



**Vision**

*All students in Colorado will become educated and productive citizens capable of succeeding in society, the workforce, and life.*

**Goals**

*Every student, every step of the way*



**Date & Time:**

November 9, 2017  
1:30 p.m. – 4:00 p.m.

**Location:**

1829 Denver West Dr. Bldg. 27 5<sup>th</sup> Floor Boardroom  
Golden, CO 80401

**Capital Construction Assistance Board Members**

Tim Reed –Chair  
Kathy Gebhardt – Vice Chair  
Brian Amack

Margi Ammon  
Denise Pearson  
Ken Haptonstall

Cyndi Wright  
Scott Stevens  
Roger Good

- I. Call to Order – 1:31 p.m.
- II. Pledge of Allegiance
- III. Roll Call: Brian Amack, Margi Ammon (Phone-In), Kathy Gebhardt, Roger Good, Ken Haptonstall (Phone-In), Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed  
CDE Staff Attendees: Anna Fitzer, Julia Fitzpatrick, Dustin Guerin, Cheryl Honigsberg, Jay Hoskinson, Ashley Moretti, Andy Stine  
AG’s Representation: Robin Cochran (BEST, Phone-In), Joe Peters (BEST), Lori Ann Knutson (State Treasury’s Office)  
Financial Advisor: Jason Simmons, First Southwest
- IV. Approve Agenda  
 Motion by: Kathy Gebhardt  
 2<sup>nd</sup> by: Roger Good  
 All for: Amack, Margi Ammon, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed  
 All opposed: None
- V. Approve Previous Meeting Minutes from the October 5, 2017 meeting  
 Motion by: Cyndi Wright  
 2<sup>nd</sup> by: Brian Amack  
 All for: Amack, Margi Ammon, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed  
 All opposed: None
- VI. Board Report  
 Kathy Gebhardt informed the CCAB the resolution she presented to the Colorado Association of School Boards (CASB) for the BEST program to obtain additional marijuana excise tax passed.  
 Roger Good suggested the CCAB should have a bigger presence at the CASB conference.  
 Kathy Gebhardt, Roger Good, and Margi Ammon attended the Green School Summit on November 3, 2017.  
 Tim Reed welcomed Andy Stine, the new Director of Capital Construction, to the CCAB meeting. He also thanked Dustin Guerin for serving as Interim Director.

Tim Reed thinks more people other than CASB should know how the marijuana excise tax is being spent and better promote the BEST program.

VII. Public Hearing (1:45 p.m. – 1:56 p.m.)

- a. Rulemaking Hearing: Public hearing regarding the Public School Facility Construction Guidelines -1CCR 303-1. This is a time for the public to voice their opinion regarding the Public School Facility Construction Guidelines and for the Assistance Board to evaluate whether any additional changes need to be made.
- b. Assistance Board vote to consider the adoption of the Public School Facility Construction Guidelines - 1CCR 303-1

There was no public comment regarding the proposed changes to 1 CCR 303-1.

There was not board discussion regarding the proposed changes to 1 CCR 303-1.

*Roger Good made the motion to adopt the proposed amendments to the Rules on 1 CCR 303-1 Public School Facility Construction Guidelines.*

Motion by: Roger Good

2<sup>nd</sup> by: Cyndi Wright

All for: Amack, Margi Ammon, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed

All opposed: None

VIII. Director's Report

Andy Stine thanked the Division staff for their time and effort to get him up to speed. He also thanked the CCAB members who participated in the Green School Summit on November 3, 2017. Andy mentioned he was part of the committee for the the DOLA Energy Impact Assistance Fund grants. He is meeting with the Colorado Lottery next week as well as the League of Charter Schools. Andy will be presenting at the Colorado Association for School Boards (CASB) conference on December 1, 2017 from 2-3:15 p.m. and attending the National Council for School Facilities (NCSF) conference December 3-6, 2017.

Andy will be inviting the Colorado Lottery, Stand Lands Board, and Department of Revenue to present to the CCAB on how their agency contribute to the BEST program.

Division staff attended media training provided by CDE and would like invite the CCAB to attend a training as well.

Facility Insight Update: As of October 2017, 8.7 million sq. ft. of school facilities have been assessed. The Division is in the process of hiring three more assessors to join the team. Nine candidates applied for the positions and the interview committee will be interviewing five candidates next week. The anticipated start date is mid-December. Dustin Guerin and Andy Stine will be meeting with the Joint Budget Committee (JBC) to provide an update on how the assessments have been going.

Andy Stine has completed "stay interviews" with Division staff and concluded these things about the staff: they are motivated, want to take on additional responsibilities, have the desire to grow in the program and professionally, and all want to market better on what the program provides.

