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Message From The Chair



Pamela T. Johnson, C.A.S.H. Chair

The position of chair of C.A.S.H. offers a unique perspective on the challenges that the school facilities community faces, and the role of C.A.S.H. in meeting those challenges. As I leave the position of chair of this organization, I want to acknowledge the past chairs of C.A.S.H., the Board of Directors, the members of our committees, and all our members who advocate for facilities funding and build quality school facilities in Califor-

Tradition of Excellence Continues


nia. All of you have contributed greatly to C.A.S.H.'s success.

I also want to acknowledge the contributions of Jim Murdoch to the C.A.S.H. organization. Jim was the first lobbyist to represent C.A.S.H. and continued to work on behalf of the organization until his death in October 2002. Jim is credited with shaping C.A.S.H. into the influential statewide organization that it is today. I believe the impact that Jim Murdoch made on C.A.S.H. and on California public school facilities was driven by his amazing foresight. Instinctively, he knew what was best for the organization -- not just for the present but for the future. Jim envisioned a working Board of Directors who would bring phenomenal expertise and experience to the organization. He envisioned tapping the knowledge, influence and passion of the C.A.S.H. membership through committee assignments, conferences and workshops, and he saw the value of strong relationships with state agencies.

To ensure that C.A.S.H. would have as much success in the future as it has in the past, Jim mentored his staff to continue C.A.S.H.'s tradition of excellence. Specifically, Jim mentored Greg Golik for many years on the operational side of C.A.S.H., and at every conference and workshop, in the School Facilities Leadership Academy, and in every interaction with the business side of C.A.S.H. the benefit of Jim's foresight is reflected in Greg's professionalism, expertise, and accomplishments. In the last few years of Jim's life he partnered with Tom Duffy, who Jim envisioned would one day assume the role of chief lobbyist for C.A.S.H. Now that Tom is our chief lobbyist, again you can see the benefit of Jim's foresight reflected in Tom's contributions, which are illuminated by the legislative and regulatory achievements of C.A.S.H.

Tom and Greg, with the insight and experience of staff members Alex Murdoch, Dave Walrath, Paul Holmes, Ernie Silva, Duwayne Brooks, Ian Padilla and Patti Herrera, as well as the support and commitment of Candace Lewis, Shannon Mahoney, Gretchen Kocinsky, Leyla Taber, Lisa Church, Heidi Wadsworth, Cheryl MacKelvie, Ariel Quirolo, Sevana Sossikian and Jenny Hill, ensure that the interests of our membership drive the C.A.S.H. legislative platform and our regulatory priorities, and ensure that our professional development opportunities are the high quality that C.A.S.H. members expect.

Thank you for your support of me as the chair during these past two years and especially thank you for your encouragement and support of me as an individual.

What a team! It is a great honor to be part of it. 



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The CASH Register is published eleven times a year (January through November) by the Coalition for Adequate School Housing (C.A.S.H.) and distributed to C.A.S.H. members. Over 1,000 rapidly growing school districts, county offices of education, architects, attorneys, bond counsel, financial institutions, developers, contractors, consultants, inspectors, licensed professionals, manufacturers of portable classrooms, maintenance suppliers and others who are concerned about school construction issues hold C.A.S.H. memberships.

The CASH Register solicits articles on school facility-related topics from the membership. If you are interested in submitting an article, please send it or a letter of inquiry to: Editor, CASH Register editorial office, 1130 K Street - Suite 210, Sacramento, CA 95814. Sorry, we are unable to return or acknowledge unpublished manuscripts. The views expressed herein are those of the authors and not necessarily those of the Coalition for Adequate School Housing, its board, staff or general membership.

C.A.S.H. 2007 Legislative Packages

The C.A.S.H. Board approved the legislative packages below on Friday, January 5th, as key objectives for the organization for this year. C.A.S.H. is working with several authors at this time and will communicate as these packages become bills. Please also note that there are two regulatory issues that the Board believes will require some work in the very near future. Also note that the C.A.S.H. Legislative Advisory Committee will meet on Tuesday, February 27 at 9:00 a.m. in the Sacramento Convention Center as part of the C.A.S.H. Annual Conference and will be discussing the legislative packages and ensuing legislative vehicles.

Please feel free to contact Tom Duffy for any questions you may have.

Legislative Packages

School Facility Program Funding

- Modernization Grant Increases
- Special Education Grant Increases

- Alternative Education Grant Increases
- Unfunded Requirements Recognition and Funding
- Existing Site Mitigation Funding

Developer Fee Justification

- Allow Use of Current CDE Site Size Requirements Rather than 1966 Standards
- De-link State Grant Amounts from Developer Fee Building Cost Caps
- Repeal Preconditions of 65995.5

Classroom Loading Standards

- Alternative Education Programs Mandated by Law
- Academic Standards Required Loading
- Career Technical Program Loading

Eligibility

- Existing Eligibility Preservation for Districts
- Current Un-housed ADA
- Project in Planning Process
- New Construction Eligibility

- Alternative Determination
- Cohort Method Augmented by Birthrate
- Elimination of Percentage of Charged Portables
- Elimination of Artificial Eligibility Barriers
- 6% MTYRE Penalty

Public Contract Code

- Increase of Bid Limit
- Alternatives to Bid

Regulatory Issues to Address

Grant Adequacy Implementation

- OPSC School Construction Cost Study
- SAB Grant Increase of Up to 6% in January 2008

Special Education

- Eligibility Issue for Districts and County Office 

- Tom Duffy

Leadership Academy Update

After a two month winter break, the participants returned to Sacramento to delve into *State and Local Agencies: Effective Partnering*. The session began Friday evening with a review of the provisions of Proposition 1D and elements of the Governor's proposed Budget, presented by Duwayne Brooks, C.A.S.H. Consultant. Participants appreciated Duwayne's comments and expertise. Core faculty member Eric Hall then gave an overview of partnering with the state, local agencies, and communities and an explanation of the Civic Center Act.

