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THE NEWSLETTER OF THE COALITION FOR ADEQUATE SCHOOL HOUSING

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America's Choice High School

See page 15 for details

Message From The Chair



Ted E. Rozzi, C.A.S.H. Chair

Leadership

I have reached the half way point of my two-year term as C.A.S.H. chair and how time flies. It has been my pleasure to serve the C.A.S.H. organization, and I look forward to serving my second term and building on our successes.

In my Messages from the Chair over the past year, I have shared the many

successes and challenges this organization has faced. We continue to work with the Administration, Legislature and state agencies to ensure that we work toward obtaining SFP grant levels that are sufficient to build complete schools. We continue to bring our members quality educational conferences and workshops that allow school districts and county offices to continue to build and modernize the kind of schools that we would send our own children to. We continue to provide the opportunity for professional advancement with the C.A.S.H. School Facilities Leadership Academy (CSFLA) to train future facility leaders in our local communities around the state. We have been able to accomplish these objectives because of the strong leadership in this organization and members that always say "yes" to our many requests to participate in our committees and to make presentations at our workshops and conferences.

Lettie Boggs is a good example of this leadership. Lettie has served this organization with distinction as a board

member. She is one of the founders and the first chair of the C.A.S.H. Urban Committee, she has served as C.A.S.H. Treasurer for the past two years, and she is one of the Core Faculty for the C.A.S.H. School Facilities Leadership Academy. Lettie has served her eight-year term and will be leaving the Board as of the February C.A.S.H. Annual Conference. Lettie will be missed by her peers on the Board, but will continue to serve as Core Faculty to the CSFLA and will be called upon for her expertise on school facility issues.

With Lettie's vacancy, I put out a Call for Nominations to the membership to fill that seat on the C.A.S.H. Board, and we received several nominations from very qualified candidates. After careful consideration, the C.A.S.H. Board has chosen Mr. Ed Mierau, President of Neff Construction to fill the private sector vacancy, and we will announce his selection at the C.A.S.H. Annual Conference in February. Ed has a great knowledge of the construction industry and the School Facilities Program and has served the organization in many capacities, most recently as a member of the Legislative Advisory Committee.

I would also like to announce that I have selected Board Member Cathy Allen from the Western Placer USD to serve as your Treasurer. In addition, I have selected Board Member Bruce McDaniel from the Lennox Elementary SD to serve as the Co-Chair of the Urban Committee along with Board Member Margie Brown, San Ramon Valley USD. Board Member Jeff Baratta, UBS Securities, LLC, will serve as the C.A.S.H. Budget Committee Chair.

During the C.A.S.H. Annual Conference, *New Programs, New Promises*, February 25-28, 2008, we will be acknowledging C.A.S.H. leaders and

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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.

Thank You

Contributors to the 2008 Statewide Bond Campaign

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- HMC Architects
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- NTD Architecture
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- Gretchen Kocinsky
- Ted Rozzi
- School Site Solutions
- Joseph Serar
- Linda Sweaney
- Kathy Tanner

Please visit the C.A.S.H. website at www.cashnet.org to see an updated list of contributors throughout the fundraising effort and to find a contribution form.

Governor's Proposed 2008-09 State Budget: Focus on School Facilities

Governor Schwarzenegger released his 2008-09 Proposed State Budget on Thursday, January 10. For K-12 education, the Governor proposes a suspension of Proposition 98 with a \$4.4 billion K-12 cut for 2008-09 and also proposes approximately \$400 million in current year (mid-year) reductions. The Governor does not provide specifics, but indicates he will work with the education community on how to address the proposed reductions for 2008-09.

Concerning school facilities, the Governor proposes to fully-fund the Deferred Maintenance Program (DMP) and proposes \$11.6 billion for statewide school bonds as part of his California Strategic Growth Plan (SGP).

The following is a summary of the Governor's proposed budget on these two issues.

Deferred Maintenance Program

The Governor's Budget proposes to fully-fund the Deferred Maintenance Program at \$294.302 million, which includes the \$115.5 million that was reappropriated from the Proposition 98 Reversion Account. This amount does not include the "budget balancing reductions" that the Governor has proposed for many education programs, which we expect will be 10.8% after the 4.95% COLA.

School Facility Bonds

The following is quoted directly from the Governor's Budget Summary (pages 60-63). Please note that this excerpt includes a proposal to change the current 50/50 matching ratio to 60/40 for new construction.

K-12 Education

K-12 schools will experience net increases in student enrollment of

approximately 42,000 students by 2015-16. While some schools are experiencing declining enrollments, many other high-growth areas lack the schools necessary to accommodate increased enrollment. Some large declining enrollment districts have very overcrowded sites requiring new construction to adequately house students. Most notably, in order to meet the requirement of the *Williams* settlement, the Los Angeles Unified School District, along with any other remaining school districts, must relieve the most critically overcrowded schools (also known as "Concept 6" schools) by 2012. Thus, the need for new schools will continue to exceed net student growth projected during this period. As our system of approximately 9,600 school sites continues to age, the need for modernization assistance to keep classrooms modern continues during this period. Finally, because our primary and secondary school system helps develop tomorrow's workforce, it is important to both ensure facilities for charter schools to stimulate innovation and for Career Technical Education to ensure all students have the opportunity to participate in the high skill technical jobs that will fuel the economy of the future. Because Career Technical Education (CTE) has languished in the public school system for many years and the demand for charter schools is growing, the SGP continues the emphasis on assisting schools in meeting these special facilities needs.

