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**MINUTES
CITIZENS' OVERSIGHT COMMITTEE
SOCORRO INDEPENDENT SCHOOL DISTRICT
DISTRICT SERVICE CENTER – CONFERENCE ROOM A
AUGUST 19, 2009 – 6:00 P.M.**

MEMBER PRESENT

Dr. Xavier De La Torre, Superintendent of Schools; Herb De La Rosa, Chairperson; Thomas A. Eyeington, Assistant Superintendent for District Operations; Paul Guerra, Member; Lorenza Fraire, Member; Susan Hill, Member; Cathey Kaiser, Member; Linda East, Member; Troy Hicks, Member; Enedina Serna, Member; Rafael Hernando, III, Member; John H. Alarcon, Director of District Operations; Gabriel J. Crespo, Director of Facilities/Construction; Hector Reyna, Director of Computer Services; Daniel Escobar, PR Specialist; Gracie Tovar, Administrative Specialist II; Grace Rubio, District Operations Clerk; Gonzalo Becerra

MEMBER ABSENT

Victor Valdivia, Co-Chairperson; Irene Chavez, Member; Mary Ann Devine, Member; Joe Keith, Member; Robert Valles, Member

CALL TO ORDER

The meeting was called to order at 6:03 p.m. by Chairperson Herb De La Rosa.

WELCOME AND INTRODUCTIONS

Mr. Herb De La Rosa welcomed everyone to the Citizens' Oversight Committee and had everyone introduce themselves.

APPROVAL OF CITIZENS' OVERSIGHT COMMITTEE MINUTES FOR JULY 6, 2009 AND AUGUST 1, 2009

Mr. De La Rosa asked for a motion to approve the minutes for the Citizens' Oversight Committee held on July 6, 2009 and August 1, 2009. Mrs. Fraire mentioned that on the minutes for July 6, 2009, Mr. Guerra and Mrs. Kaiser had asked some questions that did not reflect on the minutes. Staff will review the tape for the July 6, 2009 meeting and will make appropriate changes.

Mr. Eyeington pointed out that the minutes for the Citizens' Oversight Committee were not posted on the district's web site until they were approved by the Committee. However; he did suggest that if the committee did not have any objection, the minutes could be posted on the web site with a discloser reading pending Committee approval.

A motion was made by Mrs. Cathy Kaiser and seconded by Mr. Rafael Hernando, III, to post the unapproved Citizens' Oversight Committee minutes on the district's web site with a discloser reading pending Committee approval. The motion carried unanimously.

UPDATE OF 2004 BOND PROJECTS

Mr. Eyeington referred to an e-mail that was sent by Mr. De La Rosa to his office. In his e-mail, he requested items be placed on the agenda. Staff did not include the items, but Mr. Eyeington feels that the majority of the questions will be answered by the 2004 Bond spreadsheet provided in the Committee's booklet.

1. How much money do we have left over from 2004 Bond? \$19,576,328.62

2. How much money was spent on change orders on every 2004 Bond projects?

District only had one change order for the 2004 Bond projects that affected the Guaranteed Maximum Price (GMP). The project was Dr. Sue Shook School. The change order was in the amount of two hundred and twenty three thousand six hundred and forty eight dollars and eighty four cents, which was approved on the July 2008 Board meeting. Mr. De La Rosa mentioned that the reason that he asked this question was because the PowerPoint on the district's web page reflects several change orders on completed projects. He pointed out Desert Wind Addition as one of the projects that has a change order. Mr. Eyeington clarified that the notation on the Desert Wind Addition is a deductive change order. Deductive change orders are presented to the Superintendent for approval and signatures. Mr. De La Rosa asked if Mr. Eyeington would explain the difference between a change order and a deductive change order. A change order by definition changes the GMP or the contract sum or if days are added to the contract. Change orders changing the contract sum or adding days require Board approval. The only project in which the contract amount was changed was Dr. Sue Shook School. Mr. De La Rosa asked if it would be better to change the terminology to show as savings. Mr. Eyeington stated that legally it is a change order, but it is a deductive change order. It is decreasing the contract amount by whatever is left in the contract, whether it is contingency, buy out or whatever. Mrs. Fraire asked Mr. De La Rosa if the Committee was informed of the change order before they were presented to the Board. He mentioned that it would be logical to him for the change order to be presented to the Citizens' Oversight Committee before it is presented to the Board. Mr. Eyeington explained that if the Committee agreed, change orders will be presented at the end of the projects.

