

CAPITAL CONSTRUCTION ASSISTANCE BOARD MINUTES OF THE FEBRUARY 27, 2013 MEETING

Meeting held at:
201 East Colfax, Denver, CO 80203
State Board Room, 101

I. Call to Order

- 1:14 p.m. Lyndon Burnett called the meeting to order.

II. Roll Call

▪ Attendees

Lyndon Burnett – CCAB Vice-Chair
Norwood Robb – CCAB
Pete Hall – CCAB
Tom Stone – CCAB
John Conklin – CCAB
Kathy Gebhardt – CCAB
Greg Randall – CCAB

Ted Hughes – Staff (CDE)
Kevin Huber – Staff (CDE)
Dustin Guerin – Staff (CDE)
Wendi Chapin - Staff(CDE)
Kristin Lortie – Staff (CDE)
Jay Hoskinson - Staff (CDE)
Cheryl Honigsberg – Staff (CDE)
Erica Weston– CCAB Legal Advisor

▪ Excused

Dave Van Sant – CCAB Chair
Pete Jefferson – CCAB

III. Approve Agenda

- CCAB Vice-Chair asked for a motion to approve the agenda;
 - So moved by Norwood Robb;
 - Tom Stone 2nd the motion;
 - No discussion
 - Motion to approve the agenda carried unanimously.

IV. Approve Minutes from January 23 Meeting

- CCAB Vice-Chair asked for a motion to approve the minutes from the previous CCAB meeting;
 - So moved by Norwood Robb;
 - Tom Stone 2nd the motion;
 - No discussion;
 - Motion to approve the minutes carried unanimously.

V. Board Report

- The CCAB Vice-Chair told the CCAB that he and the CCAB Chair had attended various legislative meetings that included the Joint Budget Committee, State Land Board and attended numerous legislative sessions to discuss topics related to the BEST Program.

VI. Directors Report

- Ted Hughes talked about the recent open house at Pikes Peak BOCES for their new special needs school. Ted Hughes told the CCAB Ignacio School District would be having a groundbreaking ceremony on February 28, for their new BEST project.

VII. Action Items

- Review and approve returning unused cash matching funds to Vista Charter School for their FY2010-11 BEST Lease-Purchase grant. Ted Hughes told the CCAB the project was complete and suggested that the CCAB approve the return of their cash match in the amount of \$60,775.04.
 - Norwood Robb made a motion to return the money;
 - John Conklin 2nd the motion;
 - No discussion;
 - Motion carried unanimously.
- Review and approve additional Davis-Bacon prevailing wages for Ignacio 11JT's FY2011-12 BEST Lease-Purchase grant. Ted Hughes explained the background of the situation and why the project required Davis-Bacon prevailing wages. Ted Hughes told the CCAB that the district made a mistake when calculating their requested amount. Ted Hughes told the CCAB about Qualified School Construction Bonds and their requirements.
 - Norwood Robb made a motion to increase Ignacio 11 JT's by \$199,490.00;
 - Pete Hall 2nd the motion;
 - No discussion;
 - Motion carried unanimously.
- Review and approve Ignacio 11JT's Renovation/Addition of (e) MS to Become K-5 Lease-Purchase Grant Specification change, and Modification to Leased Property. Ted Hughes told the CCAB a mistake was made with some conceptual information that related to the square footage of the project. Ted Hughes said a specification change to the sublease would be needed because the district needs to change the collateral property to build a new kitchen. A CCAB member asked if there were any additional costs associated with the change, Ted Hughes said there were none.
 - Norwood Robb made a motion to approve the change to the Sublease Specification and Modification to the Leased Property for Ignacio School District's FY2011-12 BEST Lease-Purchase Grant;
 - Tom Stone 2nd the motion;
 - No discussion;
 - Motion carried unanimously.

VIII. Discussion Items

The CCAB Vice-Chair asked the CCAB if they could begin discussion on item C and wait to discuss items A & B until the Deputy State treasurer arrived. The CCAB agreed

- Rule 3.1.4 notification for Tom Stone. Ted Hughes told the CCAB that Tom Stone has provided notification that Adolphson & Peterson Construction has been awarded the following BEST grant projects: Lake County R-1, for the HS Renovation and Addition project and Pikes Peak BOCES for the Replace Special and Alternative Needs School project.

- Discussion regarding establishing a reserve for lease payments in the event revenues are not adequate; an update on what other agencies are doing. Ted Hughes told the CCAB how the Capital Development Committee (CDC) had drafted legislation to have the program set aside \$40 million as a reserve in case the Program was unable to make its annual lease payment. Ted Hughes said that other entities that have grant programs do not carry a reserve. Ted Hughes explained that the need for a reserve was unnecessary because the Division is already setting the money for the lease payment aside before awards are made for the upcoming year. Ted Hughes noted that the reserve language had been removed from the proposed legislation, but that there was language about legislative oversight from the CDC which would be similar to the State Board of Education's oversight on the BEST Program.

The CCAB discussed the details of the bill further and Ted Hughes showed the CCAB areas of the bill that had been revised. The CCAB discussed how the review process and timelines would have to change to accommodate the new legislation if it were put in place. The CCAB agreed to have the CCAB Chair and Vice-Chair represent the opinions of the CCAB if there were any discussions or opinions needed regarding the bill.