Total K-12 Program Proposes \$11.6 Billion

The SGP proposes \$11.6 billion of additional general obligation bonds to provide state bond funding for schools into 2012-13. The \$11.6 billion is proposed to be split between the 2008

and 2010 elections. This total amount of funding, when combined with the \$7.3 billion contained in Proposition 1D, approved by the voters in November 2006, is estimated to provide for approximately 39,000 new classrooms to house approximately 1 million students and almost 60,000 renovated classrooms providing state-of-the-art facilities for over 1.5 million students.

2006 Bond Provided \$7.3 Billion

Proposition 1D, designed to meet modernization needs through 2010-11 and other school facility program needs through 2008-09, will provide approximately 46,700 renovated classrooms to serve 1.2 million students through the following components:

- New Construction - \$1.9 billion
- Modernization - \$3.3 billion
- Charter Schools - \$500 million
- Career Technical Education - \$500 million
- Overcrowding relief in certain districts - \$1 billion
- Incentives to meet high performance school design standards - \$100 million
- Joint use facilities - \$29 million

Of the amounts for new construction and modernization above, up to \$200 million is available for the Small High School Program and up to \$200 million is available for seismic safety projects. However, there has been minimal participation in the Small High School Program, with only one application approved for this program to date. Therefore, the Administration will explore options to address the impediments for district participation at this time.

Charter School Facility Program Changes

Although charter schools have been provided access to almost \$900 million

in bond funds beginning with Proposition 47 in 2002 and continuing through Proposition 55 and Proposition 1D in 2006, there are significant barriers in the existing Charter School Facility Program that have prevented charters from being able to use these bond funds to construct new facilities or renovate existing building to serve charter school facilities needs. The Administration will work to remove these barriers and provide a climate for innovation to accommodate the needs of charter schools.

2008 Education Bond Measure Proposed \$6.43 Billion for K-12

The next bond measure, proposed for the 2008 election cycle, is estimated for fund construction through 2010-11 and to provide approximately 18,300 new classrooms housing approximately 472,000 students and over 400 renovated classrooms providing state-of-the-art capacity for approximately 10,700 students. The bonds are proposed to be allocated as follows:

- New Construction - \$4.430 billion to assist high-growth school districts that are projected to have increases in enrollment through 2010-11. This amount is predicated on grant reductions calculated to revise the traditional 50 percent state/50 percent local cost-sharing ratio to 40 percent state/60 percent local. This amount assumes the state's assistance for acquisition of sites will be restricted to a participation level assuming 150 percent of the current site density planning standards.
 - o Chapter 691, Statutes of 2007 (AB 1014) alters the calculation methodology for determining school districts eligibility for new construction funding by allowing districts to submit 10-year enrollment projections and utilize modified weighting mechanisms, birth rates, and

residency data. The fiscal effect this bill may have on new construction eligibility is unclear due to uncertainty as to how many districts will utilize the new methods. However, the changes authorized by this bill could result in hundreds of millions of dollars in additional new construction eligibility, which will create pressure on current and future bond funds beyond the \$11.6 billion proposed in the SFP.

- Modernization – Last year, a total of \$1.539 billion to address rehabilitation needs was proposed in the SFP for buildings that are over 20 to 25 years old, in recognition that teaching techniques, building codes, and technology have changed over time. However, due to less-than-anticipated modernization apportionments over the past year and changes in projected funding allocations, we are not proposing any additional modernization funds until the 2010 bond measure.
- Charter School - \$1 billion to provide dedicated funding for charter schools as part of addressing the educational needs of K-12 students and housing enrollment growth. Charter schools provide an added dimension to parental choices in ensuring an appropriate environment for their child's education. These funds are predicated on a 50 percent state/50 percent local sharing ratio because Charters do not have the ability to levy local bonds. Instead, state bond funds are used to advance the local share and are paid back with operating or other revenue over time.
- Career Technical Education - \$1 billion to provide a dedicated fund source for matching grants to provide state-of-the-art technical education facilities to ensure our


comprehensive high schools can provide the cutting-edge skills essential to the high-wage technical sectors of our state economy. These funds are predicated on a 50 percent state/50 percent local sharing ratio to provide added incentive to build these high cost classrooms.

2010 Bond Measure Propose \$5.17 Billion for K-12

The revised plan proposes a subsequent bond measure for K-12 schools in 2010 to address needs extending into 2012-13. This increment will provide for the same purposes as the 2008 bond and is predicated on continuation of the cost containment measures described previously. This level of funding is estimated to provide almost 10,400 new classrooms serving 268,000 students and almost 12,700 renovated classrooms serving about 328,000.

- New Construction - \$2.33 billion
- Modernization - \$835 million
- Charter Schools - \$1 billion
- Career Technical Education - \$1 billion

Needs Beyond 2012-13

Competing statewide infrastructure needs make current funding policies for K-12 school construction unsustainable within a prudent debt service ratio. While the proposed SFP provides state general obligation bond assistance for funding the needs into 2012-13, assuming specified state cost containment measures, it will be necessary for schools to plan for additional bond measures and alternative financing strategies for financially troubled districts to ensure every student is housed in an appropriate classroom. Finally, the Administration proposes to review the overall financing structure for schools, including consideration of public-private partnerships, to ensure sustainable long-term funding of school facilities. 

~Jan Padilla

Assembly Approves Bill to Place Statewide School Bond on the Ballot

The Assembly Education Committee held its first hearing of 2008 on Wednesday, January 9th. Among the bills heard by the Committee was AB 100, the Kindergarten-University Public Education Facilities Bond Act of 2008, which is sponsored by the chairman of the Committee, Assemblyman Gene Mullin (D-South San Francisco).