During the dinner hour, C.A.S.H. Board Member and Academy Mentor Jim Bush interviewed Al Johnson, a former City Manager of the city of Roseville, on effective partnering from a city perspective. Participants enjoyed this question


and answer segment and mentioned that they wished there had been more time on the agenda to learn from Jim and Al.

After dinner, the group returned to the classroom to hear from Lori Morgan, assistant executive officer of the Office of Public School Construction/State Allocation Board, on how a district can successfully partner with OPSC/SAB. Lori's input and approachability were well received.

The next morning the participants heard from core faculty members Bill Savidge and Lettie Boggs on the Taxonomy of Partnerships, Levels, Roles and Environments. This was followed with Case Studies of Partnering with State and Local Agencies and the Business Community. This segment was presented by three guest speakers: C.A.S.H. Vice Chair Ted Rozzi, and C.A.S.H. past chairs and

current Academy Mentors Mike Vail and Dave Doomey. The participants enjoyed the "war stories" from these icons in the field.

After lunch, the participants gave their group presentations on a joint use project, their homework from the November session. The participants commented that they liked hearing the different examples of projects and the opportunity to learn from one another while getting some practice in public presenting. They also commented that they were pleased with the homework format, which included the team project as well as an individual assignment.

The next Academy session takes place March 9-10, 2007 and will address the topic of *School Facility Funding and Financing*. 

- C.A.S.H. Staff

K-12 Facilities Funding Addressed in State of the State

During his State of the State address on January 9, Governor Schwarzenegger outlined his proposal for additional funding for K-12 school facilities. We will have more details soon, but the following is a summary of the Governor's Proposal:

The state's K-12 schools need funding beyond the two years of financing provided by the current bonds to prepare for enrollment growth, reduce overcrowding, and repair dilapidated classrooms in compliance with the settlement agreement in *Williams v. State of California*.


- New Construction: \$5.061 billion (general obligation bonds)
 - o Constructs 15,046 new classrooms to accommodate

new students and reduce overcrowding.

- Modernization: \$2.539 billion (general obligation bonds)
 - o Fixes 39,504 dilapidated classrooms serving more than 1 million students.
- Charter Schools: \$2.0 billion (general obligation bonds)
 - o Establishes 1,219 new charter classrooms to serve more than 31,500 students and renovates 815 charter classrooms which will serve over 21,000 students.
- Career Technical Education: \$2.0 billion (general obligation bonds)
 - o Constructs 5,897 new CTE classrooms to serve more than 152,000 students.
- This proposal provides obligation bond assistance for funding school's needs through 2012-13. But limits on state debt capacity

will make it necessary for schools to plan for additional bond measures and alternative financing strategies for financially troubled districts to ensure that every student goes to class in a safe, adequate classroom.

- The Governor's proposal changes the state/local contribution ratio to 60/40 from the current 50/50. His proposal also reduces the cost of acquiring a school site.
- Finally, the Administration proposes to review the overall financing structure for schools, including consideration of public-private partnerships, to ensure sustainable funding of school facilities in the long run.

Note: For the purposes of clarification, the change in the state/local match from 50/50 to 60/40 is 60% local, 40% state. 

- Ian Padilla

LAO's Recommendations Regarding the 2006 Infrastructure Bond for K-12

Following is a brief summary of the Legislative Analyst's Office (LAO) recommendations regarding the 2006 infrastructure bond for K-12. An Executive Summary is on page two of the report.

The LAO makes 4 specific recommendations regarding the K-12 infrastructure bond:

1. Track the implementation of the new programs in Prop 1D and hold joint hearings this spring.
2. Re-examine how the Charter School Facility Program is

structured and consider other alternatives to charter school facility financing. One option would be a comprehensive lease-based facility program where charter schools would receive annual per pupil facility grants that could be used for lease payments or other facility-related costs.

3. Reassess Out-Year Facility Needs prior to discussing future facility funding levels. The projected decline in K-12 enrollment is

about 60,000 students from 2006 to 2010.

4. Provide annual facility funding to all districts in the form of a per pupil grant as recommended in the LAO's 2001 "A New Blueprint for California School Facility Finance".

Visit the Latest News update for January 23 on the C.A.S.H. website at www.cashnet.org for a link to the entire report. 

- C.A.S.H. Staff

SAB Implementation Committee Notes, Friday, January 5, 2007

The Implementation Committee met on January 5 to continue developing regulations for the remaining programs established in Proposition 1D. Specifically, the Committee discussed the proposed regulations for the Overcrowded Relief Grant and Career Technical Education Facilities Program (CTEFP). The Committee also reviewed the AB 607 (Emergency Repair Program and revisions to the school facility inspection and evaluation instrument) regulations. The following is a summary of the discussion and the significant components of each proposal.

Career Technical Education Facilities Program

COE Eligibility

Implementation Committee staff made new changes to the proposed regulations prior to the meeting that would allow LEAs to participate if they operate a comprehensive high school per the criteria. Employer groups had been lobbying hard to keep County Offices of Education from participating in the program.

Employer groups maintained that counties would take away from their vision of a CTE system focused on districts with “traditional” high schools. C.A.S.H.’s position is that the counties should be able to apply along with districts for the CTEFP funds.

Rick Simpson and Paul Navarro attended the meeting on the eligibility question, both saying that they simply hadn’t thought much about counties when they were creating this program.

