

Meeting Minutes

June 25, 2014, 5:00 p.m., SBCCD Board Room

Members Present – **Ken Coate, Bob Erikson, Sam Irwin, Valerie Lichtman, Albert Garcia**

Members Absent – **Richard Greenhagen**

District Staff Present – **Tim Oliver**, Interim Vice Chancellor, Business & Fiscal Services; **Cheryl Marshall**, CHC President; **Scott Stark**, SBVC Vice President, Administrative Services; **John Grow**, Director, Facilities, Planning & Construction

Kitchell/BRJ Staff Present – **Diana Johnson**, Bond Program Manager; **Sheila Nelson**, Contract Analyst; **Brooke Duncan**, Project Manager; **Mike Villegas**, Project Manager; **Bonnie James**, BRJ President; **Mark Edwards**, BRJ Executive Vice President

Guests Present – **Jean Erikson**, Citizen; **Ingrid Merriwether**, Merriwether & Williams; **Alaa El Awar**, CHC Student

Welcome/Introductions

Ken Coate opened meeting at 5:02. Self introductions were made.

Approval of Minutes

Albert Garcia moved, and Sam Irwin seconded, to approve the minutes. The minutes were approved by the following vote:

Ayes: Ken Coate, Bob Erikson, Sam Irwin, Valerie Lichtman, Albert Garcia
Noes: None
Absent: Richard Greenhagen
Abstentions: None

Public Comment

There were no comments.

Membership – Need Student Representative

Alaa El Awar introduced himself as Alex. He is a student from CHC who is interested in being on the CBOC committee. His major is Finance Real Estate and Law, and has an aerial cinematography business.

Bond, Insurance and Technical Assistance Program

Committee members were in receipt of a previously distributed packet containing a letter from Tim dated June 12, 2014, a copy of the Merriwether Williams agreement, and a summary on the SBCCD Bond Assistance Program.

Ingrid Merriwether of Merriwether Williams was introduced. She thanked the CBOC for the opportunity to talk about the Bond, Insurance and Technical Assistance Program. The program's mission is to provide contractors – especially small, local contractors – the assistance needed to qualify for bonds as required by the District. This increases the pool of contractors available for

District work and can provide a cost offset. The program complements the District's local hire policy and promotes the maximum participation of small, local contractors. Merriwether Williams has been doing this for 17 years and has worked with seven other school districts, including LACCD, LAUSD, and other public entities. Ingrid said that one of the components of the program is technical, consultative support for contractors, i.e. assistance with financial statements and packages. Another is the collateral support that the District will provide for negotiations with bonding companies. Merriwether Williams stays engaged with a contractor throughout the program and provides ongoing technical support, monitoring progress and completion of contracts. In her 17 years' experience, only one-tenth of 1% of the contractors she has worked with has defaulted.

Ken asked how the members of the CBOC can be sure that funding this program is an appropriate use of bond proceeds. Tim Oliver advised that, based on input from a bond attorney, the District should take a conservative approach in bond vs non bond expenses. If any of these program costs even appear to be ineligible, they will be paid for out of Fund 41, which is the District's Capital Outlay fund. Tim further advised that the District has verified with the State Chancellor's office that Fund 41 money is eligible to be spent on this contract.

Sam Irwin commented that voter approved Measure M money should be spent on building buildings not for counseling, or incentives. Tim replied that there are a number of different purposes under the bond program that are not just brick and mortar. He explained that the attorney is saying these expenses do qualify for bond measure funding as long as they stay within capitalized cost. The services directly related to supporting contractors and subcontractors are eligible for capitalization. However, general marketing and outreach are not eligible and will be paid by Fund 41, as well as all of the reporting costs.

Tim advised that he is developing a preliminary breakdown of services to be provided under the Merriwether Williams contract showing bond vs. non bond eligibility, and that this breakdown will be presented to the committee. Only exclusive, direct services provided to subcontractors and contractors will be eligible.

Ingrid said that LACCD had concluded that the bonds are required on construction projects, just like insurance, i.e. OSIP, and that contractor enrollment is inherent in the process. She advised that, since bonding is an ancillary consideration that is inherent in the construction process, other districts have concluded that such costs are bond-eligible. Some of her clients have also felt that bringing more contractors to the table would reduce the cost of construction projects.