In his presentation to the Committee Assemblyman Mullin stated that, while the State will face significant fiscal restraints this year, there continues to be a need for more funding for school facilities and urged the Committee's approval. Assemblyman Mullin informed the Committee that there are many issues to be addressed in this proposal over the next eight months.

Representatives from K-12 education groups, higher education, preschool advocates, labor unions and other

stakeholders were present to provide testimony in support of AB 100. Concerning C.A.S.H.'s comments, C.A.S.H. advocates informed the Committee that the issue of "complete schools" is C.A.S.H.'s number one priority. Specifically, C.A.S.H. argued that adequate SFP grants, retention of the 50/50 matching ratio for state and local funds, and program reform are all critical components to allowing districts to build complete schools. As you will recall, in December the Assembly Education Committee held an informational hearing on AB 100 to allow stakeholders to outline their concerns, and C.A.S.H. advocates provided detailed comments concerning the current program and what should be included in AB 100.

On January 29th AB 100 was heard on the Assembly Floor. Assemblyman Kevin

De Leon (D-Los Angeles), Assemblyman Mike Davis (D-Los Angeles) and Assemblywoman Julia Brownley (D-Santa Monica) spoke in support, and Assemblyman Martin Garrick (R-Carlsbad) and Assemblyman Roger Neillo (R-Sacramento) spoke in opposition. Assemblymen Garrick and Neillo pointed to declining enrollment, current G.O. bond debt, and the current budget deficit as reasons not to approved AB 100. Assemblyman De Leon pointed out that AB 100 is only an intent bill at this point, Assemblyman Davis made an educational argument for the bill, and Assemblywoman Brownley pointed out that some districts are still growing and the importance of building sustainable schools.

AB 100 was approved on the Assembly Floor 41-25. 

-Jan Padilla

Macias Report Heard at January SAB Meeting

At the January 30, 2008 SAB meeting, the board heard the results of the Macias Group findings on the adequacy of the New Construction Grant.

Prior to the report being presented to the SAB, the SAB approved a motion that any grant increase that might subsequently be adopted pursuant to Education Code Section 17072.11(b), which gives the SAB authority effective January 1, 2008 to increase or decrease the new construction grant, would be applied to any eligible project approved on the January 30, 2008 and subsequent SAB agendas.

The Macias Report is on the OPSC website at http://www.documents.dgs.ca.gov/opsc/SAB_AGENDA_ITEMS/2008-01/GA_Rpt.pdf

The Report states that Macias used "multiple analytical methods" to assess the adequacy of funding for new construction projects under the SFP. The report found the following:

1. For 366 schools built between 1999 and 2007, using two datasets from OPSC and McGraw-Hill Construction Analytic Database, funding allocations (defined as both state and local contributions) covered from 139 percent to 170 percent of construction costs, and SFP grants (excluding local matching share) covered from 72 to 93 percent of construction costs for each type of school, elementary, middle and high school.
2. For 46 schools built between 2001 and 2007 identified by CDE as

having essential components (although none had all CDE components of a complete school), funding allocations covered from 124 percent to 185 percent of construction costs, and SFP grants covered from 55 to 84 percent of the cost of construction for each type of school, elementary, middle and high school.

3. Using self-reported data for 86 schools, funding allocations covered from 65 to 89 percent of construction costs, and SFP grants covered from 50 to 54 percent of construction costs for each type of school, elementary, middle and high school.

Senator Scott was the first SAB member to express his dismay at the report and strongly stated that there

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C.A.S.H. Monthly Meeting Minutes, Wednesday, January 30, 2008

C.A.S.H. Chair Ted E. Rozzi called the meeting to order at 11:05 a.m. New members and guests were welcomed and introduced. Ted encouraged attendees to contribute to the upcoming 2008 bond campaign.

Legislative Update – Tom Duffy

Tom reviewed the Macias Group final report that will be discussed at the SAB later in the afternoon. Several C.A.S.H. members had requested the data Macias used to prepare the report. OPSC stated it was proprietary and could not be shared. McGraw-Hill did provide C.A.S.H. with the raw data they provided OPSC, but C.A.S.H. and others want to see what Macias did with the data to draw their conclusion. The summary of the report was that schools are currently being overfunded, not underfunded as C.A.S.H. and its school districts have stated for many years. Rob Cook has discussed the issue with the C.A.S.H. Board of Directors and said he will not propose a decrease in the current grant amounts. The SAB will also be discussing the Project Information Worksheet (PIW). C.A.S.H. is opposed to the PIW in its current format. OPSC is proposing that school districts must complete the PIW prior to a fund release. Tom encouraged school districts to share their concerns with the SAB at the January meeting. One concern about the PIW is that many practitioners suggested changes which were not incorporated into the document.

Office of Public School Construction Update – Juan Morales

Juan discussed the current SAB agenda and the status of funds. The SAB has adopted the 10 Western States index for the annual adjustment. The transfer of funds for the charter school facilities program projects will be done for new projects from old projects that

were rescinded. OPSC will present clarifying proposed regulation changes to the career tech grant application and funding program to the SAB. Juan discussed the status of charter school funds for the Proposition 1D funds. The applications are expected to go before the March SAB. The program is oversubscribed, so there will need to be some prioritizing of projects.

Mavonne Garrity briefly discussed her knowledge of the Grant Adequacy study and the feedback she has received from SAB members. Several members have shared similar concerns over the report as C.A.S.H. that the results are “counterintuitive.” Mavonne encouraged school districts to share their concerns with the SAB at the January meeting.

