

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL  
MEETING MINUTES  
STATE CAPITOL BUILDING ROOM 307  
August 9, 2021**

**Members Present:** Mr. Joe Guillen, NMSBA      Ms. Rachel S. Gudgel, LESC  
Mr. David Abbey, LFC      Mr. David L. Robbins, PEC  
Mr. Antonio Ortiz, PED      Mr. Clay Bailey, CID  
Ms. Ashley Leach, DFA      Mr. Raul Burciaga, LCS (1:34-2:50)  
Ms. Mariana Padilla, Office of the Governor (arrived at 2:00 pm)

Designee(s): Clinton Turner for Raul Burciaga (2:50 to 3:50)

1. **Call to Order** – Chair Guillen called the meeting to order at 1:34 P.M.
  - a. **Approval of Agenda** – Chair Guillen asked if there were any changes to the agenda as presented, as there was none, the agenda was unanimously approved.
  - b. **Correspondence** – None.
2. **Public Comment** – Two audience members spoke in support of the BDCP SB144 item on the agenda.
  - Dianne Lindstrom, AARP Lobbyist – Volunteer Advocate
  - Dr. Yolanda Jones King – Regent, New Mexico Tech
3. **PSCOC Financial Plan**
  - a. **Financial Plan**

Mr. Evans presented the financial plan updates, reviewing actions that were approved last month by Council, three teacher housing units in Gallup, Nancy Lopez MS in Roswell, as well as the Combined School in Des Moines. Three items were noted as modifications for potential action; one is a slight adjustment to Gallup’s Tohatchi teacher housing units, as well as additional design funding for (Roswell) Mesa MS and (Las Cruces) Columbia ES. The variance analysis for the out-years for this month’s project requests were estimated to be \$2.1M each year. Mr. Evans also said that the projects awarded in July for FY22 would reflect on the financial plan once the commitment letters were signed and received. The projected ending fund balance as of July 2021 is \$417M.
  - b. **FY23 PSFA Operating Budget Request**

The FY23 Operating Budget request totals \$6.07M and includes an increase of 5% from FY22. The request includes staffing up to 50 FTE, which is two more full-time positions than the previous years. Mr. Evans mentioned further details in the budget summary documentation provided for FY21, FY22, and FY23. In response to a question posed by Mr. Robbins during the AMS Subcommittee meeting on the unemployment insurance (UI) Premium, Mr. Evans verified \$25,800 was the correct amount. A response is pending from GSD to Mr. Evans to verify unemployment claims; currently, FY22 figures are being used to project FY23. Mr. Robbins commented that as the Chair of the AMS Subcommittee, he felt

the discussion on the agenda item was reasonable and reiterated that no action was taken due to a lack of a quorum. Ms. Gudgel stated that the actual numbers on the financial plan have not been updated from FY21. She stated that the Financial Plan notes FY21 as \$4.4M in the operating budget and has \$5.4M in the FY21 actuals columns. Ms. Gudgel sought clarification on whether or not reversions were included. Mr. Evans responded by saying the action was pending because he was waiting for the audit to be completed. Regarding the reversions, Mr. Evans stated that FY21 included a reduced number from bonds by \$700K because of the fund balance and explained the reversion wouldn't happen until after all final expenditures post.

**MOTION:** Mr. Robbins moved for Council approval of the proposed \$6,073,998 FY23 budget and organizational structure of the PSFA. Ms. Leach seconded and the motion was unanimously approved.

**4. Consent Agenda**

- a. July 12, 2021 PSCOC Meeting Minutes**
- b. P20-005 Las Cruces – Columbia ES – Design Funding Request**
- c. P19-009 Roswell – Mesa MS – Construction Funding Request**
- d. P20-009 & K18-002 Clovis - Barry ES – Construction Request**
- e. P19-004 Gallup – Tohatchi HS – Award Change to include New Teacher Housing Units – Technical Correction**
- f. S19-017 Tularosa – Tularosa MS- Award Language Change from Systems to Standards**
- g. Recertification of SSTBs**
- h. Selection of SB-9 Program Units**

Mr. Abbey said a press release was requested from PSFA to publish the recent \$25M investment in awards for teacher housing. Mr. Chamblin confirmed the request would be completed after the PSCOC meeting and presented at the PSCOOTF meeting the following week. Mr. Abbey commented on the big step towards equity with Teacher Housing projects. Additionally, Mr. Abbey recalled the discussion about Tularosa's empty spaces in their facility and flagged the possibility of right-sizing the facility based on future student enrollment; however, the staff recommendation was not adjusted.