*The CCAB recessed from 1:54 p.m. to 2:00 p.m.*

IX. Public Hearing (2:00 p.m. – 2:20 p.m.)

- a. Rulemaking Hearing: Public hearing regarding the BEST Rules – 1 CCR 303-3. This is a time for the public to voice their opinion regarding the BEST Rules and for the Assistance Board to evaluate whether any additional changes need to be made.

- b. Assistance Board vote to consider the adoption of the BEST Rules – 1 CCR 303-3

There was no public comment regarding the proposed changes to 1 CCR 303-3.

Scott Stevens asked Division staff and the AG's office if there was feedback from his concern he stated at the September 7, 2017 meeting regarding how energy performance contracts qualify as a "match" for a BEST project. Robin Cochran, AG representation for the BEST program explained that the legislative changes from HB 17-1082 authorize utility cost savings associated through energy performance contracts to be used as a match. Division staff and the CCAB could develop a policy to determine how they could be used as a match. The policy would not affect the proposed rules that are up for adoption. Robin will work with Division staff to develop the policy and present it at the November 30, 2017 meeting for discussion and adoption.

*Scott Stevens made the motion to adopt the proposed amendments to the Rules on 1 CCR 303-3 BEST Program Rules.*

Motion by: Scott Stevens

2<sup>nd</sup> by: Roger Good

All for: Amack, Margi Ammon, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed

All opposed: None

## X. Discussion Items

- a. COP Project Escrow Discussion

Andy Stine informed the CCAB the COP team isn't sure if the due diligence for all COP projects (including backups) would be completed by the November 8, 2017 deadline. The COP team has indicated that the CCAB can move forward with an option to escrow project funds. This would allow a project(s) who has not met the necessary requirements to complete their COP financing by the deadline more time to complete their due diligence. If funds are escrowed, the new deadline to complete the due diligence would be February 23, 2017 (the deadline for FY 2018-19 grant submissions)

Contingencies for escrowed project funds:

- Project funds to be escrowed are considered and included in the sizing .for COP projects. This will start the clock on the three-year window required for the COP proceeds to be spent
- Escrowed project funds would not be distributed until all due diligence for the project has been completed
- If a project is not successful with their due diligence, the COP proceeds allocated for such project remains with the Trustee (Zions Bank) in the escrow account for future grants (FY18-19 grant cycle)
- Potential final due date would be February 23, 2018 (FY18-19 grant deadline), giving staff the ability to calculate total need and available funds for FY18-19 grant cycle.

Considerations:

- Funds could be escrowed to allow district extra time to complete due diligence. If district fails to complete due diligence by the deadline, funds could be distributed in FY18-19 cycle giving those funds only two years to be spent. Funds could also be escrowed for future projects.
- If projects are not escrowed, funds could be available for current FY17-18 back-up projects (assuming enough funds available for highest priority backup)
- If projects are not escrowed, and funds are not borrowed, capacity will be that much greater the next round of financing.

Roger Good asked what the past practice has been. Division staff stated the Rocky Mountain Deaf School participated in a previous issuance and did not complete their due diligence by the initial deadline. Their funds were escrowed.

Lori Ann Knutson, AG representation for the State Treasury's office stated she has spoken with Deputy Treasurer to determine what can be done to allow project(s) who need a little more time to still participate. Escrowing funds would allow more time to complete the diligence. It's important to the Deputy Treasurer to allow as many projects to get funded.

Jason Simmons added the CCAB will want to consider the size of the project to be escrowed as 85% of the funds would have to be spent in three years. Generally speaking, escrowing one project isn't problematic on the financial end. But it can get difficult if there are multiple projects escrowed.

Andy Stine reminded the CCAB this is an exception for one project this year and Division staff is fairly confident the remaining due diligence would get resolved. There is no formal motion or decision needed on how to handle escrow funds, the conversation is more for the CCAB to understand the implication's if they decide to move forward with escrowing funds for one of the projects.

#### XI. Action Items

- a. Adopt Resolution 17-1 instructing the State Treasurer pursuant to 22-43.7-110(2) C.R.S. to enter into one or more lease-purchase agreements on behalf of the State to Provide financial assistance to the BEST Lease-Purchase projects that were authorized by the State Board on June 15, 2017 and the Capital Development Committee on June 21, 2017 and have met the necessary requirements for financing.