Simpson said that the comprehensive high school location was more important than who built, owned or operated the school. Navarro said that they hadn’t thought this far ahead, but his

perception was that the program was directed at “traditional” comprehensive high schools and he shared the vision that these programs should be focused there - with districts. All agreed this was new territory and there would be bugs that needed to be worked through.

Staff will continue to review the language, given the input, and present final recommendations.

Other Program Issues

- Class Sequencing – Employer representatives expressed concern that class sequencing should have a higher point value.
- Flexibility in project location
- Make-up of the Evaluation Committee and critical/weighted CDE Criteria
- Application Timing
- Application of savings

The Chair indicated that she hoped to have the item ready for presentation at the January 24 State Allocation Board meeting.

AB 607 Emergency Repair Program

- Concern was expressed that as schools become newly qualified to participate in the ERP as a result of AB 607 updating the API cohort every three years, these schools do not have the benefit of funding to conduct needs assessments as did the first cohort. Committee members asked if ERP program savings (from a rescinded project, for instance) could be used to conduct assessments. Some in the audience said that they were aware of efforts to secure new funding to conduct these needs assessments.
- ERP grant requests for each application must be \$5,000 unless the school district can justify a lesser amount.

- Architects’ fees are not specifically prohibited in the regulations, but must be reasonable and necessary.
- Consultant-based or force account labor administrative and filing fees are not eligible for funding.
- Projects that do not meet the 75% repair/replacement and use the estimated cost of repair amount toward replacement are not eligible for a Grant increase. Replacement with a more costly alternate material/system is allowed on a prorated basis. Allows the replacement with an alternative building system or material when the Like-Kind Material/System is not available.
- Grants may be adjusted by OPSC. Unused savings and interest from unused Grants must be returned to the State. Grant increases may be granted if the additional expenditures are within a project’s original scope.
- Grants must be used within one year (18 months on projects that require DSA approval).
- Replacing portable classrooms can be eligible for funding on a case-by-case basis, depending on specified factors.

Overcrowded Relief Grant

- OPSC clarified that if a financial hardship district set aside funds for an ORG project, it must encumber the funds so it will not be considered a contribution toward an SFP project.
- OPSC clarified that debt service is an eligible expenditure if a financial hardship district were to utilize bridge financing.
- ORG funds cannot be used for separate design or site apportionments typically allowed for financial hardship districts.

Continued on page 9

January 24 SAB Meeting Notes

The January 24, 2007 SAB meeting lasted nearly three hours, ending just before 7 P.M.

OPSC Executive Officer, Luisa Park, notified the SAB that she was resigning from State service effective the end of the month. Ms. Park stated that she had spent 30 years in State service and decided it was time to do something different, probably in the private sector.

Executive Officer Statement

1. Ms. Park stated that modernization projects on the January SAB were being funded from Proposition 1D funds and did not include funding for Labor Compliance Programs. She reminded the SAB that new construction projects were still being funded from earlier propositions which do require Labor Compliance Programs.
2. Ms. Park stated that AB 1302 tightened the requirements for processing emergency regulations through the Office of Administrative Law (OAL), and several of the SAB's recently submitted emergency regulations had been returned from OAL and now must go through the non emergency regulatory adoption process. The returned regulations include the modernization access funding, joint use gymnasium funding, and three Proposition 1D programs: charter school facilities grant, high performance schools grant, and small high school grant.
3. Ms. Park stated that the Governor issued an Executive Order requiring that the expenditure of the State's recently passed infrastructure bonds (including Prop 1D) be done in a manner consistent with the provisions of the law, done in an efficient manner, and stay within the scope

and cost that were identified in the bonds. Ms. Park stated that the SAB already has in place processes and procedures that comply with the Governor's Executive Order.

Status of Funds

After the January apportionments there's about \$4 billion in new construction and \$2.96 billion in modernization funding available. There's still about \$324 million in Emergency Repair Funds available.

Construction Cost Index (CCI) Adjustment

The SAB approved a CCI of 6.62% plus the Proposition 1D new construction base grant increases of seven percent for elementary and middle school, and four percent for high school. The current adjusted base grant per pupil effective January 1, 2007 (including the CCI and the Prop 1D adjustments) is \$8,081 for elementary, \$8,546 for middle, and \$10,873 for high school. The Prop 1D increases are retroactive to July 1, 2006.

Appeals

1. Needles USD appealed staff's denial of financial hardship status on the basis of "other evidence of reasonable effort". The SAB split the baby and said because of the special circumstances regarding the New Parker Dam Elementary School, they would approve financial hardship status for that project, but they wanted to see more effort to identify and contribute local funds to the district's two modernization projects.
2. Davis Joint Unified SD appealed staff's denial to fund an application for a new construction project that

was subject to the SAB's 180-day and 120-day grandfather provisions of July 2004 regulations regarding classrooms that were not occupied prior to receipt of the funding application. The SAB temporarily punted and will ask the State Attorney General's Office if the SAB has the legal authority to grant the district's request. The SAB appeared to be split on the merits of the request, but were presented with conflicting legal opinions (one from the SAB attorney and one from the district's legal counsel) regarding their authority to rule on the issue.

Charter School Agreements

Propositions 47, 55, and 1D provided funding for the construction of new charter schools, additions to existing charter schools or the rehabilitation of existing school district facilities for charter school purposes. The California School Finance Authority prepared three agreements relating to the Charter School Facility Program (CSFP): a Memorandum of Understanding outlining the roles and responsibilities of all parties involved in the CSFP; a Funding Agreement that sets forth the repayment terms of the local matching share amount; and a User Agreement entered into by the school district and charter school. The SAB approved use of the three agreements and authorized the Executive Officer to sign the agreements on behalf of the SAB.