Ken mentioned that when the Merriwether Williams contract went to board, it went as a bond-funded contract. Tim advised that, based on feedback from the CBOC and bond counsel, it was decided that some of the contract services would be paid out of Fund 41. He advised that there will be two bills – one for bond and one for non-bond expenses.

Ken reiterated that he feels there is a narrow scope. Previously the committee was told that this type of program could not be paid for by the bond. He stated that the CBOC has to focus on where money is being spent. Tim replied that once the analysis of Merriwether Williams contract services was completed, it would be distributed to the committee for review and he welcomed feedback.

Tim referred committee members to the SBCCD Bonding Assistance Program Summary handouts. Ken commented that he believes that the program helps people, however, once companies become eligible to receive bonding, they may or may not bid on District projects.

He also commented that the LACCD isn't a good example for the SBCCD, because that committee was more of an example of how a CBOC should not behave.

Ingrid commented on the collateral component of the program, saying that in some cases, in order to help a contractor qualify for bonding, SBCCD will provide the collateral. Ken clarified that the District would be posting collateral its own projects. Ingrid confirmed his statement and advised that one benefit of this is to eliminate the exhaustion of a contractor's line of credit, which diminishes its ability to fund the project work. The collateral program lets contractors use their capital to fund projects and mitigates risk.

Ken asked what services have been provided under the contract to date. Ingrid advised that Merriwether Williams was brought on board concurrent to the bidding of the SBVC Gym project. She said that the vast majority of work to date has been targeted toward that project. They have worked specifically with contractors to position themselves to work on the Gym. Ken said that the District's collateral is then guaranteeing surety to the Gym Project contractor – Swinerton – and not the District. He advised that the District doesn't have a relationship with the contractors. There was further discussion of different methods of surety coverage, including subguard coverage and small contractor focused sureties.

In response to a question from Ken, Ingrid advised that Merriwether Williams could coordinate this program with other entities in the Inland Empire which might have goals similar to SBCCD's local hire policy. This coordination would provide more bidders for other programs which benefits the District because the cost of the program can be shared across multiple entities. Tim added that the Merriwether Williams contract is a not-to-exceed instrument which is broken down with annual responsibilities. If the effort was to be coordinated with other entities, the agreement could be renegotiated, and significantly cut down the cost.

Sam commented that he thinks the program has a lot of merit, and that local hire is a good goal. However, it is not the purview of the committee to decide merit. If the committee accepts that this program is a cost of constructing buildings, then there is no issue with using bond money. He is still questioning if this is an administrative use of the money. He doesn't accept whether you use bond money or redevelopment money. Tim reiterated that the District only desires to use bond funds for those activities that can clearly and conservatively be capitalized costs, like Kitchell BRJ fees, or architectural engineering, etc.

Sam stated that the question is whether or not the committee accepts this premise. Bob Erikson made a motion to support the direction of this program and the approach presented. There was no second. Ken tabled the discussion. He still questions the source of funds and would like the rationale that the attorney provided. He commented that the bond letter was not really specific.

Update on Measure M Bond Program Projects

SBVC

Diana Johnson advised that the Gym Project was awarded and is proceeding. The Auditorium is about to be completed; ribbon cutting will be first or second week of August. Groundbreaking ceremony for the gym will also take place at about the same time.

CHC

Cheryl Marshall said the construction at CHC is going well. Fall will be a challenge because of the lack of parking, however, they are working with the City of Yucaipa to get an alternate lot and increased bus service. She commented that the Kitchell BRj Team has done a great job. Diana added that the PE Complex is almost complete to be occupied in August; July 11 is the ceremony for this.

Review of Board Items/Site Visits

There were no comments on board items, nor were any site visits made.

Self-Evaluation

Ken felt it would be good to tailor the form to fit the CBOC more.

Future Meetings

The next meeting was set for Thursday, September 18, 2014 at 5:00 p.m.

Alex talked about his impressions of the CBOC meeting and asked if the students have a voice. Ken answered that they did. Ken elaborated that this had been a challenging meeting due to the discussion of the Bond, Insurance and Technical Assistance Program. He further explained to Alex that the program and discussion related to the performance and payment bonds required for contractors, and not the overall Measure M bond. Cheryl said that the committee needs to have the student perspective.

Adjournment

The meeting was adjourned at 6:55 p.m. Valerie Lichtman left the meeting at approximately 5:40; Bob left at 6:15 p.m.