**MOTION:** Mr. Guillen moved for Council approval of the Consent Agenda. The motion was unanimously approved, with no opposition.

Representatives from the following districts thanked the Council for their awards:

- 1. (Roswell Independent School District) Mr. Brian Luck – Superintendent; Mr. Chad Cole – Assistant Superintendent for Finance and Operations; and Mr. Jeremy Sanchez-Construction Coordinator
- 2. (Las Cruces Public Schools) Mr. David Hoppe – Deputy Superintendent, Operations

Mr. Abbey asked the Roswell District representatives if, after their award approval, about half of their schools would be newly renovated or constructed facilities. Superintendent Luck, expressed his appreciation to the Council for their ongoing support and noted that Mr. Abbey's inference was not correct, provided background information on the district's schools

and stated the majority of their buildings were old. Mr. Abbey stated that he hopes the district continues to right size and Mr. Guillen recognized the district's hard work and progress with capital projects. Mr. Hoppe (Las Cruces) noted the benefit of getting good information from the educational specification and was excited about the continuous partnership with PSCOC.

## 5. Other Business

### a. FY22 Lease Assistance Awards

Ms. Gudgel presented the motion as stated on the executive summary for an approval of Lease Assistance Awards totaling \$13.4M. Mr. Robbins discussed the possibility of updating the MEM rate to reflect an increase in the overall consumer price index (CPI) since 2007. Mr. Robbins said that in 2007 the MEM rate was \$700; in 2021 the rate should be \$870. The current recommendation by staff is a 2% increase, totaling approximately \$760 per MEM, which is a \$100 difference. The rate has not been updated for several years due to budget constraints. Mr. Robbins continued to say state funding participation is limited to the eligible classroom square footage of a charter school. In some cases, the PSCOC may waive the rate if the space is less than the allowed. However, Mr. Robbins stated, Charter Schools end up paying the difference and are forced to use other funds to cover the cost of the lease because of the standards set by the Council. It is understood that statute cannot be changed, but Mr. Robbins suggested increasing the MEM rate to \$860, which would total to about \$15.5M. Mr. Robbins expressed concern due to inconsistency that does not honor the spirit of the pending Zuni lawsuit against the state regarding equity in schools and may lead to future problems.

Mr. Guillen asked Mr. Robbins if his request was to award for past years. Mr. Robbins responded in the negative, and stated that no retroactive reimbursement would occur for prior years, but he would like to update the lease reimbursement MEM rate up to what the CPI calculation would have been if updated consistently since 2007. Mr. Robbins continued to explain, if leases are lower than the MEM rate, no extra money is awarded. Mr. Abbey questioned how that was different than-retroactive, and requested clarification on the amount and percentage increase. Mr. Robbins responded that the retroactive reimbursement could be up to \$5-10M more. Mr. Robbins suggested bringing the MEM rate from \$747 to \$872 and clarified no reimbursement would take place for past years. Mr. Guillen asked if the rate is supposed to increase every year. Mr. Robbins restated his request. Ms. Gudgel argued that the staff recommendation did not recommend an increase to the CPI rate. The Awards Subcommittee recommendation adjusted the MEM rate by 2%. Ms. Gudgel asked what the impacted amount would be with Mr. Robbins' request. Mr. Robbins responded that the impact would total to approximately \$1.5 to \$2M more. In response, Ms. Gudgel argued that the original intent of the Lease Assistance Awards was to cover 50% of leases when the program was designed, and up to the last several years, the program has been awarding from 65-70% of lease cost. Ms. Gudgel expressed that she was uncomfortable making a change without analyzing the origin of CPI numbers and adjusting prior year action. Ms. Gudgel asked what the percentage of total leases covered by awards was but Mr. Chamblin did not have the information available. Mr. Guillen and Ms. Gudgel discussed the possible percentage of Mr. Robbins totaling to a 17-18% increase.

