

# Minutes for the Bond Oversight Committee Meeting North

August 28, 2007

Aptos High School Career Center  
100 Mariner Street  
Aptos, CA 95003

5:00 PM – 7:00 PM

**Attending Members:** Barbara Palmer, Mary Reed, Nancy Bensen, Tere Carrubba, Jim Miller, Doug Maher

**Absentee Members:**

Mike Barsi, Fred Fischer, Marc Kirby, Vic Marani, Bruce Mathias, Michael Theriot

**Non-committee members attending:**

Mary Hart, Libby Wilson, Larry Lane, Rick Mullikin, Brian Rasmussen, Diane Burbank, Kathy Fuentes

Barbara Palmer asked the group to introduce themselves and noted that Michael Theriot was no longer on the committee.

The committee reviewed the minutes from March 27, 2007 meeting. Jim Miller noted that there was no mention of days behind schedule adding that the original date to complete the project was Dec. 31 2007. He moved to amend the minutes to include the days behind schedule on the project and Nancy Benson seconded it.

The committee reviewed the Financial Audit. Jim Miller noted that on page 5 of the Audit it was reported that the "fair value of the deposits for the Bond Fund deposited to the County Treasurer on June 30, 2006 equaled \$36,386,669". On page 2 the Audit states that "total assets equaled \$36,493,998". He said the two numbers don't match. Mary Hart said she will find out the difference between "fair value" and "fund equity" (cash in the bank.) It is a difference in terms.

Jim also noted that on page 7 of the Audit, note #5 reads "the Bond Fund had the following commitments with respect to unfinished capital projects" and showed a total of \$34,163,070. Mary explained that this is the balance of the project; what is to be spent in the future. Jim said that on page 2 the "end of year fund balance" shows \$34,162,995. He commented that these two numbers should match. Brian Rasmussen pointed out that \$34,162,995 was the exact number that the district shows as the fund balance on their summary sheet which does match the number on page 2 of the audit.

Jim mentioned further that on page 3 of the Financial Audit where it says "total operating expenditures in excess of revenues over or under expenditures", there is a parenthesis around the number – (\$8,510,886). He asked if this meant that revenues are less than expenditures. Mary explained that in bond fund accounting you begin with the fund balance and then add the revenue shown only for that given year, which is the interest of \$1.7 million. That is added to the beginning balance of \$42,673,881. Jim asked if this is modified accrual accounting and Mary said that it was. She said this is how the state dictates that you account for a bond project. It was decided to approve the audit and then find out where

the discrepancy is, about \$75.00. Mary Reed moved to approve audit and Tere Carruba seconded it. The June 30, 2006 audit was approved.

Brian discussed the Bond Fund warrants that have been issued for all the projects (184's). The summary sheet shows \$28,056,127 after the refinance and interest for the Aptos High project. He pointed out that there is another \$900,000 in modernization funds from the state. Brian said we have applied and been granted the funds but can't withdraw them until we award a contract.

Barbara asked about a line item, "clear estimated payables for BMR". Mary Hart explained that at the end of a fiscal year, if you have an invoice and you are unable to pay because you crossed over the fiscal year, you have to set it up as a payable. When you are able to make the payment, we reimburse the payable and there will be a reversing transaction. Mary said that everything as of June 30 will be reported here, either as a current payable or paid off.

Barbara also asked about another line item, \$104,000 payable as a plan check fee. Barbara asked if this includes plan check costs for modernization and Brian said it does because the \$104,000 was paid when LPA did work for us. DSA made us pay all the fees for the project up front so now Bunton is working off credit from fees already paid as we submit the incremental packages.

Barbara asked if some of the plan check fees are not bond-related, should we co-mingle the funds? Brian said that in order to get the money from the state, the district had to match it. The state gives you 60% of the money and the district has to put in 40%. We used the cafeteria being modernized under the bond measure as the 40% match to get the other 60%. Paying the plan check fee out of the funds counts as part of our match. Barbara asked if two items in the warrants listed as estimated payables for BCA, were because of changes made to plans. Brian said no, they were booked as an estimated payable and then reversed out.

Barbara asked what the pool was estimated at. Western Water Features was the contractor. Those payments were made at 90% because the district holds 10% retention which was put in an escrow account and was paid to Western Sierra Bank. The total for the two lines should be the total for the pool. Mary Reed made a motion to approve warrants and Tere Carruba seconded it.

### Construction Status

Brian said that last time we met in March we had a discussion about the cafeteria delivery method and were asked to follow up with DSA as to the status of the project. He said they sent out an email out to everyone saying the plan check hadn't started.

Brian explained they continued to push DSA and did get plan check comments back at the end of April. He reminded the committee they had talked about change ordering the cafeteria into the Soltek contract to avoid the time frame of doing an open bid. The drawings were delivered to Soltek at the beginning of May for them to do pricing. In a parallel time frame the architect was still looking at getting DSA approval. We started the process without final approved plans.

As part of the DSA process, at the same time we were demolishing the stage. DSA asked the architect to get approval from the local Fire Marshall to remove the fire sprinklers. When we asked the Fire Marshall to remove the fire sprinklers they asked us to retrofit the whole building for fire sprinklers. Brian said after about three weeks of negotiations we proved to him that he had no basis in code for a school site to require an after the fact retrofit to the

whole building. Brian said that we didn't end up securing the DSA stamp until almost the middle of July because of a combination of events.

