formula is considered a primary funding formula for Federal purposes.

Flex Funds (Title XIV) - The State is also scheduled to receive \$185 million in "Flex Funds." The Governor will be able to allocate these dollars "for public safety and government services, which may include ...modernization, renovation, or repair of public school facilities." The Governor could use these funds to fund either the Building Renewal Formula or the Building Renewal Grant program.

Qualified School Construction Bonds (Section 1521) - This program would allow an issuer (either a state or state subdivision) to issue debt interest free. In lieu of receiving interest, the bond holder is eligible for a federal tax credit. The tax credit amount is set with the intention of providing 100 percent of the required interest. To be eligible, all proceeds must be used for school construction, repair, renovations, or acquisition of school sites. All proceeds must be spent within three years.

The bill authorizes \$22 billion, but it is still unclear how much will be available for Arizona. The distribution is based on Section 1124 of the Elementary and Secondary Education Act of 1965 (the State's percentage of total school age children). This allocation comes to the State and the State may reallocate to local school districts. However, if a "large local educational agency" is in a state, the Federal Department of Education allocates an amount directly to that agency. The State's allocation is reduced by the amount allocated to the "large local education agencies."

Arizona Uses: The State could use this program to complete a Lease-to-Own transaction for the construction of new schools. Local school districts can use this program for B-bond issuance. In addition, districts could use these bonds to finance performance contracting. In a performance contracting transaction, the district borrows funds to complete renovations designed to provide energy efficiencies. The savings from the reduction in utilities bills are used to make the debt service payments.

Qualified Zone Academy Bonds (Section 1522) - Similar to the Qualified School Construction Bonds, these bonds can be issued interest free. However, to issue these bonds, the proceeds must be used in an empowerment zone or an enterprise community. Further, each project must have a private partner that provides a 10 percent matching grant to the project. This program has been in place since 1997; the Stimulus Bill only increased the issuance authority by \$1.4 billion.

National Clean Diesel Campaign – This program includes \$300 million in grant funding opportunities to support clean diesel activities. This funding will be offered this year in addition to EPA's FY 2009 National Diesel Emissions Reduction Program Appropriations, which will be available later in the year. Therefore, this year there will be two competitive funding announcements to

apply for grant funds for clean activities issued by the EPA. More information on this program is available on the SFB website.

David Ortega asked about the carry forward balances the districts are showing on their Building Renewal 3-Year Plans and if those numbers represent actual cash.

Mr. Arnold explained that the carry forward balances are prior-year Building Renewal distributions that have gone unspent by the district and the district is carrying that balance forward to be incorporated into their current fiscal year plan. Future fiscal year allocations (FY 2010 and FY 2011) are based on the Building Renewal Formula and are not actual cash dollars. The SFB utilizes the district's planned projects as a way to demonstrate the impact of not funding the formula (for example \$25 million in roof projects, \$30 million in HVAC projects, etc.). David Ortega pointed out that projects left unfunded will become more costly to fix.

Dr. Frank Davidson asked what mechanism is required for the State to proceed with the Qualified School Construction Bonding opportunities as provided in the federal stimulus package.

Mr. Arnold responded that the Legislature would need to pass a bill authorizing the SFB to issue a given amount of debt in a lease-to-own type of structure. Once authorized, the SFB would then apply to the Department of Education for draw-down of the bonding authority.

Dr. Davidson asked if the debt service payment on a Qualified School Construction Bond could be paid with the Flex Funds as mentioned above.

Mr. Arnold responded that the stimulus bill states that the Flex Funds may be used for any state service, and that they are only available for three years, fiscal years 2009, 2010 and 2011. If the bonds were issued in 2010, the first debt service payment would be due in 2011. There would only be one year in which the Flex Funds would be available.

Dr. Davidson asked if there would be any benefit for the Board to make a formal request in the form of a Board Resolution to make the Flex Funds available to fund the Building Renewal Formula or the Building Renewal Grant program.

Mr. Arnold responded that he would consider this suggestion.

Gary Marks asked where the authority lies for prioritizing the applications for the Qualified Zone Academy Bonds and awarding bonding authority.

Mr. Arnold answered that the Department of Education will retain the authority on issuing QZAB authority. Historically, authority was authorized on a first-come basis, but future market response may play a role in their popularity with the districts. If there is a rapid increase in applications for QZAB authority, the Department of Education may have to adopt a competitive review process.

Mr. Arnold continued with an update on the budget. While there have been no new budget proposals for FY 10, the SFB is currently going through the Appropriations process and is scheduled to appear before the Joint Appropriations Committee today. The Governor announced her five point plan in a speech to the Legislature yesterday, but we have not yet heard any firm proposals that would impact the SFB.

With regard to legislative bills, the Senate is refraining from taking action on any bill until the FY 10 budget is resolved, while the House is moving some bills through committees. Below are a couple of changes to the FY 2009 Legislative Update provided in the Board packet.