Mr. Abbey made a comment about the policies and procedures LFC follows when applying inflationary numbers and said the recommendation is to not fund the cost according to LFC budget guidelines. Mr. Abbey stated the past years had no MEM rate adjustment, recognizing financial constraints, and went on to express the consideration of the effects of moving fixed expenditures without analyzing the need and increase at such a high magnitude. Mr. Guillen asked if the CPI increased from last year. Mr. Robbins said that from December 2019-2020 the increase was 1.2% and 4% since June 2021. Mr. Guillen noted that the Awards Subcommittee recommended 2%, which was higher than the 1.2% and less than the staff recommendation of 2.6%. Mr. Abbey argued that he does think that a 2% adjustment is needed.

Mr. Guillen opened up the discussion to the other members for their input. Mr. Ortiz agreed with Ms. Gudgel regarding providing the Council with more information before a decision is made. Mr. Ortiz also expressed caution about the lease assistance program and the Zuni lawsuit. Ms. Padilla agreed with Mr. Ortiz’s comments. Ms. Leach said that having more information would be beneficial for the overall discussion and determination., and also agreed with Mr. Abbey’s comment about inflationary numbers. Mr. Guillen stated there was flexibility for negotiation and entertained a motion to table the item if there wasn’t a big impact on awards being delayed. Mr. Robbins clarified repayments begin in October and that the September approval would still give the program sufficient time.

**MOTION:** Approval of the award recommendations, as specified in the accompanying spreadsheet entitled “*FY22 Lease Assistance Program Detail Summary*,” to 79 charter and district school applications, in the amount of \$13,446,103. Upon acceptance of the award by the applicant charter school or district, Council authorizes PSFA staff to distribute the award amounts quarterly, on a reimbursement basis, and upon receiving proof of the actual lease payments. Council authorizes PSFA staff to make reductions to award amounts subject to PED and/or PEC written certification to PSFA, stating that a condition exists that warrants an award adjustment or suspension due to a school closure, charter revocation, financial violation or irregularities, and or adjustments to certified attendance numbers (MEM counts). Adjustments to lease amounts may also be made due to a lease termination or amendment. Reimbursements are contingent on the submittal of an E-occupancy certificate, current facility master plan, audit report, and other statutory requirements, as set forth in the application.

**AMENDED MOTION:** Mr. Robbins moved to table the item, Mr. Burciaga seconded and a roll call vote was taken.

Roll Call:

Mr. Abbey – No	Ms. Leach – Yes	Mr. Robbins – Yes
Mr. Burciaga – Yes	Mr. Ortiz – Yes	Mr. Bailey – Yes
Ms. Gudgel – No	Ms. Padilla – Yes	Mr. Guillen – Yes

By a vote of 7 to 2 the motion to table was approved.

**b. Demolition Program Rules and Application**

Mr. Chamblin stated that the request is for prioritization of demolition of free-standing facilities in order to avoid scope creep. After the first year is complete, an analysis of the outcome will be done in order for program improvements to be made. The program timeline is tentatively set to run September through November and then on a month-to-month basis. The plan is to open both demolition and systems programs to proceed on a rolling basis from month-to-month. Mr. Abbey asked what the input of the AMS Subcommittee was; Mr. Robbins replied that the Subcommittee discussed opening up requests to all, depending on demand, but prioritizing free-standing buildings. Mr. Abbey then asked about the program rules, to which Mr. Chamblin replied that the language of the Act requests that Council review awards and for the state to potentially fund up to 100% for demolition. The application process includes requesting information from the district, such as a statement of financial position, letter of commitment, and insurance savings. Mr. Abbey requested that the term “program rules” be changed to “guidelines” as well as modifying the application so that it was less rigid. Mr. Robbins clarified that the Subcommittee discussion never included excluding requests, just prioritizing the requests. Mr. Abbey suggested adding language that applications for non-freestanding buildings would also be accepted. Mr. Robbins suggested modifying the verbiage further to say that applications would be accepted for *any* facility a district would like to demolish.

