

Minutes of the School Facilities Commission
1920 Thomes Avenue
Cheyenne, Wyoming
May 16, 2006

Chairman Marsh called the meeting to order at 8:00 a.m.

Present: Commissioner Algier, Commissioner Ferris, Commissioner Gilpatrick, Commissioner Goodson, Chairman Marsh, Mr. Fred Hansen (filling in for Commissioner McBride) and Director Shivler.

Chairman Marsh recognized Rande Pouppirt for his years of service to the Commission and presented him with a plaque.

Executive Session

Commissioner Gilpatrick made a motion to convene into Executive Session. Commissioner Goodson seconded the motion; motion passed unanimously.

The regular meeting reconvened at 9:10 a.m. All Commissioners present with the exception of Commissioner Carrier. Chairman Marsh recognized Senator Sessions and Senator Anderson.

Approval of Meeting Agenda

Mr. Fred Hansen made a motion to make the following modifications to the Meeting Agenda: Under Old Business add a Resolution regarding Reallocation of Funds as an action item (Item C); Under New Business add Teton 1 Request as an action item (Item J); Under New Business add Lincoln 2 Bid Results as an action item (Item K); and to change Tab E – AVI Contract to an action item. Commissioner Algier seconded the motion; motion passed unanimously.

Approval of Previous Meeting Minutes

Commissioner Gilpatrick made a motion to approve the March 20, 2006 meeting minutes. Commissioner Ferris seconded the motion; motion passed unanimously.

Director's Report

Director Shivler provided an overview of the following subjects:

SFC Educational Seminar
Prototypical Track Design & AVI Civil/Geotech Contract
Chapter 6 of the SFC Rules & Regulations
Alternate Delivery Methods/Construction Cost Brainstorming Session
Recent Construction Costs

**Building Assessment
Maximus – Facility Focus**

Chairman Marsh requested Staff add to the Meeting Agenda under Old Business, the Architect Plus Contract, (Item D) which had been tabled during the March 20, 2006 meeting.

Director Shivler informed the Commission that a Mothball Request for Sheridan County School District No. 2 will be brought forth at the next Commission Meeting.

Commissioner Algier commented she enjoyed the SFC Educational Seminar and found it to have been very professionally done. Commissioner Algier also stated she was impressed with the topics presented at the Seminar.

Chairman Marsh advised only two superintendents were in attendance at the seminar. He suggested the seminar be tailored differently to attract all and encouraged the Districts to attend these type of opportunities.

New Business

SFC & District Construction Project Agreement

Ms. Nancy Thomson provided an overview of the agreement, including the initial changes she made to the original agreement as well as the changes requested by the Commission during the work session held the previous day. These changes will be incorporated into the agreement and routed to the Attorney General's office for approval. The finalized agreement will be brought back to the Commission for approval. Ms. Thomson stated the major changes to the agreement were as follows:

- Definitions – the definitions were simplified by eliminating definitions that are not used in the document and clarifying other definitions.
- A&E Fee – the A&E fee has been changed to reflect a fixed-fee based upon the SFC estimated cost of work rather than construction costs.
- Value Engineering – language was added to the agreement stating the requirement for adherence to value engineering findings throughout the design phase.
- Ownership of Documents – The language in the SFC and District Construction Project Agreement must work in concert with the language in the Contract for Professional Architectural and Engineering Services, such that the Documents are the property of the SFC and available for re-use by the SFC as desired. Ms. Thomson stated the Staff has concerns with how to utilize these documents and that more research regarding this issue would follow. Ms. Thomson further indicated Staff would ensure the language in both the Agreement and Contract is consistent.