The CCAB Vice-Chair briefly talked about Amendment 64 and how there would likely have to be another ballot issue to tax marijuana so it would comply with TABOR, before the BEST Program would see any funds.

- Discussion pertaining to what would happen if a charter school with a BEST grant closes. Ted Hughes explained the situation and how if a typical school closed the property would revert back to the district and how the building would be the district's responsibility. Ted Hughes described that the situation is different for a charter school whose authorizer is the Charter School Institute (CSI), since the CSI is a Colorado State entity. Ted Hughes told the CCAB he wanted to get the discussion started and have the CCAB discuss the situation with the State Treasurers Office, since the Treasurer's Office is involved in the financing of all BEST lease-purchase projects.

Brett Johnson, Deputy State Treasurer, explained the situation and how the State would be responsible for the building and the financing of that building for roughly 20+ years. Brett Johnson said the State could accommodate the situation if it happened, but that there was no guarantee with a CSI school as to what would happen. Since CSI schools do not have the financial backing that districts and district charters have to ensure payment.

Ted Hughes asked Tom McMillian with the CSI if he would like to discuss the situation with the CCAB. Tom McMillian told the CCAB how the CSI keeps a close eye on the schools that have financial problems. The CCAB discussed the situation further, including possible solutions, statutory changes and the effects one project could have on the overall financing of all of the projects trying to be financed.

A CCAB member asked if the Colorado League of Charter Schools if they would like to comment on the situation. Vinny Badolato with the Colorado League of Charter Schools told the CCAB that he thought the discussion was off base and proceeded to read statistics about schools and pupil counts. Vinny Badolato told the CCAB that he

thinks a decision should not be made on the front end and that this is a moot point. Ted Hughes told Vinny Badolato that this discussion was not brought up to discuss the size of schools, that it was meant to bring attention to a possible risk that could occur when financing certain BEST lease-purchase projects. Vinny Badolato stated his opinions on the situation and said that a discussion should be had regarding all district and schools regarding their financial viability. Brett Johnson said the intent is not to make an unfair decision by any means. Tom McMillian said one possible avenue would be to look at the Emergency Powers Act; C.R.S. 22.30.5-701 thru 704 and make a change to the statute.

- Discussion on a tabled discussion item from the January CCAB meeting: a policy on the return of matching money on BEST lease-purchase grants, when the project is complete and under budget. Ted Hughes discussed the situation and noted that he had talked to the bond attorneys and clarified that the ballot questions are being written in a manner that it is ok for the BEST program to roll over the funds to future BEST projects. The CCAB discussed the current status of the leftover funds and Ted Hughes reviewed the pros and cons regarding the use of any leftover funds. Brett Johnson reviewed the possible scenarios with the CCAB and explained the reason for the State Treasurer's Offices' decision. The CCAB discussed the benefits the BEST grantees are getting from the program. One CCAB member did not agree with the policy and thought that each project should be looked at case by case at the end of the project.

The CCAB Vice-Chair called for a short break 2:45 p.m. to 2:56 p.m.

- Discussion regarding Best Board member's appointments and term lengths. Ted Hughes reviewed each CCAB member's appointments and term lengths, noting that four member's terms were set to expire in 2013. Ted Hughes explained how statute required members from rural, urban and suburban areas throughout the State, and how he would like a charter school representative on the Board after Norwood Robb leaves.
- Discussion on a change of CCAB meeting dates. Ted Hughes said with the possible change in legislation that could affect the BEST Program, there will not be May 22 or June 25-27 meetings. Ted Hughes said the new meeting dates will be May 28-30, with May 31 as a backup. The CCAB discussed the need for possible regular June CCAB meeting. The CCAB discussed the scheduled meeting dates and noted that there may not be the need for June or July board meetings. No formal decision was made.
- Discussion regarding school safety and security. Ted Hughes discussed the situation and how potential BEST applicants were asking what was acceptable to ask for in their grant application. Ted Hughes told the CCAB that applicants had asked about bullet proof glass, updating entry access points and other items that would help protect their schools from an intruder. Ted Hughes gave examples of what schools are currently doing and two CCAB members told the CCAB what they were doing in their districts. The CCAB discussed other solutions that are taking place and asked what the Division staff was looking for. Ted Hughes told the CCAB the Division wanted some guidance as to what was acceptable. The CCAB Vice-Chair said it would have to be looked at case by case situation.

IX. Future Meetings

- The upcoming CCAB meetings were announced.

X. Public Comment

- The CCAB Vice-Chair asked if there was anyone who had questions or would like to speak from the public. There were none.

XI. Executive Session

- The CCAB-Vice Chair asked the members of the public to leave the room so the CCAB could convene an executive session pursuant to § 24-6-402(3)(a)(III), C.R.S. to meet with the State Auditors Office regarding the scope of the BEST Performance Audit, which is a matter required to be kept confidential by State statute. The CCAB Vice-Chair told the members of the public that the meeting was not yet adjourned and that the meeting would be called back to order after the Executive Session to adjourn and that no other topics would be discussed.
- Executive Session – 3:25 p.m. to 3:45 p.m.
- Meeting called back to order at 3:46 p.m.

XII. Adjournment

- The CCAB Chair asked for a motion to adjourn;
 - So moved by Norwood Robb;
 - Tom Stone 2nd the motion;
 - No Discussion;
 - Motion carried unanimously;
 - Meeting adjourned at 3:46 p.m.