Ms. Gudgel expressed concern about being able to obtain accurate information about insurance savings. Mr. Chamblin responded that the process may get complicated and staff may need to help districts. Ms. Gudgel sought additional clarification on the requirement for a letter of commitment from the district to retain the land following demolition. Mr. Chamblin replied that the letter was a request from the AMS Subcommittee in response to Ms. Leach’s concern to anti-donation issues. Ms. Gudgel asked how it would be an anti-donation issue; Ms. Leach responded that the concern came from potentially having the private sector benefit from public funds; if the district’s property uses public funds to improve the property by demolishing a building and then sells to the private sector, it could cause an issue. Ms. Gudgel then asked how the commitment could be enforced by PSCOC. Mr. Chamblin said it would be difficult to control; however, Ms. Leach noted that the Board of Finance follows a disposition process for districts which entails disclosing improvements made on property by use of capital funds.

Ms. Gudgel inquired about the types of requests, and possible implications of such, with additional scopes of work. Mr. Chamblin replied that every request would be subject to review by the Council, information within the application would be validated by staff and reiterated that some requests may lead to scope creep. Ms. Gudgel asked how stand-alone demolition requests could get complicated; Mr. Chamblin said that that demolishing a facility could lead to other issues such as damaging the sewer, electricity, water, or gas lines and reminded Members of the boiler issue at the Clayton School District, which had been presented at a previous meeting. Ms. Gudgel cautioned the Council to be careful with the approach and Mr. Guillen expressed his desire for the program to be compact and felt the requests should be for

demolition only. Mr. Guillen was also in favor of the demolition for stand-alone facilities and noted the importance of prioritizing correctly. Mr. Guillen then suggested that districts participate in the additional work independently.

Mr. Robbins noted that additional issues would be unknown until after the demolition was complete, and recommended to allow reconnections to take place on free-standing buildings. Ms. Padilla suggested requesting the districts master plan to foresee potential issues from the demolition; Mr. Chamblin replied that many districts do not include demolition in their master plans. Ms. Padilla further suggested that the information be provided *if* it was included in their master plan; Mr. Chamblin agreed. Mr. Abbey reiterated that a simplification of the demolition process, in combination with the Systems-based program, would be better. Mr. Chamblin clarified that two applications were being done because of the two different bills/acts the programs originated from. Mr. Abbey felt that an accommodation could be made to fit demolition under the Systems-based application and waivers could be included as needed; Mr. Guillen agreed that a simpler process would be better. Mr. Chamblin noted that the release of the announcement letter would change from the first week of September to the third week. Mr. Guillen requested that the revised information be brought back to the September Subcommittee and Council meetings.

**MOTION:** PSCOC approval of the first year award cycle of demolition program rules and release of demolition application for “free-standing: facilities that are life, health and safety hazards and/or educational buildings, as defined by the Adequacy Standards.

**AMENDED MOTION:** Mr. Abbey moved to table the item, Mr. Robbins seconded and the motion was unanimously approved.

**c. BDCP SB144 – Guideline Approval and Funding**

Ms. Gudgel began by reiterating that Motion #1 was the Awards Subcommittee recommendation and that the Subcommittee was not in favor of the nonprofit recommendation. Mr. Chamblin reviewed the executive summary and noted the request for approval of \$200K for procurement and contracting of network engineers to develop a conceptual plan for the Statewide Education Network (SEN). Following procurement, a governance structure would need to be established before the E-rate application due date in spring of 2022. Mr. Chamblin suggested to the Council a possible consideration of \$300K to start preliminary discussion with qualified, expert network engineering contractors. Mr. Chamblin noted the need to develop real projects for the market in order to implement the SEN. The potential timeline, organizational chart, letters of support, and conceptual map were also reviewed.