Correction-

HB2120 school districts; bonds; purposes

This bill would allow B-bond proceeds to be used for FF&E as long as its useful life is longer than the average life of the bond. A recently added amendment would prohibit the purchase of FF&E with less than 5 years of useful life. This would expand the use of B-bonds for FF&E that has a longer life than 5 years and longer than the average life of the bonds.

Addition-

HB2516 schools; administrative reduction

This bill eases some of the administrative responsibilities of schools districts including some redundant reporting, removes the pesticide restrictive covenant required during the land acquisition process, and changes the Building Renewal planning and reporting requirements to once every two years.

Dr. Davidson asked if we could soon expect a budget proposal from the Governor's Office. Mr. Arnold responded that at this time the Governor has not released a budget proposal, but we could assume that there will be one forthcoming.

b. Energy Grant Update

John Arnold presented the Implementation Grant energy savings that have been realized to-date. SFB staff and the Energy Office analyzed the kilowatt hour consumption of six districts for the period of September 2007 through January 2008 and compared it to the kilowatt hour consumption for the period of September 2008 through January 2009. Staff did not consider any additional factors during the analysis. Results show that, in every case but one, savings to-date meets or exceeds the anticipated savings. In the one case where it is less, Catalina Foothills Unified, the project was mainly HVAC upgrades and SFB staff believes that additional savings will manifest once the weather turns warmer. We are pleased with these results so far and will update the energy savings table as new data becomes available.

Gary Marks asked if there are any federal stimulus monies for additional energy grant projects. Mr. Arnold responded that we are in discussions with the Energy Office, which will receive some stimulus monies, to provide further funding for the energy grant program. There is some desire to see these funds leveraged with either local funds or through performance contracting to make these dollars go as far as they can. Currently, there are efforts in the

Legislature to clarify the performance contracting language in statute for school districts. There has been some district success with performance contracting recently and we believe that with the stimulus monies, bonding opportunities and proposed changes to statute, performance contracting in Arizona could increase dramatically.

Dr. Davidson asked about SB 1129, which would give the SFB the authority to obtain utility consumption data on school facilities from public utility companies. Mr. Arnold responded that this bill has received its first read in the Senate, but the Senate is not acting on any bills until the FY 10 budget is resolved. SFB staff has met with Senator John Huppenthal, Chair of the Senate Education Accountability and Reform Committee, as well as APS and SRP to address any concerns they may have. Some concerns that have arisen include the administrative burden on the utilities and loss of local control of the data. We have addressed these concerns with some adjustments in the language of the bill and anticipate the bill will move through committee once the Senate starts acting on bills.

Tom Rushin expressed his support as a former school district administrator of the effort to give the SFB authority to obtain utility consumption data directly from the utility companies, adding that the sheer number of meters within each district adds to the difficulty of analyzing the data. A more comprehensive analysis could be achieved through other means, such as that proposed in SB 1129.

Board Member, Penny Allee Taylor, joined the Board at this time.

David Ortega expressed his hope that federal stimulus monies will be provided to further the energy savings grant program or similar initiatives through the SFB.

c. Proposed change to SFB Board Meeting dates

John Arnold explained that the Governor has scheduled her monthly Cabinet meetings on the first Thursday of each month at 10:30 A.M., which is in direct conflict with the SFB Board meetings. We propose changing the SFB meetings to the first Wednesday of each month and recommend amending SFB Policy I Board Governance Procedures, Paragraph D, accordingly.

Tom Rushin moved that the Board approve the change to SFB Policy I as recommended by staff. David Ortega seconded. The motion passed with a 6-0 voice vote.

a. New School Construction

a. Consideration and possible vote of Capital Plan New Construction Requests

John Arnold informed the Board that Apache Elementary has requested to be removed from today's agenda.

Gary Marks moved that the Board approve staff recommendations as listed below:

1. **Agua Fria Union (9-12): Cancel** 003N for 1,600 students and **conceptually-approve** 003N for 500 students to open in FY 15.

2. **Benson Unified (K-4):** District did not request current funding approval, only conceptual approval. **Conceptually approve** a K-4 school for 500 students (001N) to open in FY 16.
3. **Blue Elementary (K-8):** **Deny** the district's request for additional K-8 space to open in FY 10.
4. **Bullhead City Elementary (K-5):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for 3 K-5 schools.
5. **Bullhead City Elementary (6-8):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for a 6-8 school.
6. **Camp Verde Unified (9-12):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for a 9-12 school.
7. **Cedar Unified (9-12):** **Deny** the district's request for additional 9-12 space to open in FY 10.
8. **Concho Elementary (K-8):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for additional K-8 space.
9. **Fowler Elementary (6-8):** **Change status** of previously-approved 6-8 school (001N) to ON HOLD, projected to open FY 15.
10. **Littleton Elementary (K-8):** District did not request current funding approval, only conceptual approval. **Conceptually approve** two K-8 schools (009N and 011N) to open one each in FY 14 and FY 17.
11. **Miami Unified (K-6):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for additional K-6 space to open FY 12.
12. **Mohave Valley Elementary (K-6):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for additional K-6 space.
13. **Mohave Valley Elementary (7-8):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for additional 7-8 space.
14. **Pendergast Elementary (K-8):** District did not request current funding approval, only conceptual approval. **Conceptually approve** a K-8 school (005N) to open in FY 13.
15. **Phoenix Union (9-12):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for a 9-12 school.