AB 127 Career Technical Education Facilities Program

Proposition 1D provided \$500 million in grants for new construction, modernization, and reconfiguration to provide facilities for students to learn skills and knowledge necessary for technical careers. The Career Tech item amended the SFP regulations to implement the provisions of AB 127/

Proposition 1D. Mike Ricketts thanked the committee but held open the ability to review the CTEFP regulations on behalf of counties. Anna Ferrera echoed Mr. Ricketts comments in her testimony on behalf of the County School Facilities Consortia (CSFC). The SAB approved the regulations. Significant provisions of the regulations include:

1. Pupils housed in a classroom acquired with career technical funds will not reduce the number of housed pupils.
2. Applications for career tech funding will be accepted in a six-month cycle, with the first cycle ending October 31, 2007. Applications must be submitted to CDE no later than August 3, 2007.
3. Eligible entities are defined as local educational agencies operating a comprehensive high school pursuant to Education Code Sections 51224, 51225.3 and 51228 that have an active career technical advisory committee per ECS 8070.
4. For modernization funding, eligibility is also open to joint powers authorities operating career tech education programs as of May 20, 2006 that have an active career technical advisory committee per ECS 8070.
5. Grants are allocated on a per square foot basis, with new construction grants not exceeding \$3 million, and modernization grants not exceeding \$1.5 million.
6. Entities do not have to have new construction or modernization eligibility.
7. Entities must obtain a score of not less than 60% of the maximum points available on an application that is submitted to and scored by the CDE.
8. Entities must contribute a dollar amount equal to the state grant.
9. Funds will be allocated on the basis of the California County Superin-

tendents Educational Services Association service regions. The allocation process is outlined in SFP Regulation 1859.196.


10. The entity may not retain any savings from the CTEFP.

Emergency Repair Program

AB 607 amended the ERP by adding a grant provision to the reimbursement provisions, requiring the list of schools that are eligible to participate in the ERP to be updated every three years (commencing with the 2006 API which is updated in the 2007-2008 fiscal year), and expanding the components of the Interim Evaluation Instrument. Since the list of eligible schools will be updated every three years, the regulations outline the time frame for entering into contracts, submitting applications, and expending funds for projects based on the date of the Academic Performance Index for which the school is eligible. The SAB approved the proposed regulations minus a provision stating that ERP funds could not be used for "any administrative and application filing fees". Several of the SAB members were sympathetic to comments from the audience that many school districts, especially small ones, need the expertise of consultants to

identify and remedy health and safety issues on school sites. That part of the regulation will go back to the SAB Implementation Committee for further discussion of an appropriate cap to place on those fees. In the meantime, ERP applications claiming costs for administrative and application filing fees will be held by OPSC until the issue comes back to the SAB.

Interim Evaluation Instruction


AB 607 established a permanent State standard of good repair for school facilities and directed the OPSC to develop a school facility inspection and evaluation instrument. AB 607 expanded the good repair standards to include the overall cleanliness of school facilities, and required OPSC before July 1, 2007 to add a ranking and scoring system to evaluate the condition of a school. The SAB adopted a revised IEI to implement the requirements of AB 607. The IEI will be temporary until the permanent instruction form is developed by OPSC, which will incorporate the required rating system to evaluate each component and an overall summary of the conditions at each school. 

- C.A.S.H. Staff

Luisa Park Leaves OPSC

C.A.S.H. is sad to announce that Luisa Park has announced her resignation as the Director of the Office of Public School Construction. Ms. Park has provided strong administrative skills and guidance for the Board and California school construction programs. We know she will do well in whatever other

position she accepts and hope that she will continue to be involved with California school facility programs.

No interim director has been appointed at this time. Ms. Park will continue in her position through the January State Allocation Board. 

- C.A.S.H. Staff

Craft a Claims Process to Reduce Construction Risk

By John P. Dacey, Esq. and Gregory M. Bergman, Esq.

In the October 2005 issue of the *CASH Register*, our article “**5 Ways to Reduce Construction Risks**” suggested that risk is an inherent part of every public works construction program and each project. There we suggested that school districts can take 5 steps to reduce such risk: (1) by conducting a critical self-evaluation of the school district’s construction related personnel to determine if there are sufficient experienced personnel to efficiently and timely perform the school district’s obligations as an owner of a construction project; (2) by improving and coordinating construction and professional service contracts; (3) by using bonds drafted by the school district; (4) by establishing a fair and expedient claims process; and (5) by developing and constantly promoting a problem solving (versus finger pointing) mind set in these areas.

In this article we expand upon step number 4 and explain why a school district should, and how a school district can, “establish a fair and expedient claims process.”

There are a number of statutory claims procedures available to school districts. A common misconception on the part of many school districts is that these statutory claims procedures present the **only** options for claims resolution. While these statutory procedures are mentioned and touched on briefly in this article, a school district should consider establishing its own claim process that complies with

applicable law but is tailored to meet a school district’s particular needs.

Generally, the statutory claims procedures are those found in: (1) Government Code §§ 900 et. seq. (commonly referred to as the Tort Claims Act and/or a Government Code Claim); (2) Public Contract Code §§ 20104 through 20104.6 (meet and

confer, mediation, arbitration, trial process (sometimes referred to as the “Black Hole of Public Works Claims”); and (3) Public Contract Code § 10240 (a state contract statute providing for arbitration, but which local public agencies, such as a school district, can opt into). It should be noted that if a school district does not, by the terms of its contract, opt

into the arbitration provisions of Public Contract Code § 10240 or does not establish its own claim process as outlined below in this article, then on claims of \$375,000.00 or less, such claims must be resolved by Public Contract Code §§ 20104 through 20104.6 (the “Black Hole of Public Works Claims”). This is not good for the contractor or the school district as it can be a long drawn out process and an expensive one too.