Brian reported that in the middle of June we got pricing from Soltek which came in high. We were still running parallel with the DSA approval process. Brian said he discussed pricing with Soltek to talk about where they disagreed and Soltek dropped the cost 10% to 15% but it was still too high. Because the pricing was high and the change orders would exceed 10%, the plan was abandoned and we went out to bid. Brian said he is hoping to get acceptable bid numbers and start immediately after the next Board Meeting approval on Sept. 19.

The bid was put together as an add-alternate package. There were other pieces incorporated into the project; work in the gym that is part of the bond project, under modernization replace some of the handicapped ramps, and renovating bathrooms in the G building. If the bids come in high we could award pieces of it as there is money for. Brian said one of the issues is that we have missed the summer window. He said they met with Diane and food services. Diane didn't want to go through a retraining with the students and closed the facility to them. Food Services is using the facility initially but will then have to move.

Brian said that seven general contractors have picked up the plan that will be bidding on Sept. 12 and go to board Sept. 19. He said that the cafeteria is now showing an early Feb. 08 completion date. Brian says the schedule shows the ramp work starting immediately to try and get it done by early November and avoid outdoor (weather) issues. The gym is basically exterior work but it is all underneath the overhang. We are replacing all of the doors. There is some concrete work at one pair of the doors at each of the four corners. Brian said we are showing work starting as soon as school gets out for winter break. Students are currently eating at the snack bar and there are two additional lines installed by the pool area. Diane says when it rains we will have to move into the gym. Sue Brooks said she may bring in food from offsite. Diane said that because of the cafeteria closure and the new food price structure, the students are unhappy.

Brian said that once the bid is awarded they want to look at phasing the delivery. The site will need to decide what is more important - the kitchen or dining room area. Tere asked, financially what happens if they are not done by Feb. 8. Brian said there is a dollar penalty in the contract of \$1000.00 per day if late called liquidated damages.

Brian reported on the construction status of the gymnasium. He said that they are putting on the exterior skin for the performing arts and gym project. There is a sequence of events driving the schedule. The scaffolding that is up along the fly tower is sitting on the roof on the other side so they need to stucco it and finish it complete. Then they need the scaffolding down to do the roof on that side. They need the roofing done on that side before they can do the fire proofing underneath the deck and they need to fire proof the deck before they can do their interior metal stud frame. They are going to start stuccoing the outside of the gym now.

Brian said we have had a number of delay claims from the contractor and a number of ongoing discussions regarding it and we weren't reaching any settlement. There was a meeting with the CEO of Soltek last week, in order to negotiate a resolution to all of the delay issues related to the project. Through the negotiation process Soltek stated that there was no way to finish the project until June 08. They are blaming inadequacies of documents and significant changes in RFIs which preclude them from making normal production. Our finish date for the gym is now June 30, 2008. The original finish date was November 22, 2007. Soltek's delays equaled seven months and included costs with timing extensions. They submitted a 60 day claim then another 60 day claim, then a 30 day weather claim

(which is non-compensable), and then submitted a 93 day claim related to the exterior framing issues. Brian said their contract only has \$1,000 per day liquidated damages not \$1500.

Soltek presented a \$480,000 claim for everything. The agreed settlement was to grant a time extension to June 30 and compensation related to that was \$220,000. Brian reported that they looked at some time extension requests from previous meetings and the district was facing an exposure of approximately \$200,000. He said it would cost the district more to fight it than to take the agreement. He said the global settlement seemed to be in the best interest of the project as opposed to trying to argue the points of every single delay item. When trying to fight claims it gets costly to hire experts.

There is added scope to the job because of change orders. We have almost \$300,000 in change orders. There is detailing related to flashing and other things not documented on the drawings. Brian said better than half of the change orders relate to omissions; things that weren't in the original scope and added, not errors.

BCA has committed to putting Mark at the job site full time on Tuesdays. BMR has a regular change order meeting with them on Thursday mornings. They felt that with these changes there wouldn't be any further slide in the schedule. Brian pointed out that at the moment; they were seeing a new attitude from Soltek.

Mary said the extra money for the settlement agreement will come out of the interest on project. Because the job is running later, there is more interest. In the last six months, the project earned \$350,000 in interest. Barbara wanted to know if there is still a contingency amount. Brian said we are still carrying a contingency on the project and in fact increasing the contingency from 5% to 7% because of interest earned. We are not cutting anything out of the project or changing the scope. Brian said at the end of this month the job will be approximately 60% complete. We have potential to pick up time with drywall if there are no problems.

The contractor provided us with a list of milestones and dates for the milestones in order to be completed by finish date. Mark, as the architect, has done a pretty good job. We have been maintaining a fairly low number of open RFI's. The next major milestone is Oct. 5 to have all the roofs finished.

Barbara adjourned meeting and suggested we meet in October because of the roofing milestone. We will meet on Monday Oct. 22 and report on the status of the cafeteria and bid. Brian mentioned that they set up another meeting with Soltek management, BCA and BMR at the end of November to check on status of everything. Diane Burbank will attend.