Rob Cook discussed the Macias Group report. He has had discussions with the C.A.S.H. Board about the report. The comparison of the data could be interpreted in different ways which caused Rob concerns. Rob reviewed the three different sections of the report. Despite missing information, OPSC will not ask Macias to collect the missing data to update the report to make it more accurate. Rob did not expect an adoption of the Macias Grant Adequacy report by the SAB at this time. There will still need to be further discussion before any changes are made to the SFP grants. Rob encouraged districts to complete the PIW and make sure the correct data is submitted to OPSC for future projects.

Division of the State Architect Update – Richard Conrad

Richard invited attendees to the regional headquarters open house during the C.A.S.H. Annual Conference on February 26. DSA is finalizing the DSA Academy classes for 2008. Visit the DSA website for more details. Satellite offices are up and running well.

There are between 2,000 and 3,000 projects left to close out by June 2008. Richard expects they will all be closed out before that time. There is now a Green Schools subcommittee on the DSA Advisory Committee. Anyone with comments about the DSA Bulletins 07-03 and 07-04 should contact DSA directly. DSA has reviewed and approved 38 projects for high performance standards and passed them along to OPSC. They are currently in the OPSC que.

CDE – School Facilities Planning Division – Fred Yeager

The deadline for the Career Technical Education Grant application to CDE is February 1, and the overcrowded relief grants need to be to OPSC by January 31. DTSC has moved their Glendale office to Chatsworth. The new address is on the CDE website. The CDE advisory group has been discussing educational specifications in more detail. Handouts from the recent C.A.S.H. workshop on this topic will be available on the C.A.S.H. website.

School Facilities Leadership Academy Update – Ted Rozzi

The academy will meeting this weekend. There will be a reunion of both the first and second cohort at the Annual Conference in February.

Annual Conference Planning Committee Update – Bill Savidge

The committee is meeting for the last time prior to the conference immediately following the General Membership meeting.

Implementation Committee Update – Bill Savidge

The February Implementation Committee has been cancelled. The next meeting is scheduled for March 7.

Continued on page 9

January 30, 2008 SAB Meeting Notes

The SAB had another marathon meeting lasting three and half hours. Below is a summary of the more significant actions.

Executive Officer Statement

1. Rob Cook stated that OPSC has received requests for \$204 million in Emergency Repair Program (ERP) funding. Since the program only has \$67.6 million, OPSC has notified the State Department of Finance (DOF) that the ERP does not have enough money to fund all requests. The SAB chair, representing DOF, stated that they are “hopeful” they can find funds to meet the ERP requests.

Financial Reports

1. Annual adjustment to SFP grants – The SAB used the Marshall and Swift Ten Western States CCI to recommend a 3.19 percent increase. The SAB adopted the increase, which will apply to SFP projects approved on or after January 1, 2008.
2. The SAB transferred funds within the Charter School Facility Account from preliminary apportionments that were rescinded, Hazardous Material/Waste Removal Funds, and DTSC/Relocation Funds to charter school projects that received preliminary apportionments under Prop 55 that converted to a final apportionment.
3. Status of Funds – Following the actions taken by the SAB at the January 30 meeting, there is \$2.53 billion in new construction funding, \$2.7 billion in modernization funding, and \$67.6 million in ERP funding.
4. The SAB increased the maximum Level I developer fee by 12.79 percent. Government Code Section 65995(b)(3) requires the SAB to

adjust the fee every two years by the change in the Class B construction cost index. The new maximum assessment is \$2.97 for residential development and \$.47 for commercial/industrial development.

Consent Specials

1. OPSC recommended that the SAB find that Chula Vista Elementary School District committed a material inaccuracy by prematurely certifying that it had entered into a binding contract for at least 50 percent of the construction as required. OPSC also recommended that the district be prohibited from self-certification for five years. Assembly Member de Leon stated that he thought the five-year prohibition on self-certification was too harsh. OPSC stated that the law gives the SAB authority to impose up to a five-year prohibition on self-certification, but they can impose less if they want. Senator Scott and Assembly Member Mullin stated that they thought the SAB should have guidelines on the appropriate number of years to prohibit self-certification based on the individual circumstances of the material inaccuracy. The SAB requested that OPSC recommend guidelines for the severity of the penalty related to the violation. Rob Cook stated that he would take the item to the March Implementation Committee for discussion and hopefully have something ready for the March SAB meeting. The SAB voted to find that a material inaccuracy had occurred and levy the appropriate interest penalty against the district, but not prohibit the district from self-certifying project information until OPSC comes back to the SAB with recommended guidelines.

In a related issue under Specials/ Appeals, San Francisco USD argued that there were unusual circumstances related to its material inaccuracy, and it requested that the SAB take individual special circumstances into consideration when assessing penalties for material inaccuracies. The SAB followed what they had done with Chula Vista. They found that a material inaccuracy had occurred, required the district to repay the interest lost to the State from premature release of funding, and withheld imposing a self-certification penalty until OPSC comes back to the SAB with recommended guidelines. Lori Morgan stated that in the interim the district is able to self-certify project information.

Specials/Appeals

1. The SAB rescinded five of six Critically Overcrowded School projects for Oakland USD. They directed OPSC to work with the district to determine if it is still eligible for one of its six projects having a preliminary apportionment of \$32 million.
2. The SAB approved the Bass Lake Joint Union Elementary appeal for funding under the Joint-Use Program. The Caliente Union Elementary appeal for their Joint-Use project was withdrawn.
3. Macias Report on Grant Adequacy: See the separate C.A.S.H. write-up summarizing the discussion of this item at the SAB meeting on page 6.