Mr. Viorica commented that the Advisory Committee was in support of the proposed SEN and also noted the impact of delaying such progress could result in losing momentum, losing E-rate applications/schools, and losing millions of dollars in federal funding. Mr. Abbey noted that the Awards Subcommittee was concerned about the establishment of a nonprofit from the

Council and asked how \$200K would be procured in a competitive way. Mr. Viorica replied that the RFP process would establish and plan the necessary tasks to be completed in order for the SEN to be successful and stressed there was an urgent need for the SEN in communities and schools. Mr. Abbey requested an equitable proposal and competitive procurement process involving quotes. Ms. Padilla asked about PED's role in the work chart; referring to the roles and responsibilities chart, Mr. Chamblin stated that PED provided operational cyber security funding and management support.

Mr. Chamblin acknowledged that the process to develop the SEN would include building infrastructure and establishing operational costs. Ms. Padilla was happy to hear PED was a leader rather than an advisor in the coordination of the SEN and asked about the list of schools ready to participate. Mr. Viorica replied that the list was not currently available but would be shared once it was made final. Mr. Guillen sought clarification, asking if the request was for \$200K or \$300K for contracting/procurement. Mr. Chamblin replied that they would be expert network engineers who would assist with developing a statewide map identifying hub locations and possible potential projects for fiber. Mr. Chamblin further explained that the contractors would also help with grouping districts and e-rate procurement. Ms. Gudgel noted that a step was missed as SB144 states "Council shall develop guidelines for SEN infrastructure, integrate hub location services and/or maintenance equipment" and that "The Council may fund education technology infrastructure project hardware service to interconnect students, teachers, schools as necessary to broadband connectivity and remote learning." Ms. Gudgel asked what the process for guidelines to come was; Mr. Chamblin replied that the conceptual statewide plan is an initial effort to start with the guidelines.

Ms. Gudgel was concerned about rushing approval of the SEN and suggested additional analysis of the bill to understand better the purpose of the SEN. Mr. Chamblin noted that additional material would be provided for discussion at the September meetings. Ms. Gudgel expressed further concern about taking action without guidelines; Mr. Viorica pointed out that the number of steps a project of this size and type may take includes high level proposals and the governance structure is yet to be determined. Ms. Gudgel stressed that Council proceed carefully. Mr. Robbins questioned the request to increase the contracting funds from \$200K to \$300K; per Mr. Chamblin, based on conversations with contractors who would be soliciting bids, the request was a precaution being used to avoid returning to the Council for additional money. Mr. Guillen preferred keeping the amount at \$200K and thanked PSFA for their planning and coordination efforts; Mr. Abbey suggested \$300K was needed. Mr. Guillen asked if Mr. Chamblin was comfortable with the team who would be making the selection; Mr. Chamblin replied in the affirmative. Mr. Viorica emphasized since cyber security is not yet eligible for e-rate funding, it would be a one hundred percent funding expense for the State of New Mexico at this point. Ms. Padilla thanked staff for their work and coordination with PED and DoIT.

**MOTION: Motion #1:** Council approval to award up to \$200,000 from the Public School Capital Outlay Fund for contract technical support to initiate the implementation framework

and sequence of events for a Statewide Education Network (SEN) as required by SB144 of 2021.

**Potential Motion #2:** Approve the attached guidelines, implementation framework and sequence of events for a Statewide Education Network (SEN) as required by SB144 of 2021. Council will revisit the guidelines and the SEN Advisory Board recommendations regularly to make any adjustments deemed necessary to account for changes of broadband and technology use by New Mexico Local Education Agencies (LEAs).

**AMENDED MOTION #1** - Ms. Gudgel moved for Council to approve the flexibility for PSFA to expend up to \$300K for such effort, upon approval of the Chair. Additionally, the Chair shall review procurement method. Mr. Robbins seconded and the motion was unanimously approved.

**Motion #2** – No action taken.

**6. Informational**

**a. Project Status Report**


This item had no significant updates and was not discussed.

**b. Workplan Timeline**

Mr. Chamblin noted the tentative schedule for PSCOC meetings for the remained of the calendar year.

**7. Next PSCOC Meeting** - Proposed for September 13, 2021.

**8. Adjourn** – There being no further business to come before the Council, Ms. Gudgel moved to adjourn the meeting. Mr. Robbins seconded and the motion was unanimously approved. The meeting adjourned at 3:56 p.m.

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Date