Contract for Professional Architectural and Engineering Services

Ms. Nancy Thomson provided an overview of the proposed template Contract for Professional Architectural and Engineering Services. Ms. Thomson stated the template Contract is being proposed because of discrepancies in the AIA contracts being used from one district to another. Ms. Thomson further stated that currently the Staff is seeing these discrepancies result in additional architectural fees when the scope of services had not changed. Ms. Thomson indicated the Staff would work to ensure the language contained in the Contract is consistent with the SFC/District Agreement. Ms. Thomson summarized the substantive paragraphs in the proposed Contract template as follows:

- A&E fee – In the past, the A&E fee was based upon the construction cost. W.S. 9-2-1032(e) prohibits public entities from paying for professional services “based upon a percentage of the construction cost”. The Contract has been modified to reflect a fixed-fee based upon the SFC Estimated Cost of the Work, as identified on the project worksheet, with corresponding A&E Scope of Services.
- Value Engineering – The process is integral to ensure “adequate, efficient and cost effective school buildings and facilities” are built. Language has been added to the Contract which requires adherence to the Value Engineering findings throughout the design phase.
- Ownership of Documents – Language in the Contract must work in concert with the language in the SFC/District Agreement, such that the Documents are the property of the SFC and the SFC has the right to re-use the documents on other projects throughout the State.

Chairman Marsh asked Staff to extend the public comment period to Friday, May 19, 2006. He indicated the SFC’s intent with this Contract is to provide protection for the owner while making it a fair Contract for design professionals.

Standard A&E Fee Schedule

Ms. Thomson stated that a change to the A&E fee schedule is required because of the modifications to both the SFC/District Agreement and the District A/E Contract. The A&E fee schedule is now based upon “SFC Estimated Cost of the Work” and not construction costs. Ms. Thomson indicated reimbursable expenses are included in the percentages.

Commissioner Algier asked if there was room for negotiation in regards to reimbursable expenses. Ms. Thomson stated that in the past, there was not room for negotiation and it would be very difficult to put a price tag on reimbursable expenses while establishing a budget because of the number of variables surrounding reimbursable expenses.

Chairman Marsh asked Director Shivler to provide the report the Staff used to develop the original A&E fee schedule to the Commission for their review.

AVI Contract

Ms. Nancy Thomson stated AVI would provide geotechnical investigations and the necessary testing need to prepare soils report with foundation recommendation relative to school construction projects, including tracks. Ms. Thomson indicated other civil and geotechnical engineering services would be provided as deemed necessary by the Staff. Ms. Thomson informed the Commission that task orders would be generated identifying the scope of work and agreement of a lump sum and not to exceed price for each project on which AVI worked. Ms. Thomson noted that payment of AVI's services will come from within the existing construction budgets of the districts and will not be an addition to the established project budgets.

Commission Algier made a motion to approve the use of AVI for the services outlined in the contract which as been approved by the Attorney General's office and presented to the Commission today. Commission Algier further moved the Commission to authorize the Director to enter into the contract on behalf of the Commission. Mr. Fred Hansen seconded the motion; motion passed unanimously.

Big Horn 3 Request

Mr. LaPlante introduced Mr. Craig Sorensen, Superintendent for Big Horn 3. Mr. LaPlante informed the Commission that additional funding was needed for the Greybull Elementary School Project was needed due to LEEDS certification requirements as well as inflation as represented in the documents provided to the Commission, and he recommended the Commission approve the use of \$1,107,824 from the 07/08 Review and Analysis account.

Commissioner Gilpatrick made a motion to approve the use of \$1,107,824 from the 07/08 Review and Analysis account for Big Horn County School District No. 3 – Greybull Elementary School, as a proper demonstration has been made that this amount reflects actual inflationary price increases. The remaining \$99,250 of the balance of the bid received on this project will be paid by the school district as an enhancement to obtain LEEDS certification. Commissioner Ferris seconded the motion.

Mr. Fred Hansen excused himself from this agenda item citing a conflict.

Chairman Marsh read the motion from the June 21, 2005 meeting to clarify the issue surrounding costs related to the LEEDS certification. The motion read:

“Commissioner Goodson made a motion the staff will continue to support the adequate, energy efficient and cost effective schools as stated in Chapter 4 of the SFC rules and regulations. All costs associated with LEED design certification and commissioning will be considered an enhancement and must be paid for by the district; Commissioner Pouppirt seconded the motion; motion passed unanimously.

Chairman Marsh offered his apology to Mr. Sorensen and the District when it was determined the District was not aware of the June 21, 2005 meeting or the motion regarding payment of LEEDS certification expenses.

Motion passed unanimously.

Fremont 2 Request

Director Shivler informed the Commission Fremont 2 has requested this item be removed from the Agenda as the land cannot be sold at this time due to a local zoning dispute.