Regulations/Policy

Career Technical Education Facilities Program

The SAB approved, on an emergency basis, proposed amendments to the Career Technical Education (CTE) Facilities Program regulations. The changes were primarily clarifying changes related to completing the application and the funding order when insufficient funds remain in a funding cycle. Assembly Member Mullin requested that staff look at the require-

ment that equipment must have an average useful life expectancy of at least 10 years to be eligible for funding. Assembly Member Mullin acknowledged that the 10-year useful life language is in statute and may require legislation to change it, but he stated some essential CTE equipment simply wears out faster than other equipment and may have a shorter life span. Staff will look into his concern.

SFP Joint-Use Program

Concerns were raised by SAB members and the audience regarding several of OPSC's recommended changes to the regulations. Tom Duffy, representing C.A.S.H., addressed the board and sent them a letter using the Joint-Use Program proposed regulation changes as an example of C.A.S.H.'s concern that it appears that OPSC is attempting to diminish the role of the SAB Implementation Committee and not accurately or completely conveying to the SAB the discussion and recommendations made at the Implementation Committee.

The SAB did not act on the proposed Joint-Use Regulation changes. The chair directed OPSC to bring the item back to the SAB in February and to work directly with those who had addressed the SAB with concerns about the proposed regulation changes since there was no scheduled SAB Implementation Committee meeting in February.

Seismic Mitigation Final Adoption of Proposed Regulations

OPSC stated that only one comment had been received during the 45-day comment period since the SAB adopted proposed regulations at its September 26, 2007 SAB meeting. The one comment was from Tom Duffy, representing C.A.S.H., requesting that OPSC maintain a list of eligible seismic mitigation projects that do not receive apportionments due to insufficient funding for the program. OPSC stated that the SAB did not have the authority to create an unfunded list which might

be inappropriately construed as a guarantee for funding. Dr. Duffy stated that the intent was not to create a list that would be a guarantee for future funding, but only to maintain information that would show need to help justify additional funding for seismic mitigation in future State bonds. The Chair agreed that it would be appropriate for OPSC to keep a list of who applied for seismic mitigation and a tally of who was funded. With that agreement, the SAB authorized OPSC to submit the regulations as approved by the SAB on September 26, 2007 to the Office of Administrative Law for final approval.

Project Information Worksheet (PIW)

OPSC proposed final adoption of their proposal to require completion of the PIW as a condition of fund release. Several members of the audience, including Ted Rozzi and other C.A.S.H. board members, testified that while they support the collection of data to help analyze the relationship between the per pupil grant and the cost of new school construction, they have concerns with the proposed PIW document. Comments included the following:

- A. Requiring the PIW for fund release slows down the construction process.
- B. Apply the requirement prospectively, not retroactively to projects that are already underway.
- C. Simplify the form.
- D. Don't require the information until at least 12 months into the project.
- E. The SAB does not have the legal authority to condition fund release on completion of the PIW.


The SAB approved the PIW with the following stipulations:

1. The PIW will be used on a trial basis in the field for six months.
2. Prior to implementing the PIW requirement, OPSC will inform school districts about the require-

ment, how the PIW will be used and how to complete it.

3. OPSC will report back to the SAB in 6 months from this SAB meeting, regardless of how many months the PIW has been used in the field.
4. The PIW will not be used to determine whether a material inaccuracy has occurred. OPSC will propose amendments at a future SAB meeting to Regulation Section 1859.104.1 (material inaccuracies) to clarify the purpose of the PIW as it relates to material inaccuracies.
5. OPSC will work with CDE on how to address scope changes in the project.

The SAB closed the public meeting at 7:30 PM and went into closed session.

The next SAB meeting will be March 26. 

~C.A.S.H. Staff

C.A.S.H. Monthly Meeting Minutes


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Architects Committee – Steve Newsom

The Architects Committee will meet during the C.A.S.H. Annual Conference in February. Steve suggested visiting the CHPS website for valuable information out Green School construction.

Californian's for School Facilities – Anna Ferrara

Anna discussed the economic stimulus program approved by the House of Representatives. The Senate is still discussing some recommended changes. There is also an infrastructure piece that CSF is working on as well. CSF will continue to discuss the continuation of the QZAB program which was not funded last year. CSF will be going to Washington DC April 14 and 15. For more information about CSE, please contact Anna directly

The meeting adjourned at 12:15 p.m. 

Avoiding Delays Due to Fire Suppression System Work

By Dick Cowan, Clark & Sullivan Builders

The Division of the State Architect has recently issued Bulletin 07-04 warning of the risk if an installed fire suppression system were to differ from what had been approved and reminding us of its authority to stop work to protect student safety. The risk of installation differing from the approved system exists for California school projects because fire suppressions systems, sprinklers and kitchen hoods usually require deferred approval by DSA, and the schedule of rough in work for these systems occurs early in the project.

Many districts, architects, and CM's have concerns about the risk of delay to projects if ordering, fabrication, manufacturing, shipment and installation of these systems occurs after formal DSA deferred approval. Districts and architects aren't eager to accept the risk of designing these systems before bidding, since the skill to design these systems resides with specialty firms which both engineer and install them.

Therefore, project teams often schedule the installation of these systems to occur at contractor risk prior to approval. The contractor then bears the financial risk if the installed system must be corrected to match the approval.

Here are some best practices to minimize the risk of delay due to noncompliant installation of fire suppression systems.

1. Ensure fire flow and hydraulic data is collected early. DSA is now requiring this information at backcheck of initial plans. Including this data as part of the fire suppression system bid specification will speed the process.