Denise Pearson asked Division staff if they had any insight on how the election tie will be resolved for Hayden School District. Andy Stine explained the district is waiting on a few overseas votes to come in and if the results are too close to call there may need to be a recount. The election results will be certified within thirty days. Since Manzanola School District was the only Lease – Purchase project that failed their bond election, even if Hayden School District does pass their bond election, there is not enough capacity to fund them. If Hayden School District fails their bond election there is a potential for Swallows Charter Academy to be funded. Swallows Charter Academy would need their funds to be escrowed as part of the adoption of resolution 17-1 and complete their due diligence by February 23, 2017.

Scott Stevens asked for Swallows Charter Academy to update the CCAB on the status of their due diligence. Cheryl Honigsberg, Regional Program Manager, explained they have one piece left to complete and it will be completed within the next few weeks. Other than that piece of due diligence, the project is ready to go.

Kathy Gebhardt asked if the Division staff had a recommendation on what resolution to adopt. Andy Stine stated to move forward with the escrow option

*Scott Stevens made the motion for the CCAB to adopt Resolution 17-1, version with the escrow option.*

Motion by: Scott Stevens

2<sup>nd</sup> by: Kathy Gebhardt

All for: Amack, Margi Ammon, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed

All opposed: None

b. Adopt BEST Assistance Board Lease Purchase Policy

Jay Hoskinson, Regional Program Manager, stated the policy was presented at the last CCAB meeting on October 5, 2017 in a “draft” form. No changes have been made to the policy since it was last reviewed on October 5, 2017. The policy addresses returning unused matching funds from COP projects via return grants (a type of cash grant) for qualifying capital construction projects. This has been past practice but was never written in policy. This policy also determines that matching-money bonds for BEST projects use a twenty-year level debt structure.

Kathy Gebhardt asked if this policy resolves the matching-money bond issue that Brush School District experienced which it does. Denise Pearson asked if there would be any additional finance charges to the state in order to do a return grant. Jay explained there wouldn't be as the money as already been financed. The unused funds would be considered as excess funds.

*Roger Good made the motion to adopt the Lease-Purchase Policy dated November 9, 2017*

Motion by: Roger Good

2<sup>nd</sup> by: Kathy Gebhardt

All for: Amack, Margi Ammon, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed

All opposed: None

c. Use of Excess \$5 Million COP Proceeds from Previous Issuances

Jason Simmons, Financial Advisor for the FY 2017-18 COP projects explained the four different options for use for the \$5 million excess proceeds from the previous three issuances. The excess proceeds were a result of COP projects from the three previous issuances finishing under budget. The excess funds are held by Zions Bank as Trustee. Jason mentioned the State Treasurer's office would like the excess funds to be used in a way that they will increase capacity for the program. Option 1 or 3 would increase the capacity.

1. Apply to Projects in the 2018-2019 Cycle

2. Use to Pay Current Debt Service

3. Use to Defeas Future Debt Service

4. Use to pay expenses of the Lease Purchase grant program

Kathy Gebhardt and Tim Reed commented it makes more sense to put funds towards projects now vs. waiting and not knowing when the Division could offer COP financing again. They both stated they are in favor of option 1.

*Kathy Gebhardt made the motion to select option 1 as the option for use of the \$5 million excess proceeds from the three prior issuances, held by Zions Bank as Trustee.*

Motion by: Kathy Gebhardt

2<sup>nd</sup> by: Denise Pearson

All for: Amack, Margi Ammon, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed

All opposed: None

*Margi Ammon left the meeting at 3:05 p.m.*

d. Qualified Zone Academy Bond Application from Moffatt County RE-1

Anna Fitzer, Regional Program Manager, explained a Qualified Zone Academy Bond is a way for school

districts to obtain interest-free financing for renovation, repair projects, and other construction needs. The Colorado Department of Education does not provide funding, but provides authorization for a school district to obtain the interest-free financing if the school district qualifies. To qualify, the school district must meet the following criteria:

- 35% or more of the school's students must qualify for free and reduced lunch;
- Programs established with QZAB must have the goal of enhancing the academic curriculum, increasing graduation and employment rates or better preparing students for college and the workforce;
- Each school must enter into a partnership with a private entity or entities. The partner must contribute at least 10 percent of the net present value of the amount of money borrowed;
- At least 10% of the financing must be contracted within 6 months after issuance. 100% of the QZAB must be spent within 3 years of date of issuance.

Moffat County RE-1 meets all of the requirements and asking for their application to be authorized.

