

Rochester Joint Schools Construction Board
Monthly Meeting Minutes
February 13, 2023
4:00 PM

Present – Called to Order by the Board Chair at 4:04 PM

The meeting was attended by Board Chair Thomas Richards, Vice Chair Michael Schmidt (virtual, 4:10), Richard Perrin (virtual), Shawn Farr, Ron Gaither (virtual), Jesse Dudley (4:19), General Counsel Ed Hourihan (virtual), General Counsel Greg McDonald (virtual), Board of Education President Cynthia Elliott (virtual), RCSD Chief of Staff Linda Cimusz (virtual). Treasurer Kim Jones was absent.

Approval of Minutes

Monthly Meeting held on January 9, 2023

Motion by Board Member: Richard Perrin

Second by Board Member: Ron Gaither

Approved: 5-0

Action Item

Resolution 2022-23:17

Pay Requisition Summary Acceptance (January 2023)

Moved by Board Member: Shawn Farr

Second by Board Member: Ron Gaither

Adopted: 5-0

Resolution 2022-23:18

Extension of RJSCB Consultants

Moved by Board Member: Rich Perrin

Second by Board Member: Jesse Dudley

Adopted: 6-0 subject to availability of Program funding

Resolution 2022-23:19

Acceptance of Watts/SWBR Proposal

Moved by Board Member: Jesse Dudley

Second by Board Member: Ron Gaither

Adopted: 6-0 subject to availability of Program funding

Resolution 2022-23:20

Authorization to Acquire Property

Moved by Board Member: Mike Schmidt

Second by Board Member: Jesse Dudley

Adopted: 6-0

Resolution 2022-23:21

Authorization to Resolve Cannon Claim (15443264.1)

Moved by Board Member: Rich Perrin

Second by Board Member: Ron Gaither

Adopted: 6-0

FUND BALANCE REPORT:

Chairman Richards asked Consultant Kimberly Mitchell to review the details of the Fund Balance report with the Board. There were no changes to the CPL E&O Settlement funds or the Cannon E&O Settlement funds. The payments from the previous month were deducted from the cash capital account. This left a balance of approximately \$5,831,814 in the Cash Capital account, which does not reflect any interest accrued in the account. There are five open contracts totaling \$389,005.82. The current pay requisition for \$86,732.96 is comprised of three vendor payments from the Phase II Bond Funds totaling \$12,136.41 and six vendor payments from the RCSD Loan Fund totaling \$74,596.55. The remaining balances are \$377,025 in the RJSCB Fund, \$5,237,231 in the Phase II Bond Fund, \$205,421 in the Settlement Funds and \$328,318 in the RCSD Loan Fund.

Meeting Notes

- Chairman Richards revised the agenda to move the Fund Balance Report before the resolutions in order to establish the foundation of the discussion around additional funding. At the end of the Fund Balance Report, Chairman Richards explained what each of the remaining balances were and what they could be used for, highlighting that the AG Settlement funds of \$377,025 could be used without restriction but the Program Bond Funds could not be used for any Phase 3 activities. Chairman Richards specified that Settlement Funds received as a result of E&O disputes would be added to the Program Bond Funds as part of Phase 2. The RCSD advanced \$1 million dollars to the Program in order to provide interim funding until the bonds were issued and debt funding could be acquired. Those funds will be reimbursed from the bond fund but they are available to us to use for Phase 3.
- With respect to Phase 3, Chairman Richards explained that there have been delays in releasing the RFP so the Program Manager will not be in place as early as expected and the Program needs to keep going. A lot of work will be required, particularly with respect to the Comptroller. It was always anticipated that money would need to be advanced to the Program to be paid back by the bonds due to the amount of work required to justify issuing the bonds, which is the current phase of the Program. The second effort going on is by the RCSD to solidify its facilities and educational plan, the result of which will be which schools will remain open and how those schools will be allocated to various educational programs. This is in addition to the six schools included in Phase 3 of the Facilities Modernization Plan. Some of the work described at this meeting, particularly the work done by Watts, will be necessary to complete the work the District is doing as well as getting the Program ready to bond. The work that was identified for Watts are things they could do to keep the Program moving forward and are consistent with the efforts of the RCSD. President Elliott asked for clarification on the timeline for selecting a Program Manager and Chairman Richards responded that the RFP is anticipated being approved by SED this week for release next week. There's a process to go through for receipt of proposals, recommendation and selection as well as time for the Program Manager to get up to speed so, realistically, it will be the summer or perhaps the fall before the Program Manager is in place.
- Chairman Richards reviewed the Program budget with the Board that was prepared to show forecasted expenses through September. Four of the expense lines are included in Phase 2 and will be paid from the Program Bond Funds. The remaining items are operational costs and additional work by the Watts team. In looking at the funds that are available with respect to Phase 3 and the forecasted expenditures, those funds will be exhausted by April. In the past, the project was farther along, the Program Manager had been selected and the City did an interim financing to finance the cost of getting the program up and running, which was approximately \$5 or \$10 million dollars. The Program is not prepared to do that at this time so the RCSD will need to advance more money to the Program in order to get to the point where bond funds can be issued. This funding also supports the RCSD facilities and education plan. When the resolutions for the extensions of contracts for the consultants are approved today, they will be approved subject to the funds becoming available.
- In reference to the Watts/SWBR Strategic Plan proposal on the agenda, Chairman Richards explained that there are two areas where Watts could continue working to compensate for the absence of a Program Manager. The first is with respect to construction estimating for the buildings that are to be modernized. That kind of detail will be necessary with respect to the bonding and the Comptroller will insist that there are reliable numbers included and

