

# CAPITAL CONSTRUCTION ASSISTANCE BOARD

## MINUTES OF THE JULY 19, 2012 MEETING

### Meeting held at:

Colorado Association of School Boards (CASB)  
1200 Grant Street, Denver, CO 80203  
Longs Peak Board Room

#### I. Call to Order

- 1:07 p.m. Norwood Robb called the meeting to order.

#### Attendees

Mary Wickersham – CCAB Chair	Ted Hughes – Staff (CDE)
Norwood Robb – CCAB Vice-Chair	Kevin Huber – Staff (CDE)
Pete Hall – CCAB	Dustin Guerin – Staff (CDE)
Lyndon Burnett – CCAB	Scott Newell – Staff (CDE)
Tom Stone – CCAB	Kristin Lortie – Staff (CDE)
Greg Randall – CCAB	Cheryl Honigsberg – Staff (CDE)
Pete Jefferson – CCAB	Wendi Chapin – Staff (CDE)
Dave Van Sant – CCAB	Erica Weston – CCAB Legal Advisor

#### Excused

Adele Willson – CCAB

- After the roll was called, Ted Hughes introduced the Board's newest member Pete Hall to the rest of the CCAB. Ted Hughes asked the Board members and Division staff to introduce themselves to Pete Hall and let him know what their role was.
- Agenda reviewed
- CCAB Vice-Chair asked for a motion to approve the agenda;
  - So moved by Dave Van Sant;
  - Lyndon Burnett 2<sup>nd</sup> the motion;
  - Discussion: The CCAB Vice-chair asked to amend the agenda and add action item "f" to approve the use of Assistance Fund monies to be used to pay for the FY2012-13 ALTA & ESA surveys. The CCAB agreed.
  - Motion to approve the amended agenda carried unanimously.

#### II. Board Report

- Nothing to report.

#### III. Directors Report

- Ted Hughes asked the CCAB if anyone would like to carpool to Center School District 26JT's ribbon cutting. CCAB member Lyndon Burnett acknowledged that he would like to attend and carpool.

- Ted Hughes asked the CCAB if they would like to have a presentation from Sue Bertram, the Colorado QBS Coordinator, about Qualifications Based Selection (QBS) at the next Board meeting. The CCAB Vice-chair said he has no opposition to them presenting.
- Mary Wickersham entered the meeting; Ted Hughes introduced her to Pete Hall.
- Ted Hughes told the CCAB that no one had been selected to fill both Mary Wickersham's and Adele Willson's positions on the Board. Ted Hughes said he would like to wait to schedule the retreat until new members had been appointed. Ted Hughes told the CCAB that Randy Black with the Colorado Association of School Boards was going to facilitate the meeting. Ted Hughes told the CCAB once new members were appointed; he would send out dates for the retreat.
- Ted Hughes told the CCAB Mapleton School District 1 invited the Board and Division Staff to a tour of the new Skyview campus on Tuesday, July 24, 2012 from 11a.m. - 1p.m. All members had scheduling conflicts that day and all said they would not be able to attend.
- Ted Hughes told the CCAB about the upcoming groundbreaking for Big Sandy school district. Ted Hughes mentioned other ribbon cuttings that were scheduled and invited the Board to attend.
- Ted Hughes gave an update on the status of The Neenan Company and BEST projects that were affected by structural issues. Ted told the CCAB that all issues have been, or will be completed by the time school starts. Ted noted that one of Alamosa's elementary school's still had an issue that was trying to be resolved.

#### **IV. Action Items**

- Approve a QZAB (Qualified Zone Academy Bond) application for Kiowa School District C-2. Ted Hughes reminded the CCAB that they are in charge of administering the QZAB program; which basically means they authorize the district access interest free financing. Ted told the CCAB that there are some restrictions to what the funds can be used for. Ted told the CCAB that the district is in charge of securing the financing.

CCAB member Lyndon Burnett made a motion to approve Kiowa School District C-2's QZAB application date 6/18/2012:

- Norwood Robb 2<sup>nd</sup> the motion;
  - Discussion: The CCAB Chair asked about the district's 10% private match and noted that local bond attorneys will not sign off on the financing because of strict restrictions. Ted Hughes said he was not sure, but that attorneys at the national level were.
  - Motion carried unanimously.
- Approve final recommended project lists for the BEST FY2012-13 grant cycle of projects that are to be submitted to the State Board for preliminary approval. Ted Hughes told the CCAB about the two lists. Ted told the CCAB how he had met with the finance team to review the large project list to decide which projects would be best for a BEST cash grant and which projects would be financeable.