While each of the foregoing statutory claims procedures has pros and cons, the biggest drawback to each is that the school district often does not know what the claim is all about, including the magnitude thereof, until the construction project in question is finished or nearly finished. As such,

each of the foregoing statutory claims procedures do not reduce risk, they increase it by delaying ultimate resolution of the dispute far down the timeline continuum and away from the event, circumstance, and/or occurrence giving rise to the dispute in the first instance.

Risk is also increased under these procedures because: (1) if the contractor’s claim is ultimately proven to be meritorious, the school district will end up paying more by way of prejudgment interest and/or possibly the attorneys’ fees of the contractor (and the school district’s too) which accumulate and grow as time goes on; (2) by the time the dispute is ultimately resolved, project participants may have moved on, memories have faded, and in many instances documents have been misplaced; and, without limitation, (3) from the contractor’s (and almost always the subcontractor’s) perspective, the latter has had to finance the dispute by carrying the financial costs of the disputed work/issues thereby creating more acrimony and making the dispute harder to resolve amicably.

Conversely, if there is a process in place to understand the claim and resolve it much sooner, these additional costs and consequences are reduced and/or eliminated.

To successfully resolve a dispute, it is essential to understand what usually drives a dispute and prevents early resolution.

Disputes arise and are perpetuated by parties taking positions based upon opinions, instead of facts. By definition, an “opinion” is “a belief not based on an absolute certainty or on positive knowledge. It is what seems to be true or valid to one’s own mind.” So, what occurs, more often than not, is a decision maker for the contractor is told something by another person and/or reviews information, usually in the form of a letter written by another, and the decision maker forms an opinion. A similar process takes place on the

To successfully resolve a dispute, it is essential to understand what usually drives a dispute and prevents early resolution.

school district's side. Before you know it each side's decision maker is well into their respective opinion (position), but farther away from the fact(s). As such they are both farther away from amicably reaching a solution. The foregoing statutory claims procedures are not adequate because they permit the opinion v. opinion dispute to perpetuate until the very end of each of the respective procedures. By then the only thing that is maximized is risk.

How then are differing parties to increase the probability of amicably resolving their disputes and spend less money in the process? You can do so by establishing an expedited claim resolution process that is geared toward uncovering specific facts. A "fact" is defined as "a thing that has actually happened, a thing that is really true, something that is beyond reasonable dispute." A process that continually forces each side down to specific facts to justify their positions is one that will force the parties to reach a resolution because when the specific facts are on the table, reasonable minds will not often disagree about what those facts actually are. It is getting there that historically is the problem.

A fair and expedient claims process therefore has at its foundation three key principles: (1) the process continually shifts the responsibility to act on the claim back and forth between the owner and the contractor based upon who is in the best position to act (e.g., produce specific information); (2) the process requires the party advancing the claim to advance it promptly with full backup as soon as the event, circumstance or occurrence giving rise to the claim has ended, and also requires resolution within 90 days (in this way decisions are made while all the information is fresh and available); and (3) the process allows partial agreements to be processed as change orders so that the cash flow (the lifeblood of construction) continues and only the

remaining disputed issue(s) proceed through the process.


Government Code §§ 930.2 and 930.4 provide a school district with the authority to establish its own claims procedures and in doing so gives a school district the opportunity to help itself resolve its disputes on an expedited and economical basis. School districts should take advantage of this authority. School districts that have done so have usually discovered that they reach the end of construction projects dispute-free.

Government Code § 930.2 is entitled "Agreement of Governing Body of Local Public Entity Establishing Claims Procedures" and states that **"The governing body of a local public entity may include in any written agreement to which the entity, its governing body, or any board or employee thereof in an official capacity is a party, provisions governing the presentation, by or on behalf of any party thereto, of any or all claims arising out of or related to the agreement and the consideration and payment of such claims."** That section also permits a school district that has adopted such a procedure to incorporate the procedure into its contract by an express reference to the procedure made in the contract.

Government Code § 930.4 states: "[a] claims procedure established by agreement made pursuant to Section ... 930.2 **exclusively governs the claims to which it relates....**" As such, the Legislature has given to school districts the discretion, and complete authority, to establish its own claims procedures to exclusively govern the presentation, consideration and payment of such claims. There is one express limitation on a school district's authority to establish its own claims procedures. As described in Government Code § 930.4, if a claim is not presented in compliance with the time deadlines established by the contract's terms and it is otherwise within one

year of the accrual of the claim, the contractor can make an application to the school board to present the claim as a late claim.

A school board should include a reference to Public Contract Code § 9201 as part of its claims process. Section 9201 provides that: "[a] public entity shall have full authority to compromise or otherwise settle any claim relating to a contract at any time."


A school board should therefore adopt a fair and expedient claims procedure tailored to its needs. The school board should set forth the claims process in its construction contract at length or by incorporating it into the construction contract by including in the contract a reference to where the procedure can be obtained. By adopting its own claim procedure which is geared to uncover specific facts, a school district will be well on the way to reducing the risks on its construction projects usually associated with the statutory procedures of Government Code §§ 900 (Tort Claims Act and/or a Government Code Claim), Public Contract Code §§ 20104 through 20104.6 ("Black Hole of Public Works Claims"), and (3) Public Contract Code § 10240 (arbitration). 

— John P. Dacey, Esq. and Gregory M. Bergman, Esq. are with C.A.S.H. member Bergman & Dacey, Inc. in Los Angeles California.