16. **Pima Unified (K-6): Deny** the district's request for a K-6 school to open in FY 10. **Conceptually approve** a K-6 for 180 students to open in FY 12.
17. **Prescott Unified (K-5): Approve** 002N for 147 students to open in FY 11. Only design monies for the FDK portion are available in FY 09. Funding for the project's remainder will not be available until sufficient funds are available in the New School Facilities Fund.
18. **Show Low Unified (K-6): Deny** the district's request for additional K-6 space to open in FY 11.
19. **Snowflake Unified (K-6): Deny** the district's request for additional K-6 space to open in FY 11. **Conceptually approve** additional K-6 space to open in FY 15 and FY 17.
20. **Snowflake Unified (7-8): Deny** the district's request for additional 7-8 space to open in FY 11. **Conceptually approve** additional 7-8 space to open in FY 16.
21. **Stanfield Elementary (K-8): Approve** 001N as additional space for 109 students to open in FY 12. Design monies for the FDK portion would normally be available in FY 09, but design monies were already distributed to the district when this project was originally approved in 2004. Funding for the project's remainder will not be available until sufficient funds are available in the New School Facilities Fund. **Conceptually approve** one additional school.
22. **St. David Unified (K-8):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for a new school.
23. **St. David Unified (9-12):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for a new school.
24. **Tolleson Union (9-12):** District did not request current funding approval, only conceptual approval. **Deny** conceptual approval for a new school.
25. **Union Elementary (K-8): Change status** of previously-approved K-8 school (007N) to ON HOLD, projected to open FY 13. **Deny** conceptual approval for an additional school.

Penny Allee Taylor seconded. The motion passed with a voice vote of 6-0.

- b. Consideration and possible vote of Capital Plan New Construction Requests
Gary Marks recused himself from the Board at this time due to his involvement with Humboldt Unified.

Tom Rushin moved that the Board approve the staff recommendation as listed below:

1. **Humboldt Unified (K-5): Conceptually approve** 004N for 550 students to open in FY 14.

David Ortega seconded. The motion passed with a voice vote of 5-0. Gary Marks resumed his position on the Board at this time.

c. Consideration of Other New Construction Issues including Expansion of Scope and Increased Project Cost

John Arnold explained that as a result of a staff audit of several old New Construction projects, three projects were found to have overspent the Board allocation. For all three projects, staff approved expenditures in the form of change orders that were appropriate and would have come out of contingency monies; but there was not enough available contingency monies to cover the expenditures. In the case of Congress Elementary, a five percent reduction in the bid price was assumed in the original allocation, but no such reduction was given. All three of these projects were closed in 2003. These requests provide a means to clean-up the SFB accounting records and officially close these projects.

Tom Rushin moved that the Board ratify the following staff recommendations:

1. Approval of additional funding for **Canon Elementary** New Construction project 130350000-9999-201N in the amount of \$8,271.06.
2. Approval of additional funding for **Congress Elementary** New Construction project 130317000-9999-201N in the amount of \$186,349.
3. Approval of additional funding for **Somerton Elementary** New Construction project 140411000-9999-002N in the amount of \$6,550.57

Gary Marks seconded. The motion passed with a 6-0 voice vote.

John Arnold added that while this Board action was to clean-up the New Construction projects, we anticipate the need to bring some Land projects to the Board for additional funding approval as well.

VII. Consideration and possible vote of Reduction of Square Footage Requests

John Arnold explained that Cedar Unified lost a building due to fire; however, this reduction in space is not projected to cause the district to fall below the minimum guidelines within three years, therefore no Board action is necessary. Pima Unified has reconfigured some K-6 space into district administrative space. Staff projections indicate that this reconfiguration would cause the district to fall below the guideline and recommend denial of the district's request. Show Low Unified has requested to retire two buildings that have outlived their useful lives. Staff projections indicate that this would not cause the district to fall below the guideline; therefore, no Board action is necessary.

David Ortega moved that the Board approve staff recommendations as listed below:

1. Denial of **Pima Unified's** reconfiguration of building 1001 at Pima Elementary School from K-6 to district administrative space.

Penny Allee Taylor seconded. The motion passed with a 6-0 voice vote.

VIII. Future Agenda Items

David Ortega asked if the Attorney General's Office could provide an opinion on increased class size due to budget cuts resulting in the need to put more students in each classroom and if this would have any impact on the minimum adequacy guidelines.

Penny Allee Taylor asked staff to continue to keep the Board updated on the federal stimulus package.

IX. Public Comment

There was no public comment.

X. Adjournment

There being no further business, Dr. Frank Davidson adjourned the meeting at approximately 10:50 A.M.

Approved by the School Facilities Board on Frank Davidson ^{4/1/09}, 2009

Frank Davidson
Chair