Ted noted that there would be left over Qualified School Construction Bond (QSCB) money left over from the 2010 Series D financing that has to be spent by December, 2013. Ted told the CCAB that the Pikes Peak BOCES project was a great project that could use up the remaining QSCB funds. Ted told the CCAB about the projects that could be either cash or financeable and the CCAB Chair questioned why some were like this. Ted told the CCAB it was to have more options to maximize the financing if a project fails their bond election. The CCAB further discussed the reasons for the decisions to make a project cash or lease-purchase. Ted told the CCAB that they will have to meet again in November to finalize the list.

The CCAB Vice-Chair asked if the Board should discuss revisiting the Aspen Community Charter School's waiver request. The CCAB Chair said she had Ted look up Ross Montessori's request from last year and that Ross Montessori did not have a discussion item on the agenda, only that they spoke during the public comments section. The CCAB Chair said to be consistent, that if anyone wishes to speak about Aspen Community Charter School, that can be done at the end of the meeting during the public comments.

CCAB Vice-Chair Norwood Robb made a motion to recommend the attached FY2012-13 Recommended BEST Large Projects to the State Board for preliminary approval with final approval at the November 2012 CCAB meeting.

- Pete Jefferson 2<sup>nd</sup> the motion;
- No discussion;
- Motion carried unanimously.

- Approve Park County School District RE-2 to use a portion of their FY2009-10 BEST Lease-Purchase grant reserve as their matching source for their FY2012-13 BEST Roof Replacements grant. Ted Hughes told the CCAB about the previous grant awarded to Park County School District RE-2. Ted explained that when the original grant was awarded, that the grant writers did not include the leaky roofs. Ted told the CCAB what a grant reserve can be used for and that the project did not qualify for a grant reserve request. Ted told the CCAB that since the roofs were not in the original project that was financed; the roofs cannot be paid for with financed dollars.

The CCAB discussed the situation and said it felt like the district was trying to get out of their match. The CCAB Chair discussed how unused funds from their previous project will come back to BEST program later on down the road. A CCAB member noted that it may be more expensive to fund if costs increase later on. Ted told the CCAB the cost could increase and that there was a potential parts of the building could be ruined that were paid for by State dollars. Erica Westin, the BEST legal advisor told the CCAB the implications with using State financed monies on a project that was not included in the scope of services at the time the financing closed. The CCAB Chair suggested the Board take no action on the item. No motion was taken.

- Approve an additional \$200,000 for Pikes Peak BOCES FY2012-13 recommended grant for Davis-Bacon prevailing wages. The CCAB briefly discussed that QSCB required Davis-Bacon prevailing wages and that the school said \$200,000 would cover the cost of additional wages.

Dave Van Sant made a motion to add a \$200,000 allowance to the total project cost for Pikes Peak BOCES FY2012-13 school replacement project to cover additional costs for Davis-Bacon prevailing wages. The new project costs are as follows: BEST Portion: \$12,130,727.00, BOCES Match: \$604,182.00, Total Project Cost: \$12,734,909.00.

- Norwood Robb 2<sup>nd</sup> the motion;
- No discussion;
- Motion carried unanimously.

- Approve a change in grant and match amount for West End RE-2's FY2012-13 BEST grant. Ted Hughes told the CCAB there was an issue with the district's total available bonding capacity and that the match amount needed to change.

Dave Van Sant made a motion that the West End RE-2 FY12-13 grant award amount be changed to \$12,980,172 with a matching amount of \$8,930,939 for a total request and matching contribution of \$21,911,111, so that the matching amount is equal to, and doesn't exceed, their bonding capacity.

- Norwood Robb 2<sup>nd</sup> the motion;
- Discussion: The CCAB Vice-Chair asked if this information was supposed to be checked when reviewing grants. Ted said it was checked, but that the Division staff was basing the information off what the applicant submitted.
- Motion carried unanimously.

- Approve the use of Assistance Fund monies to be used to pay for the FY2012-13 ALTA & ESA surveys. Ted Hughes told the CCAB about the real estate due diligence needed to secure financing for the lease-purchase projects. Ted told the CCAB the applicant would pay for the surveys and then submit the invoice to the State for reimbursement. Once all have been reimbursed and the financing closes, the Assistance Fund will be reimbursed with financed funds.

Norwood Robb made a motion that the BEST Division staff provides reimbursement of an amount not to exceed \$190,000 from the Assistance Fund to the BEST2012-13 proposed BEST Lease-Purchase Grant recipients for ALTA and Phase 1 Environmental Site Assessments that are required for COP financing.

- Dave Van Sant 2<sup>nd</sup> the motion;
- No discussion;
- Motion carried unanimously.