SAB Implementation Committee Notes

Continued from page 5

- Districts are required to return any savings at the conclusion of the project.
- Eligible schools to be determined by CDE.

It is anticipated that the AB 607 and Overcrowded Relief Grant regulations will be presented to the State Allocation Board at its meeting on January 24. The next meeting of the Implementation Committee is scheduled for Friday February 5. 

— C.A.S.H. Staff

El Cerrito Middle School

El Cerrito Middle School is an innovative elementary-to-middle school conversion project that provides new joint-use facilities while reorganizing and integrating the existing site and buildings.

Located in Corona, California, the terraced 13.65 acre existing school site was formerly occupied by an elementary school for 800 students. Constructed over 30 years ago, the existing campus included a multi-purpose building, numerous classroom wings, administration office, kindergarten rooms, and playfields, all linked by a covered walk. Anchoring the north end of this walkway "spine" was an existing lunch shelter and to the south, an open playfield. Existing bus and parent access to the existing school was from Ruddell Road, a narrow "non-through" street on the north edge of the campus. The remainder of the site is bordered by a masonry church to the east, El Cerrito Road to the south, and undeveloped property to the west.

Program requirements dictated development of middle school facilities for 1,200 students utilizing a combination of existing and new construction. The initial strategy was to proceed with a programming / needs assessment phase that would allow quick identification of specific existing elementary school facilities that could be preserved or adapted to house new middle school functions. For example, the existing lunch shelter was deemed too small and was converted into an actual building by enclosing its sides with permanent walls. Supplemented with complete

utility systems, it now houses a complete arts and crafts laboratory. This phase also revealed the need to completely reorganize the school site. With larger student enrollment generating increased automobile and bus traffic, studies determined that El Cerrito Road would better serve the needs of the site as it had more direct access from the surrounding community as well as increased street frontage allowing placement of a large extended parent drop-off.

Conceptually, the campus organization was completely reversed with the main entry now placed directly on El



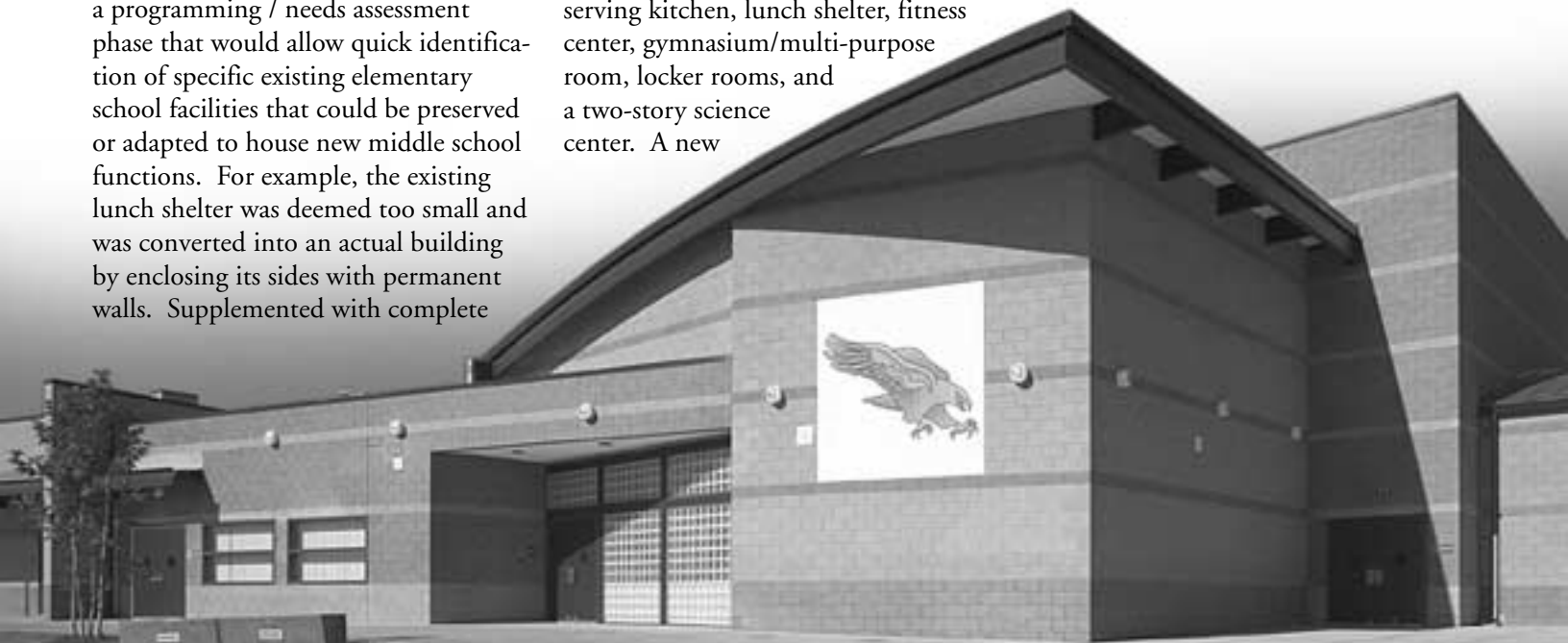
Cerrito Road. This new "front" door to the campus necessitated a substantial amount of new construction including an administration office, staff lounge, serving kitchen, lunch shelter, fitness center, gymnasium/multi-purpose room, locker rooms, and a two-story science center. A new

library resides next to the northernmost parking lot. Through a joint-use agreement with the County of Riverside, this unique facility will serve both school district needs by day while serving the entire community after school hours. Isolating the smaller



parking lot adjacent to the library allows the remainder of the campus to be secured, while affording comfortable access by local residents.