At 10:08 a.m., a 15-minute recess was taken. The regular meeting reconvened at 10:22 a.m.

Resolution Regarding Reallocation of Funds

Mr. Fred Hansen made a motion to adopt the following resolution: The 2004 Budget footnote provided funding for construction on a project by project basis. It has become clear that not all projects need the entire project amount encumbered immediately and therefore the SFC determined, in consultation with the Select Committee on School Facilities and the Joint Appropriations Committee, that the SFC may, and should, reallocate funds from one 05-06 project to another 05-06 project as needed in order to expedite construction and renovation of as many approved 05-06 projects as possible.

Furthermore, the 2006 Budget Footnote provides that the SFC shall prioritize funding among and within all projects approved in the 07-08 Budget.

The intent of the Commission is to use the funds appropriated by the legislature in a manner which promotes the most rapid, efficient and adequate construction of school facilities which may be obtained consistent with Wyoming law. The Commission directs the staff to continue to bring to the Commission its recommendations for reallocation of 05-06 funds as well as reprioritization of 07/08 projects. Commissioner Algier seconded the motion.

Commissioner Goodson asked if the Commission had to approve all the reallocations.

SFC counsel, Mr. Michael O'Donnell advised the Commission not all projects must be brought forward for approval. Mr. O'Donnell indicated to the Commission the intent of the Resolution is to require the Staff keep the Commission informed of all reallocation of funding using a number of different vehicles (i.e. public meeting, weekly communication between staff and commissioners, conference call, etc). Mr. O'Donnell informed the Commission it is the desire of the Director that the Commission not be too rigid in how the flexibility provided by the legislature is used. Mr. O'Donnell stated the Director needs to be given a certain amount of authority to make reallocation determinations in order to expedite construction throughout the state, and the language of the Resolution was designed to try and capture that kind of flexibility.

Director Shivler stated he felt the last sentence of the resolution that says “the Commission directs the staff to continue to bring to the Commission its recommendations for reallocation of 05-06 funds as well as reprioritization of 07/08 projects” is sufficient.

Mr. O’Donnell stated this language will also ratify recommendations brought by the staff which have already been implemented.

Mr. Fred Hansen made a motion to amend the previous motion by adding the language “07/08 minor capital construction project funds” to the end of the last sentence and deleting “reprioritization of 07/08 projects”. Commissioner Algier seconded the amended motion.

Additional discussion was held regarding whether the Commission consulted with the Select Committee, the Joint Appropriations Committee on the reallocation process. Senator Sessions expressed concern that districts are not being involved in the reallocation process. Chairman Marsh assured Senator Sessions that the districts are involved in the reallocation process and he asked Teresa Kunkel to review the reallocation form with Senator Sessions.

The amended motion passed unanimously.

Natrona 1 Request

Mr. Ken Burnett reported to the Commission Natrona County School District #1 had originally planned to house McKinley school students in the vacated Fort Caspar Academy (a replacement has been designed and will be out for bid in the next few months) while the McKinley/Westwood project moved forward.

Mr. Burnett informed the Commission the District encountered site issues with the Fort Caspar Academy project and a decision was made to move Fort Caspar Academy to another location. This caused a delay in the Fort Caspar Academy project of one year, thus eliminating the availability of the vacated Fort Caspar Academy as transition space for McKinley students during the McKinley/Westwood project.

In order for the McKinley/Westwood project to continue moving forward, Mr. Burnett stated the District decided to add portables at the Westwood site to allow merging of the McKinley/Westwood communities as they design and plan for opening their new facility.

Mr. Burnett informed the Commission the modulares were not in the District’s approved Five Year Plan; however, approval of repurposing funds within the McKinley/Westwood project is necessary in order to keep the approved projects moving forward. This request is for the lease of seven (7) modulares for two (2) years. Currently, there are 205 children in the McKinley school.

Chairman Marsh questioned why the request is \$441,114 for dry modulares when the District has ordered wet modulares at a cost of \$509,068. Mr. Burnett stated that at the

time of the request, he was only aware of an order for dry modulars and was unsure about whether the request could be changed.