2. Make the submission to the architect and DSA as soon as possible in the project. If using an alternate delivery method, award fire suppression work early and make the design either part of the initial plan submission to DSA or an early system increment for DSA approval. Caution; don't run afoul of the rule against awarding construction contracts until stamp-out.
3. Follow the Fire and Life Safety Automatic Fire Sprinkler Submittal Guideline available from DSA. The checklist is more extensive than it used to be. Hold a planning meeting or phone call among Fire Suppression System Designer, Architect of Record, and Project Inspector. Clarify who will provide what data to the submission to DSA.
4. Expedite the approval by the Architect of Record and Structural and Mechanical Subconsultants and subsequent transmittal to DSA.
5. Once submission is made to DSA, ask for an approval target date, and ask to see that the submittal is on Tracker. Check in with the reviewer and on Tracker frequently.
6. Keep the Project Inspector and Architect of Record informed of progress, questions, and any submission returns asking for corrections.
7. If progress on review or backcheck is not as promised, involve the DSA Regional Manager to get things right.

8. Ask for an over-the-counter backcheck if backcheck is required.
9. If the project schedule requires that Fire Suppression work start before DSA approval, let the DSA Field Engineer, the Project Inspector, the Architect of Record and the district staff know. There may be only minor clarifications being made. If DSA sees major issues with the system proposed, they will let you know.
10. It's OK if the project inspector wants to record a Deviation Notice that work began before approval. The deviation can be cleared once approval is received.
11. DSA leaders state that the authority to stop work will only be employed in cases where major issues create a risk to future student safety, not merely where paperwork is slower than desired.



– Dick Cowan is with Clark & Sullivan Builders and a board member of the Association of California Construction Managers

Message From The Chair

Continued from page 2

others who have served our organization well. This conference will be packed with many educational opportunities for all C.A.S.H. members. As I look forward to my second term as Chair, I will be calling upon many of you to assist this powerful organization in moving forward with our goals. I look forward to welcoming you to the Annual Conference in Sacramento in late February.

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Court of Appeal Upholds Bond Measure and Establishes a Practical “Type of Project” Standard for Meeting Proposition 39 Specific Project List Requirement

Foothill-De Anza Community College District v. Emerich, et al., Cal.App.4th, Case No. H031120 (6th Dist. December 19, 2007)

By David G. Casnocha and Sean B. Absher

In a landmark case in Proposition 39 finance law, on December 19, 2007, the California Sixth District Court of Appeal, in a published opinion, ruled that Foothill-De Anza’s \$490.8 million bond measure was valid and satisfied all requirements of Proposition 39.

The Court’s decision is the only published opinion on the scope of the “project list” requirement and may be relied on by all school districts throughout California as the controlling interpretation of Proposition 39.

Proposition 39, which amended the California Constitution, reduces the two-thirds voter approval requirement for bond measures to 55 percent if, among other requirements, certain accountability provisions are contained in the bond measure. The most notable (and ambiguous) provision is the “list of specific school facilities projects to be funded” requirement. The plain language of Proposition 39 does not shed any light on how specific the project list must be. The Court’s decision has removed the ambiguity by holding that the project list requirement is met where the projects are described by reference to “type of project” (such as “upgrade

technology”), rather than by a detailed itemization of individual projects. This clarity is good news for school and community college districts which have increasingly turned to Proposition 39 to meet critical facility needs.

Procedural and Factual Background

On February 21, 2006, Foothill-De Anza’s governing board passed a resolution calling for an election to approve the issuance of up to \$490.8 million in general obligation bonds. The full text of the bond measure in the voter information pamphlet (Measure C) discussed Foothill-De-Anza’s urgent facility needs and described the planned projects in six categories: upgrading, maintaining and replacing equipment; upgrading technology; repairing and replacing systems to reduce energy consumption; improvement of safety and access for disabled persons; expansion of facilities; and improvement of emergency access and evacuation routes. All but one of the categories included a paragraph further explaining the contemplated projects.

On June 6, 2006, Measure C was approved by the voters, and, anticipating taxpayer lawsuits from two local anti-school bond litigants, Foothill-De Anza immediately filed an action to validate Measure C. The taxpayers answered and filed cross-complaints.

Among the claims made by the taxpayers was that Measure C did not meet the project list requirement under Proposition 39.

The trial court rejected the taxpayers’ arguments and entered judgment for Foothill-De Anza validating Measure C. Both were appealed by taxpayers.

Court of Appeal’s Analysis

In affirming the trial court’s judgment, the Court explained that, based on the historical notes to Proposition 39, its purpose is to make it easier for school districts to pass school bonds where the proceeds would be used to upgrade school facilities, reduce class size, and improve safety, and to ensure that districts actually spend the bond proceeds on the projects the voters approved. Relative to the type of projects Proposition 39 is intended to encourage, the express wording of Proposition 39 requires that school districts evaluate “safety, class size reduction, and information technology needs” in developing the list of specific projects. Proposition 39 makes school districts accountable by requiring that voters be given a list of specific projects their bond money will be used for, and by requiring annual, independent financial and performance audits.

The Court held that, in keeping with the purpose and requirements of

Proposition 39, the list of projects submitted to the voters must be specific enough that the voters know what it is they are voting for and that the auditors know how to evaluate the district's performance:

"The critical factor in assessing whether the project list complies with Proposition 39 is whether it allows for meaningful approval and oversight of the bond expenditures. If the list defines or identifies the projects in a manner that clearly apprises the voters, the auditors, and the public oversight committees of the types of projects for which the money is intended to be used, that is sufficient."

Turning to the list of projects in the full text of Measure C, which the Court attached as an exhibit to the opinion, the Court found that the list properly identified the types of projects to be funded:

"For example, it is clear that among the projects to be funded are: repair or replacement of leaky roofs, wiring classrooms for computers and other technology, and installation of fire safety doors and sprinklers. This is sufficiently specific for meaningful approval and oversight."