The administration office is strategically located to provide this public facility with the public presence it deserves while ensuring proper supervision along the front of the school. This portion of the building contains critical functions including administration, counseling, attendance and health offices, as well as the staff workroom and staff lounge.





The gymnasium and multi-purpose building are designed for maximum flexibility and minimal maintenance. When closed, a large electrically-operated partition wall provides excellent acoustical control while accommodating separate events. During larger gatherings such as rainy day lunches, back-to-school nights, or major athletic events, this partition wall can be retracted to allow clear sight lines during stage performances from the gym, or conversely warm-up space in the multi-purpose room for athletes awaiting their turn to compete in the gym. To minimize life cycle costs and reduce day-to-day maintenance, exterior walls are constructed of contrasting bands of durable concrete masonry block, and the floors are covered with a poured rubber flooring system. Like the library, the gym and "MP" room are located with direct access to parking for public use.

The new science center is organized around a simple stacked two-story configuration with an elegant elevator tower proudly featuring the school initials. Each lab features college-quality amenities including complete utilities housed within epoxy countertops and wood cabinets.

Last, the existing multi-purpose room had little utility in a middle school setting. Once divided into four equal spaces, this building proved to be the perfect size for two industrial technology labs and two computer labs. The technology labs provide students with the unique ability to computer draft and fabricate using CNC machinery. Underfloor electrical duct banks in the computer labs allow the district maximum flexibility in meeting the needs of ever-changing technology. 

El Cerrito Middle School Stats:

Need for Project Determined	January 30, 2001
Site Selection	January 30, 2001 (Existing Site)
Ed Spec / Prog of Req Developed	July 5, 2002
Schematic Design Started	August 1, 2001
Schematic Design Completed	September 25, 2001
Design Development Started	October 18, 2001
Design Development Completed	November 1, 2001
Construction Documents Started	November 22, 2001
Construction Documents Completed	February 1, 2002
Bid Date	July 18, 2002
Site Development Started	April 16, 2002
Site Development Completed	August 23, 2002
Construction Started	August 19, 2002
Construction Completed	June 4, 2003
Substantial Completion	July 7, 2003
Occupancy	July 7, 2003

Project Name	El Cerrito Middle School
Project Address	7610 El Cerrito Road
City	Corona
State, Zip Code	California, 92881
School or District Phone	(909) 736-5045 (District)
District Name	Corona-Norco Unified School District
Supt/President	Lee V. Pollard

Type of Project	New
Type of School:	Middle
Grades Housed	6-8 grades
Occupancy Date	7-Jul-03
Capacity (Students)	1245 Students
Site Size (acres)	13.65 Acres
Gross Area (sq. ft.)	61,539 sq.ft.(new) + 4,0252sq.ft. (existing)
Per Occupant (pupil)	82 sq. ft. per pupil
gross/net	101791gross.sq.ft.(existing & new)/1,245 students

Project Cost:	\$11,800,357.00
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Site Development:	\$ 632,400.00
Total Building Construction:	\$11,167,957.00
Fixed Equipment:	\$ -
Other:	\$ -

Total:	\$11,800,357.00
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Thank You Workshop Presenters

C.A.S.H. would like to thank the presenters pictured below from the January workshop - Managing Your New Construction and Modernization Projects.



Sacramento Presenters

(l to r) Paul Martin, Lionakis Beaumont Design Group, Kurt Weidmann, Harris & Associates, Jeff Doyle, Rainforth Grau Architects, Phil Henderson, Miller Brown & Dannis, Terry Street, Roebbelen Contracting, Rob Pierce, Fairfield-Suisun Unified District, Bill McGuire, Clovis Unified School District



Ontario Presenters

(l to r) Paul Martin, Lionakis Beaumont Design Group, Jeff Doyle, Rainforth Grau Architects, Terry Street, Roebbelen Contracting, Glenn Gould, Miller Brown & Dannis, Roland Williams, Harris & Associates, Kurt Weidmann, Harris & Associates, Don Yamagata, Montebello Unified School District

FRC Update

Construction Management

The following presentations on **Construction Management** are an example of some of the information that is available on the Facility Resource Center at <http://www.cashnet.org>. Additional information can be found by entering **Construction Management** in the **Search Resource Center** box.

3.3.15 Construction Management At-Risk

Mark Mardock, McCarthy Building Companies and Eric Stenman, Douglas E. Barnhart, Inc., May 2004
Presented here is the legal framework of CM At-Risk including the pros and cons, and factors in the selection of a CM.

3.3.16 Agency Construction Management – Delivery Method

Dana LeSher, Harris and Associates and Tony Lief, FL Construction Management, May 2004
This presentation lists the factors in influencing CM delivery systems, the pros and cons, and CM Multi-Prime/Trade Contracting.

3.3.17 Your Contractor Can't Perform, Now What?

Wendy Wiles, Bowie Wiles and Giannone and Sandra Packham, Hemet USD, October 2004
The reasons for monitoring your construction project are defined in this presentation. It also includes awareness of warning signs, steps to take to avoid termination, procedural issues in defaulting a contractor, steps to take prior to termination, options, contractor bankruptcy.

3.3.18 The Effective Use of Construction Management Services

Terry Bradley, Clovis USD; Jerome Behrens, Lozano Smith, LLP; Edwin Darden Jr., Edwin S. Darden Associates Inc.; Tim Marsh, Harris Construction; Walt Byrd, Clovis USD, February 2005
Sample language for bid packages, project schedule in contract documents, and references for further readings are provided in this document.