Denise Pearson asked if their request would be used as a BEST grant match which Anna stated they would not be. Kathy Gebhardt asked how much funding the program can authorize each year. Anna stated \$5,048,000.00

*Denise Pearson made the motion to authorize Moffat County RE-1 QZAB's application.*

Motion by: Denise Pearson

2<sup>nd</sup> by: Roger Good

All for: Amack, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed

All opposed: None

e. Ouray Grant Reserve Request

*Scott Pankow, Superintendent for Ouray School District participated in the discussion by phone.*

Anna Fitzer, Regional Program Manager, provided a high level background on the K-12 major renovation that was awarded in the FY15-16 grant cycle. She explained the district's grant reserve request for funds for an air conditioning unit in theater and library.

Scott Pankow informed the CCAB the district has found there is geothermal activity under part of the building that has been naturally heating the library and theater. Brian Calhoun, RTA Architects, designed the renovation for the school district and did not anticipate needing air-conditioning in the library and theater spaces. Because the geothermal activity under the building is warming the floor, the district has tried to add an economizer units to the spaces but it is still not cooling these spaces. The design of the renovation does not allow the hot air to escape.

Tim Reed asked for the Division staff's perspective was on the reserve request. Anna explained there is outstanding scope items that has not been completed yet such as repairs to retaining wall. In the application the district noted the retaining wall was a threat and failing. Given it was a primary component of the application, she feels where BEST funding should be focused on the retaining wall deficiencies before adding additional scope items.

Scott Stevens asked if there was a new roof installed as part of the renovation and if this is why the hot air cannot escape. Scott Pankow explained the old roof was flat and the new roof is sloped. The spaces that are experiencing the heat issues used to be classrooms and now have been renovated into a library

and theater space. Scott Stevens also asked if there was any geological testing done before construction. Scott Pankow explained there was limited geotechnical testing (no thermal testing) for the foundation of the new entry vestibule and nothing unusual was identified. Scott Stevens asked how the district determined the air-conditioning units would be the solution and if a geothermal engineer had been involved. The economizer units cannot keep up with the heat so the next step would be to try air-conditioning Scott Pankow stated.

Scott Stevens and Tim Reed expressed they are hesitant to fund the reserve request for an air-conditioning units because the due diligence has not been completed to determine if this would be a permanent solution. It's a trial and error process and is unknown how the air-conditioning will affect the facility.

Denise Pearson asked Scott Pankow what the plan was to address the deficiencies in the retaining wall. Scott Pankow explained the district is setting aside money to fix it. They are also looking into a historical grant with the city.

Scott Stevens expressed he feels there has been a lapse of judgement in budget management and selection of owner's representation. Anna Fitzer added the owner's rep was procured to handle the bond portion of the scope. The district indicated they'd go through qualified selection process once the grant was awarded. Division staff received a letter indicating they would not competitively select the owner's rep and use the one they had already procured. The owner's rep was a husband of one of the school district's board members and the district felt he was qualified to continue working on the project. Division staff felt during the project that the owner's rep was not doing an adequate job. In 2015 it was noted by the district they would need reserve request funds to finish the project. There have been a number of invoices that are ineligible or not part of original scope that the district has had to use their funds to pay. Scott Stevens asked Scott Pankow where this district is at with the renovation budget. The district has had to use their own dollars to address unforeseen needs. The funds they are requesting is less than 5% of the total project. The division feels there have been many oversights in the budget.

The CCAB agreed that mechanical and geotechnical testing needs to be explored to determine what is the best long term solution.

*Denise Pearson made a motion to not approve Ouray School District's grant reserve request.*

Motion by: Denise Pearson

2<sup>nd</sup> by: Scott Stevens

All for: Brain Amack, Roger Good, Denise Pearson, Scott Stevens, Cyndi Wright, Tim Reed

All opposed: Kathy Reed, Ken Haptonstall

## XII. Future Meetings

- November 30 @ 5:00 p.m. Location: CASB Conference – Broadmoor Hotel Crystal Room, Colorado Springs, CO 80906
- January 11 @ 1:00 p.m. Location: Colorado High School Charter, 1175 Osage St. Suite 100, Denver, CO 80204
- February 8 @ 1:00 p.m. Location: TBD

## XIII. Public Comment – No one was signed up for public comment.

## XIV. Adjournment – 3:55 p.m.

Motion by: Scott Stevens

2<sup>nd</sup> by: Kathy Gebhardt

All for: Amack, Kathy Gebhardt, Roger Good, Ken Haptonstall, Denise Pearson, Scott Stevens, Cyndi Wright, Tim

Reed

All opposed: None

**The mission of the Capital Construction Assistance Board is to protect the health and safety of students, teachers and other persons using public school facilities and maximize student achievement by ensuring that the condition and capacity of public school facilities are sufficient to provide a safe and un-crowded environment that is conducive to student's learning.**