In reaching this conclusion, the Court recognized that the level of specificity urged by the taxpayers – detailed itemization of individual projects – was both impractical and unnecessary under Proposition 39:

"Surely it is unnecessary to inform the voter which buildings will receive new fire safety doors or which roofs will be replaced and which will be repaired. That is minutiae that the voter has no expertise or need to consider. Furthermore, requiring such minute detail as [taxpayers] propose would be impractical."

As to the taxpayers' final argument that "the list places no limits on the types of projects because the list allowed future changes," the Court was not persuaded: "By the time the District is assured of bond proceeds, the roof that might have been repaired may now need to be replaced; or safety and accessibility renovations may need to be revised to comply with changing regulations." Accordingly, Proposition 39 permits limited changes to the project list as long as such changes are "consistent with the projects specified in the proposition the voters approved."

Conclusion and Implications

The *Foothill-De Anza* decision makes clear that Proposition 39's project list requirement is met if the projects are

described by reference to "type of project," rather than by reference to a detailed itemization of individual projects. Of course, subject to the possible political benefits in using a specific school site project list on a case-by-case basis the ability of school districts to develop project lists focused on types of projects, coupled with the ability to make limited changes, will allow greater flexibility in meeting facility needs over the extended time horizons typical of bond programs. 

–David G. Casnocha and Sean B. Absher are shareholders in the San Francisco office of Stradling Yocca Carlson & Rauth. Mr. Casnocha specializes in public finance law and is bond counsel to Foothill-De Anza. Mr. Absher specializes in real estate and public law and represents Foothill-De Anza in the validation action. Both can be reached at 415-283-2240 for any questions concerning this article or Measure C.

ACCM Now Lists Pre-Approved Facility Products and Systems

Among the tools that districts may use to speed up projects is the ability to use products and systems that have been pre-approved by DSA and have a very short, "over-the-counter" DSA approval process. These products, such as certain modular buildings, have gone through the Pre-Check process described by DSA Procedure 07-01.

With the help of John Vester of the DSA staff, ACCM has researched the project list at DSA to compile a list of those products having a pre-check ("PC"). The members of ACCM hope that this list may help with a facility project.

Visit the ACCM website at www.accm.com to view the list. 

C.A.S.H. School Facilities Leadership Academy

On January 11, 2008, one day after Governor Schwarzenegger released his Proposed Budget for 2008-09, Year Two of the C.A.S.H. School Facilities Leadership Academy convened for its fifth session in Sacramento, this time to focus on effective partnering with state and local agencies.

The vital importance of clear communications and close relationships was revealed in every section presented during the two days. And this was illustrated nowhere more clearly than during the Friday evening pre-dinner session, when two of the top-ranking members of the Schwarzenegger Administration drove up to the Academy from the Capitol, even after the exhausting grind of “Budget Week,” to share their insights with the Academy.

Anne Sheehan, Chief Deputy Director of the Department of Finance and Chair of the State Allocation Board, and Rob Cook, Executive Officer of the Office of Public School Construction, gave their perspectives on what the Budget meant and what the future was likely to hold for both programmatic changes and bond elections. They gave guidance on the best ways for districts to tell their stories to their organizations, and answered questions and took input from the Academy participants on issues of specific concern.


But before Sheehan and Cook even started their presentation, Eric Hall, former C.A.S.H. Chair and one of three Core Academy Faculty Members, made a point of thanking the Administration for its proposal to put forward a new

bond even in tough economic times. The guests’ clear gratitude for that comment, and the obvious trust displayed between C.A.S.H. and the Administration, showed first hand the importance of relationships in the business of providing schools with the facilities they deserve.

The rest of the session largely focused on the nuts and bolts of negotiating between all of the various public agencies that play an active role in school construction. C.A.S.H. Chair Ted E. Rozzi walked students through the mazes he had to navigate to build schools in the fast growing Corona-Norco Unified School District – mazes booby-trapped with landmines in the form of senior citizen housing units, wealthy fruit stand owners, gas lines, toxic waste fields, and seismic faults. Core Faculty Member Bill Savidge led a compelling interview with Richmond City Manager Bill Lindsay, who very candidly talked about the “two different languages” that cities and schools speak, and who emphasized the necessity of finding someone in outside organizations who will take time to break down the barriers and build trust. Core Faculty Member Lettie Boggs recounted her battles with “The Mouse,” her years-long struggle to turn the Disney Corporation from foe to friend in order to build schools in Anaheim, which until then had been struggling to cope by instituting year-round, Concept 6 double sessions.

Several Academy participants also gave prepared individual presentations, continuing the new practice in Year Two of emphasizing presentation skills. Then the entire class broke into five teams to give prepared presentations regarding actual joint-use projects they had identified. C.A.S.H. Board Mem-

ber and Legislative Advisory Committee Chair Nina Boyd helped the participants in the practical matter of dressing for success, which she also called “being a good partner with yourself.” And David Walrath of Murdoch, Walrath & Holmes discussed and debated with Academy Director Bob Blattner regarding just what exactly the Governor’s Budget was likely to mean for schools when all is said and done.

As always, the session ended with a pre-teaching of next month’s homework assignment for the *Architects and Educational Design* to be presented in early February. The next assignment for Academy participants will be to attend the C.A.S.H. Annual Conference, where they will be clearly identifiable in their red shirts, and eager to share their experiences with others. 

Macias Report Heard at January SAB Meeting

Continued from page 6

must be a major flaw in the study. He suggested that the McGraw-Hill data used by Macias must not have included complete construction costs. He stated that the report is drawing conclusions that just aren’t accurate.