Mr. Dennis Bay for the District, explained the initial intent of the District was to obtain dry modulars and utilize the restrooms within the existing facility on site for the 205 students. Because of this, Mr. Bay indicated the District submitted a request to Mr. Burnett for the dry modulars and Mr. Burnett subsequently provided the request to the Commission for consideration at this meeting. Mr. Bay continued stating the City of Casper informed the District it could not utilize the existing facility restrooms. The District then ordered the wet modulars. Mr. Bay indicated the District would like to modify its request to \$509,068 for the wet portables.

Mr. Fred Hansen made a motion to approve the repurposing of \$509,068 within the McKinley/Westwood project for the lease of seven (7) modulars for two (2) years. Commissioner Gilpatrick seconded the motion.

Commissioner Algier questioned the rush to move the McKinley students and the practicality of waiting another year.

Mr. Burnett answered that several of the elementary schools are rated low in the MGT scores. The district has a plan for replacing several schools at the same time with Fort Casper and McKinley/Westwood to be the first two replaced in the plan. The McKinley/Westwood project has not been designed and the district's intention is to use the design for Fort Casper project to save time.

Commissioner Goodson advised that the only issue will be the inflated costs by delaying the project. Mr. Burnett agreed.

Mr. Fred Hansen made a motion to amend the previous motion by changing the word "repurposing" to "reallocation". Commissioner Algier seconded the amended motion; amended motion passed unanimously.

The motion passed 5-1 - Commissioner Algier, Commissioner Ferris, Commissioner Gilpatrick, Mr. Fred Hansen and Chairman Marsh voted in favor while Commissioners Goodson voted in opposition of the motion. Motion passed.

Reprioritization Process

Ms. Thomson read the footnote which was attached to the 2007/08 Budget and provided a brief summary of the adopted changes to add Section 7 to Chapter 6 as information only.

Full Day Kindergarten Resolution

Ms. Donna Murray informed the Commission the proposed Resolution indicates the School Facilities Commission's intent to comply with the newly Enrolled Act 23. Ms. Murray informed the Commission the Staff verified that the SFC major maintenance calculation does include full-day ADM figure for kindergarten.

Commissioner Goodson made a motion to adopt the following Resolution in order to indicate the intent of the SFC to comply with Enrolled Act 23:

The School Facilities Commission shall verify that the ADM calculations used in determining Major Maintenance payments include full day kindergarten as contemplated by Enrolled Act 23.

Furthermore, the School Facilities Commission shall verify that all districts providing full day kindergarten have adequate space to do so.

Furthermore, in 2007 the School Facilities Commission will address any needed modifications to the guidelines during the statutorily mandated guideline review per W.S. 21-15-115(c). Commissioner Ferris seconded the motion; motion passed unanimously.

Teton 1 Request

Director Shivler advised the Commission that Teton 1 contingency request was addressed during the March 20, 2006 and the request was denied by the Commission. Director Shivler indicated the Commission requested further additional information be brought forward at this meeting. Director Shivler informed the Commission the District is requesting the use of the SFC Contingency for change orders associated with the Jackson Hole Middle School Project. The Change Orders are associated with the generator, architects reimbursables, acid proof pipe and vent pipes.

Commissioner Gilpatrick made a motion to approve the use SFC Contingency for acid-proof piping in the amount of \$5,264.67 and vent pipes in the amount of \$400; that the District's request for contingency funds for the architect's reimbursable expenses be denied, as reimbursable expenses are part of the Architect's fee; and that the District's request for contingency funds for the generator also be denied. Commissioner Goodson seconded the motion; motion passed unanimously.

Lincoln 1 Request

Director Shivler provided a worksheet to the Commission showing recent bid results in Lincoln 1. Director Shivler informed the Commission the total budget for the three elementary schools is \$27,625,510 and he pointed out that the bids results received on May 11, 2006 identify the cost for construction of two elementary schools, one in Thayne and one in Etna as \$27,260,105 (these are seismic schools). Director Shivler calculated

for the Commission the total project cost for both schools as approximately \$270 per sq ft. Director Shvler requested approval for funding two elementary schools in Lincoln 1 and he informed the Commission additional funds for the third elementary school in Afton will need to be requested during the next legislative session.