## V. Discussion Items

- Discussion regarding amicus brief. The CCAB Chair told the CCAB that a Board member had inquired about supporting Lobato lawsuit appeal at the June CCAB meeting. The CCAB Chair said she did not know if that was possible and has since then, received feedback from the BEST attorney general. Ted Hughes described the background of the Lobato lawsuit to the CCAB and public and noted that the suit is against the state and that CDE is a defendant. Ted Hughes told the CCAB that he had spoken to the attorney general's office. Ted Hughes told the CCAB that they are part of the State and that the CCAB cannot formally side with the plaintiffs in the case. Ted Hughes told the CCAB he included an article about the case in their Board packets and encouraged them to read it when they had a chance.

A CCAB member disagreed that a State entity couldn't file an amicus brief with a plaintiff who had brought a case against the State. The CCAB member told the CCAB about a situation where an amicus brief was filed by the University of Colorado Board of Regents. The CCAB member listed the similarities between the University of Colorado Board of Regents and the Capital Construction Assistance Board. The CCAB member told the CCAB that he thought the amicus brief filed by University of Colorado Board of Regents was a conflict of interest then, because Attorney General John Suthers initially requested the filing. Erica Westin, the BEST attorney general told the CCAB that the Board is a part of CDE and that CDE is a defendant in the case. The CCAB member stated he felt that the opinion restricts his first amendment rights, that the decision is two-sided and expressed that he was not happy with the attorney general's opinion.

The discussion ended with the BEST Board taking the advice of their AG and agreeing that they would not formally take a position or participate as an amicus party.

- Discuss hiring a consultant to provide public outreach. Ted Hughes told the CCAB how many people; including legislatures do not know exactly what the BEST program is or that there is a huge need throughout Colorado. Ted told the CCAB that the Department of Education thinks public outreach should be done internally. The CCAB Chair told the CCAB that she feels strongly about getting the word out about the BEST program, because of issues that have risen over the last nine months. The CCAB Chair noted how the BEST program can be difficult to understand and that there has been a lot of turnover in the legislature since the program was initiated. The CCAB Chair said the position is not to lobby for BEST, but to help build relationships and inform people about the program. The CCAB discussed the role of the position, noting that the term public information officer would be an appropriate title and that it would be a contract position. The CCAB confirmed this would not be a lobbying position, strictly meant for communication about the BEST program.

## **VI. Future Meetings**

- Ted Hughes told the CCAB that the September meeting was tentative, but that there could be a meeting. Ted told the CCAB about the November meetings and how the CCAB would need to finalize the large project list after the bond elections. Ted talked about the Board retreat. A CCAB member asked if they could schedule it at a ribbon cutting, Ted said it was hard to coordinate already. The CCAB asked that dates be picked and sent out to the Board.

## **VII. Public Comment**

- The CCAB Chair asked if there was anyone who had questions or would like to speak from the public.
- Vinny Badolato with the Colorado League of Charter Schools addressed the Board. Vinny told the CCAB he wanted to talk to the Board about two decisions they made at the June 2012 grant selection meetings.

Vinny talked about the decision that was made for Southwest Open Charter School (SOCS) and that he was not speaking for a specific school, but told about how SOCS was awarded last year and did not get a bond for their matching funds. Vinny said that SOCS came forward this year with the same grant did not even receive a motion. Vinny then talked about the Pikes Peak BOCES project which he stated was similar to SOCS and that Pikes

Peak BOCES project was approved with a waiver. Vinny said it was a very puzzling decision.

Next, Vinny discussed the Aspen Community Charter School Project (ACCS). Vinny talked about letters that were included from the district superintendent and read part of the letter to the CCAB which talked about ACCS's match and how it increased. Vinny talked about Senate Bill 12-121 and how the new calculation would affect charter schools. Vinny told them the timeframe of when the bill was enacted, how soon the school was notified before the grant selection meetings and that the school had very little time to make a decision. Vinny told the CCAB that ACCS's project was awarded and that the waiver was not. Vinny asked the CCAB to reconsider the waiver request and approve ACCS's project with their original 54% match. No discussion from the CCAB.

- Charles Schultz with Park County RE-2 asked the Board to reconsider the district's waiver for their BEST FY2012-13 roof grant. Charles told the CCAB the district only has \$135,000 they can provide for their match and that they are asking for a \$198,500 waiver. Charles told the CCAB that he was very grateful for the previous grant and that the district would not have enough money to complete the project. Charles asked the CCAB to reduce the required match to \$135,000. No discussion from the CCAB.

#### **VIII. Adjournment**

- The CCAB Chair asked for a motion to adjourn:
  - So moved by Dave Van Sant;
  - Norwood Robb 2<sup>nd</sup> the motion;
  - Discussion: Norwood Robb told everyone that this was Mary Wickersham's last meeting. Norwood asked that everyone give her a standing ovation for her hard work and dedication to the BEST program;
  - Motion carried unanimously;
  - Meeting Adjourned.