Mr. Eyeington pointed out that the Committee might be confused with contingency allowances and change orders. Mrs. Kaiser mentioned that the 2004 Bond Program is coming to an end, but she suggests that the staff approve a list of common terms and definitions to the next Oversight Committee. She feels this would alleviate a lot of the questions and misunderstandings. Mr. Eyeington agreed.

An Owner's contingency allowance is put in to all of the construction contracts. In 1995, the school law changed, which allowed school districts the option to build schools by various delivery methods. The delivery methods are Competitive Seal Proposal, Hard bid or traditional bid, Construction Manager @ Risk, Construction Manager at Agency, Design Build, and Job Order Contracting. With the passage of every bond, the Board has to approve what delivery method they are going to use for construction. The Board of Trustees approved the Construction Manager @ Risk for anything over \$1,000,000.00. Mrs. Kaiser asked what the Construction Manager @ Risk does. Mr. Eyeington explains, a general contractor or construction manager is hired in the early stage of the project to work along side the architect and district staff to develop budgets. Basically at ninety percent completion of all the drawings and documents the district is able to go out for bids. After the bids are received the Construction Manager @ Risk is available to provide the district with a Guaranteed Maximum Price. Once the contractor gives the district a GMP at ninety or ninety five percent completion of the documents there are some variables.

When the law changed in 1995, Mr. Larry A. Baskind, School District Attorney, initiated owner contingency. All of the construction projects that are done by the district have an owner's contingency.

An owner's contingency by policy CV (local) is an administrative tool that allows the superintendent or his designee to oversee the construction prices. He added that contingency does not have to go to the Board unless it is a Change Order, which means it changes the contract sum or it adds days to the contract. As the district is in the process of building a school and finds a problem, the contingency money is used to resolve the problem. Mr. Eyeington agreed and added that this saves going to the Board. Mrs. Kaiser asked if each project has its own contingency fund. Mr. Eyeington agreed. Mrs. Kaiser asked about what happens to anything left in a contingency fund. A deductive change order is issued reducing the contract sum. Mrs. Kaiser asked how much money is generally put in a contingency fund. A good rule of thumb is five percent of the construction cost. Mrs. Fraire asked when the district identifies contingency funds and the bond has three or four different areas, such as new construction and technology does this restrict the district in using the contingency left over in new construction and use it in technology. Mr. Eyeington responded that the contingency is usually reserved for the individual project, but could be moved. Mrs. Fraire asked since the district has contingency funds and bond interest and there are changes that need to be made, which would be the district's priority to use first. Mr. Eyeington responded that he has administrative approval to use contingency funds first. Mr. Hicks asked if the district has ever exhausted the contingency fund and who picks it up if that happens. The district has done it on one project. It was Dr. Sue Shook School. The district had to increase the contract amount. When the school was opened there were some issues that came up in the site plan and the third party review. Dr. Sue Shook required that the district not only have County, City reviews, but the district also has third party reviews that are looking at the development to meet their criteria of the whole development. They requested that the district do some additional sidewalks. There were also additional changes that were done at the last minute by the principal and previous administration to add additional classrooms, which exhausted the Dr. Sue Shook contingency fund.

The additional question that Mr. De La Rosa e-mailed Mr. Eyeington will be answered by the spreadsheet provided by Mr. Eyeington on the 2004 Bond. The Committee suggested that a summary of the contingency be included.

Mr. Eyeington provided the Committee with a spreadsheet that shows the history of what has occurred in the 2004 Bond Program. He explained the spreadsheet to the Committee and entertained any questions.

Mr. De La Rosa asked what the total interest was earned after the bonds were sold and received by the district. Mr. Eyeington responded that there is a total of \$22,842,939.00 interest was earned between the 2000 and 2004 Bond Program.

Mrs. Fraire asked how many acres of land were purchased for each of the two combo schools. For Ituarte/Hernando Combo School the district purchased thirty five acres of land. For Pebble Hills 9th Grade Center the district purchased seventy acres.