3.3.19 Remedies For Contractor Failures

Ed Mierau, Neff Construction; Rick Levesque, The Hartford; Phil Henderson, Miller Brown and Dannis, February 2006
Contractor and subcontractor default, bankruptcy and failures are addressed with emphasis on protecting your district's assets and avoiding pitfalls.

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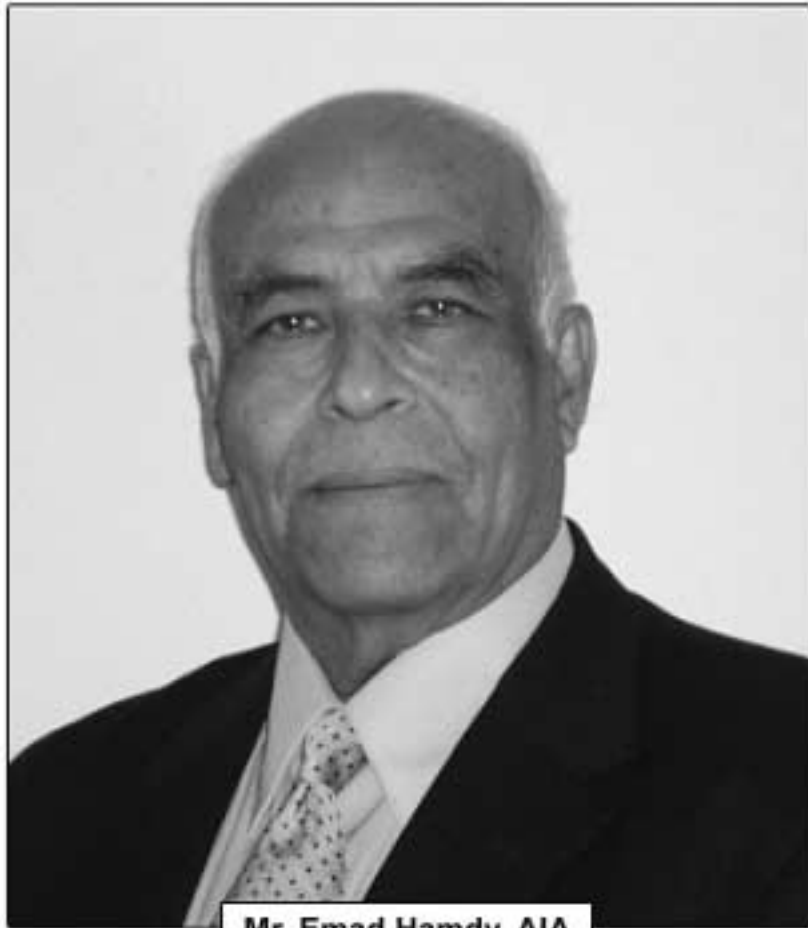
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January 2007

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Mr. Hamdy, AIA comes to ATI with more than 30 years of recognized design expertise ranging from the Museum of Art for the City of Bakersfield to new schools and major modernization projects for the Adelanto, Porterville, Centinela Valley, Colton, Fullerton, Grossmont, and Inglewood school districts among others.

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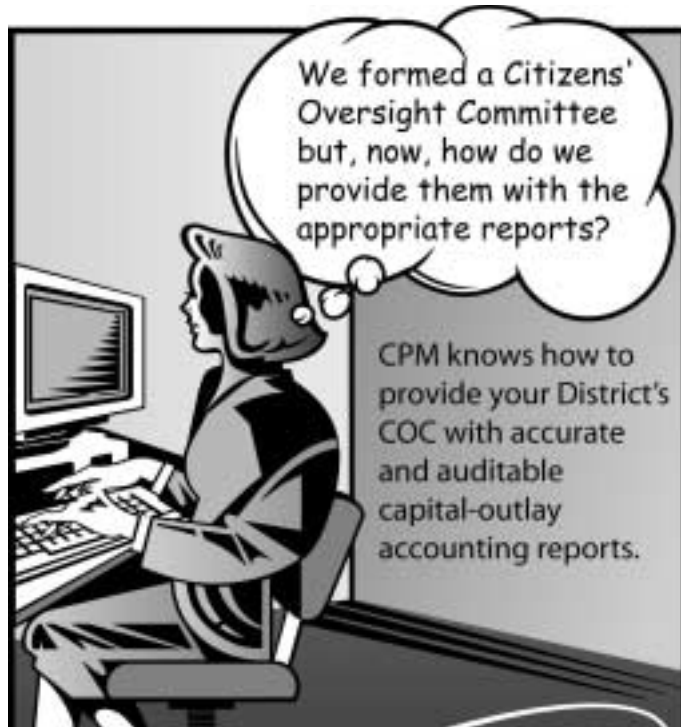
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C.A.S.H. 28th Annual Conference
Sacramento Convention Center
& Hyatt Regency Hotel
Sacramento, CA
- March 27, 2007**
Tuesday
Help! I Can't Do This Project by Myself! Workshop
Doubletree Hotel
2001 Point West Way, Sacramento
- March 28, 2007**
Wednesday
11:00 a.m. – 12:15 p.m.
General Membership Meeting
Sacramento Convention Center,
Room 308
Sacramento, CA
- March 30, 2007**
Friday
Help! I Can't Do This Project by Myself! Workshop
Ontario Airport Marriott
2200 E. Holt Blvd., Ontario

Monthly C.A.S.H. meetings are held from 11:00 a.m. to Noon in Sacramento. The monthly meetings are always scheduled to coincide with the monthly meetings of the State Allocation Board on the fourth Wednesday of the month, except in November and December, to enable C.A.S.H. members to attend the SAB's afternoon session. Both SAB meetings and General membership meetings are subject to change.



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