scheduling is an important component of that because it will identify when the funding will be required by showing the sequence that the schools will need to be bonded, as the bonds are provided in tranches as opposed to being completely bonded upfront. It's also important because one of the ultimate outcomes will be the calculation of the RCSD's local share and that will be factored into the budget. The plan will need to illustrate to the Comptroller the RCSD's ability to fund the local share for Phase 3 in addition to Phases 1 and 2. Additionally, environmental reviews will need to be completed for each of the proposed schools and signed off by certain governmental agencies which will inform how much work must be done and what the cost of the projects will be.

- Member Perrin requested additional language be included in Resolution 2022-23:18 and Resolution 2022-23:19 to specify that the approvals are subject to available Program funding. Chairman Richards agreed and stated that the language will be added to the resolutions. President Elliott asked for further explanation of that statement to ensure it does not mean the consultants do not get paid for work completed if the Program does not have adequate funding. Chairman Richards clarified that the language means the RJSCB could not authorize the consultants to proceed with any work for which the Program does not have adequate funds to pay. Vice Chair Schmidt stated that, pending approval at this RJSCB meeting, the proposal would be presented to the Board of Education in March and discussed at the March Finance Committee meeting at the RCSD.
- Chairman Richards reviewed the property acquisitions in Phase 2 around School 4. All had been addressed in some fashion except for one property at 187 Samuel McCree Way, which is on the agenda to be resolved today. The proposal is to use \$45,000 from the AG Settlement Funds to complete the purchase and the property will be demolished. The final resolution of what happens with the property once it has been demolished is a matter that the City and the District will work out between them. Member Shawn Farr asked for the demolition cost and Chairman Richards explained that the City usually takes care of that aspect, as they demolished the other properties that were acquired, but that would have to be negotiated that when it gets to that point.

Chairman Richards entertained a motion to go into Executive Session pursuant to New York Public Officer's Law Article 7, Section 105.1 (f).

IN:

Motion by Member: Jesse Dudley

Second by Vice Chair: Shawn Farr

Approved 6-0 at 4:46 pm.

OUT:

Motion by Member: Rich Perrin

Second by Vice Chair: Ron Gaither

Approved 6-0 at 4:58 pm.

- Chairman Richards explained that the Board went into Executive Session to discuss the pending litigation and settlement with Cannon. This litigation has been discussed a number of times in the past and the Chair was pleased to announce that a settlement had been reached with Cannon. Cannon will apply \$200,000 in credit against the amount owed to them. The result will be another \$200,000 added to the Program Bond Funds. There were a series of settlement discussions in respect to this litigation. It would have a very difficult matter to litigate since it's the sum of a lot of small claims, nonetheless, it was felt that the Program was owed some money with respect to the performance so it was important to pursue. This resolves the last of the outstanding disputes for Phase 2.

ADJOURNMENT:

5:09 pm.