Mrs. Fraire asked if the amount that is reflected on the spreadsheet includes land cost. Mr. Eyeington agreed.

Mrs. Fraire stated that according to the proposal of the bond it states that the district was going to build two combo schools on forty acres of land. She would like to know why the district only purchased thirty five for Ituarte/Hernando Combo School and seventy acres for Pebble Hills 9th Grade Center. Mr. Eyeington replied that thirty five acres is sufficient for a combo school, so the district did not have to purchase forty acres. She then asked about additional money that was left over from not purchasing the forty acres.

Mr. Eyeington responded that it stayed in the construction funds. She then asked about the additional money needed to purchase the seventy acres. It came out of the construction budget. She understands it came out from construction budget, but specifically where? It came out of some of the projects that were closed.

Mr. Guerra asked if the district ever purchased land in the lower valley. No, the district has not purchased land in the lower valley. The only land that was purchased out of the land banking was the thirty six acres that was purchased above Montana.

Mr. De La Rosa asked for an update on the asbestos abatement projects. Mr. Eyeington mentioned that the asbestos abatement was completed and done at H.D. Hilley and Robert R. Rojas.

Mr. De La Rosa asked what was being done at Escontrias Elementary School. Mr. Eyeington responded that no work is being done at Escontrias Elementary School.

Mrs. Fraire stated that in reviewing the spreadsheet, she noticed that Pebble Hills 9th Grade Center had a budget adjustment of four million dollars. She asked if this money was coming out of projects that should have been done or was it out of contingency. It was from projects that were closed. This was done at a September 30, 2008 Board Meeting. She then asked if the Committee was informed of the changes. Yes, it was presented and reviewed by the Committee on September 29, 2008 then it was taken to the September 30, 2008 Board Meeting.

Mr. De La Rosa asked what the actual cost at Chester E. Jordan was. Including the land and architectural fees, it is a little over sixteen million.

Mr. De La Rosa asked for all the Committee to take the 2004 Bond Program spreadsheet home to review. He asked Mr. Eyeington to include this item in our next Committee meeting.

Fraire asked under Ituarte/Hernando were you gave us the sheets it says the estimated completion equal to what you have on the balance sheet. Previously you gave us another one, which i have and it also shows completed, but the numbers are not the same. Which one is the true completed one.

Mr. Eyeington explained that the project is completed because we are using it does not necessarily mean that we closed out the project with the contractors. There are still some issues that the district is dealing with on this project, because there is some construction dollars still owed to the contractor until the district finalizes that, the district will not know what the exact project cost.

Ms. Fraire asked Mr. Eyeington to explain what the world complete means in the sheet.

Mr. Eyeington mentioned that it means the building is being used, occupied.

Ms. Fraire mentioned that the rest of the schools that are occupied and done, do not have the word completed.

Mr. Eyeington mentioned that the staff will go back and make sure that it is consistent.

Mrs. East asked to take the 2004 bond program breakdown spreadsheet home to review and come back on a later meeting and discuss and review what she has learned.

REALLOCATION OF REMAINING 2004 BOND FUNDS

Dr. Xavier De La Torre, Superintendent of Schools, explained and discussed with the Committee a proposal that he will be recommending to the Board on the reallocation of remaining 2004 bond funds. His proposal would reallocate \$12.5 million dollars to complete Pebble Hills 9th Grade Center and \$8 million dollars to complete Eastlake High School.

A motion was made by Mr. Hernando and seconded by Mr. Hicks to support the proposal recommendation to the Committee by Dr. De La Torre for the reallocation of the remaining 2004 bond funds, which would reallocate \$12.5 million dollars for Pebble Hills 9th Grade Center and \$8 million dollars for Eastlake High School from the 2004 bond funds. In addition, Dr. De La Torre would ask the Board for \$1.5 or \$2 million dollars from the district's ending fund balance. Both schools would be completed as a small high school.

Motioned carried with seven members voting yes, Mrs. Fraire voting no and Mr. De La Rosa abstaining.

ADJOURNMENT

The meeting adjourned at 7:37 p.m.

These minutes were approved at the October 12, 2009 Citizens' Oversight Committee Meeting.