Mr. Fred Hansen made a motion to approve reallocating most of the budget allocated for 3 elementary schools toward the construction of Metcalf & Holdaway Elementary Schools. Funding for the Afton elementary school, as re-designed by Nielson Bodily Architects from Idaho, will be requested at the next budget session. Commissioner Goodson seconded the motion.

Chairman Marsh commented on the very high cost of these elementary schools and on how difficult the decision to approve such high funding is to make. Chairman Marsh also acknowledged the need to replace these elementary schools as they are seismic schools. Chairman Marsh indicated due to the high costs the Commission is seeing that, in going forward, it might make more sense to remodel elementary schools rather than build new.

Motion passed unanimously.

Prototypical Track Design

Mr. Taner Norton expressed his apology to the Commission and Districts for the delay in completing the prototypical track design. Mr. Norton recommended the Commission lift the moratorium on design and construction of tracks; adopt the standard design as presented today, and eliminate cinder tracks due to being in the guidelines.

Commissioner Gilpatrick made a motion to lift the moratorium on track design and construction. Commissioner Ferris seconded the motion; motion passed unanimously.

Mr. Fred Hansen made a motion to formally eliminate consideration of cinder tracks at any location in the state. Chapter 4 of the SFC Rules and Regulations incorporates the Facility Design Guidelines and those guidelines at Chapter IX describe a cinder track possibility for High Schools with a population of less than 200. The Commission has determined that construction of cinder tracks is inappropriate and it will hence forth be the policy of the Commission that cinder tracks not be considered for new construction at any location. Commissioner Alger seconded the motion; motion passed unanimously.

Commissioner Goodson made a motion to approve the adoption of a standardized track design as proposed by HKM Engineering, subject to modification to clear up internal inconsistencies and inconsistencies with existing SFC guidelines and policies. This motion specifically contemplates that the adopted standardized track design will be used to construct all tracks funded by the SFC from this date forward. This will be subject to the SFC entering into an agreement with HKM Engineering. Mr. Fred Hansen seconded the motion; motion passed unanimously.

Carbon 2

Director Shivler advised the Commission the first Five Year Plan for Carbon County School District No. 2 was received on May 9, 2006. The plan will be reviewed by Staff within the next 60 days and brought back to the Commission for action.

Ms. Kathy McPherson, attorney for the District addressed the Commission. She stated the educational suitability was done with Frank Locker as recommended by SFC Staff. Ms. McPherson indicated the District's plan reflects the recommendations by Dr. Locker and that the local school board took into account items suggested by Dr. Basin and the updated plan would reduce the capacity by 103,000 sq ft which is considered 22% by SFC.

Chairman Marsh expressed his appreciation for the District's willingness to work with the Staff and to do the educational suitability study.

Architecture Plus Contract

Commissioner Goodson made a motion to withdraw the motion to approve a contract with Architecture Plus which he made, and was subsequently tabled during the March 20, 2006 meeting. Commissioner Gilpatrick seconded the motion; motion passed unanimously.

Hot Springs 1 Request

Mr. Dave LaPlante provided a memorandum regarding the bid timeframe for the fire sprinkler and HVAC project which was bid with Ralph Witter Elementary School. The memorandum indicated the bid was in effect until May 27, 2006.

Chairman Marsh indicated the project was part of the reprioritization process and a special meeting would be held once the Staff completed the reprioritization process.

Mr. LaPlante indicated he would ask the contractor for a 15 day extension on the bid to allow for more time for the reprioritization process.

Public Comments

Mr. Dan Coe, Superintendent of Big Horn 2 stated he was encouraged by the standard track design and reprioritization process being moved forward.

Commissioner Comments

Commissioner Goodson stated positive incentives were needed for architects when a project came within guidelines & budget.

Commissioner Algier agreed with Commissioner Goodson's comment

Commissioner Gilpatrick commented on how productive the meeting was.

Mr. Fred Hansen congratulated Director Shivler on the success story for Carbon 2 in receiving a Five Year Plan.

Chairman Marsh expressed his appreciation to the staff for their efforts.

Adjournment

At 12:05 p.m. Commissioner Goodson made the motion to conclude the regular meeting. Commissioner Gilpatrick seconded the motion; motion passed unanimously.

Michele Semones, Executive Assistant

Approved by:

Jeff Marsh, Chairman