SAB Member Girard, the public member, asked why Macias used McGraw-Hill. She said they should have used data from real schools.

Assembly Member Fuller stated that she wanted to see the mode data so she could determine how many of the schools were built in each year of the period covered in the study, 1999-2007. She also suggested that OPSC look at allowable costs and unallowable costs to see what might account for the discrepancy in the data.

Continued on page 16

America's Choice High School

Sacramento City Unified School District – Sacramento, Calif.

***America's Choice High School
in Sacramento to Open;
Project Breaks Traditional
School "Box" Design Model to
Foster Productive and Inspi-
rational Learning Experience***

Scheduled to open in Spring 2008, America's Choice High School (grades 9-12) will be the newest addition to the Sacramento City Unified School District (SCUSD). The 45,808 sq. ft. high school situated on 13 acres of land consists of eight buildings and will serve no more than 500 students. Designed by HMR Architects and built by McCarthy Building Companies, Inc., the charter school facility represents a mounting trend to support and revitalize small public high schools in the region.

In 2001, SCUSD launched a high school reform plan to transform the region's schools. The plan pledged to create a number of new high schools to

provide more options for local families, to reduce crowding at existing high schools and to ultimately provide a productive learning environment to minimize the dropout rate. This effort was fueled in large part by a grant from the Bill and Melinda Gates Foundation, which provided funding for new small high schools across the country, as well as dollars generated from Measure I. Passed by voters in 2002, the measure earmarked \$225 million in bonds to upgrade existing campuses and build new high schools. Once completed, America's Choice High School will be the sixth of a planned seven high schools constructed as a result of this program.

The goal of America's Choice is to provide a supportive learning environment designed to resemble that of a college or university, which addresses the needs of young

people, empowering them to interact with each other and to take responsibility for their learning experience. America's Choice was designed and built with this mission in mind. This unique complex, complete with decorative facades and canopies, extends beyond the traditional "box" model and features a campus-style design. The main focal point of the school is a small central corridor complete with an exterior amphitheater that will serve as a gathering area for students and

Project Team:

**Sacramento City Unified School District
Regent Development, Inc.
McCarthy Building Companies, Inc.
HMR Architects**

faculty. Other features include administrative and multipurpose buildings, a joint library and lab facilities, as well as

Continued on page 16




America's Choice High School

Continued from page 15

athletic fields.

There were a number of challenging project aspects, including cost, complex wood framing, and barrel roofs. These challenges were overcome by a collaborative lease-leaseback approach spearheaded by the project's developer, Regent Development Inc. The vast lease-leaseback expertise brought forth by Regent, McCarthy and HMR solved all financial and construction issues quickly, which would not have been possible in a traditional bid/build project delivery method.

The new America's Choice High School will serve a critical function to the Sacramento community. As small school construction continues in the region, students will have the opportunity to be a part of a positive learning environment, improve student achievement and accelerate their learning experience. 



Macias Report Heard at January SAB Meeting

Continued from page 14

Senator Simitian said he wanted to bring the school districts into the mix and have them review the report and comment on the conclusions.

Assembly Member Mullin suggested that the SAB not accept the report and asked the Legislative Analyst Office (LAO) and Macias to look at the underlying data.

Kathleen Moore, Director, CDE/School Facilities Planning Division, suggested that the SAB formally reject the report since the conclusions are erroneous and could negatively impact future state and local bond efforts. She also requested that the data and process Macias used be transparent and shared with


the public and SAB members. She said when findings are counterintuitive to facts, the findings must be subjected to further scrutiny and that can't be done if the data is not made available to the public and the SAB.

The chair stated that she would discuss the release of the data with staff and the board and try to provide the data as requested.

Several members of the public, including several C.A.S.H. board members, addressed the SAB and expressed concerns similar to those expressed by the SAB members.

The SAB took no formal action on the Macias Report. Instead they directed staff to bring together a group including C.A.S.H., CDE, architects, project managers, and school districts that were part of the Macias study to review the study and report back to the SAB with recommendations.

Assembly Member Mullin, who also chairs the Assembly Education Committee, stated that his chief consultant will also participate with the group in the review and recommendation process. No timeline was set for the return of the item to the SAB, although Dave Walrath requested that the recommendations be presented at the February or March SAB meeting, and that if agreement cannot be reached on a new construction grant increase by that time that the SAB approve a 3 percent increase with the stipulation that that would not constitute the full and final apportionment pending further action by the SAB. The SAB did not respond either negatively or positively to the suggestion.

C.A.S.H. will continue working with OPSC and the SAB on this issue.  ~ C.A.S.H. Staff



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C.A.S.H. Annual Conference Golf Tournament
Sunset Whitney Golf Course
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February 26-28, 2008
Tues. – Thurs.
C.A.S.H. 29th Annual Conference
Sacramento Convention Center
& Hyatt Regency Hotel
Sacramento, CA

March 25, 2008
Tuesday
**How to Design and Construct
Modernization Projects Workshop**
Doubletree Hotel
2001 Point West Way, Sacramento CA

March 26, 2008
Wednesday
General Membership Meeting
1020 11th Street, 2nd Floor

March 28, 2008
Friday
**How to Design and Construct
Modernization Projects Workshop**
Ontario Airport Marriott
2200 E. Holt Blvd., Ontario, CA

***Monthly C.A.S.H. meetings
are held from 11:00 a.m.
to Noon in Sacramento.
The monthly meetings are
always scheduled to coin-
cide with the monthly
meetings of the State
Allocation Board on the
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