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BEFORE THE PUBLIC EDUCATION COMMISSION
STATE OF NEW MEXICO

TRANSCRIPT OF PROCEEDINGS
SPECIAL PUBLIC HEARING
April 12, 2016
3:00 p.m.
6501 Americas Parkway, NE, Suite 300
Albuquerque, New Mexico

REPORTED BY: Cynthia C. Chapman, RMR-CRR, NM CCR #219
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A P P E A R A N C E S

COMMISSIONERS:

MS. PATRICIA GIPSON, Vice Chair
MS. KARYL ANN ARMBRUSTER
MR. JEFF CARR (Telephonically)
MR. JAMES CONYERS
MS. MILLE POGNA
MS. CAROLYN SHEARMAN

STAFF:

MR. DYLAN LANGE, Assistant Attorney General
Counsel to the PEC

MS. BEVERLY FRIEDMAN, PED Custodian of Record
and Liaison to the PEC

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ATTACHMENT:

1. Visitor Sign-In Sheet

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1 VICE CHAIR GIPSON: I call this Special
2 Meeting of the Public Education Commission to order.

3 It is 3:00 on Tuesday, April 12th, 2016.

4 And I will ask Commissioner Shearman to
5 act as our secretary and please call the roll.

6 COMMISSIONER SHEARMAN: I will.

7 Commissioner Pogna?

8 COMMISSIONER POGNA: Here.

9 COMMISSIONER SHEARMAN: Commissioner
10 Toulouse?

11 (No response.)

12 COMMISSIONER SHEARMAN: Commissioner
13 Ambruster?

14 COMMISSIONER ARMBRUSTER: Here.

15 COMMISSIONER SHEARMAN: Commissioner
16 Conyers?

17 COMMISSIONER CONYERS: Here.

18 COMMISSIONER SHEARMAN: Commissioner
19 Peralta?

20 (No response.)

21 COMMISSIONER SHEARMAN: Commissioner
22 Gipson?

23 VICE CHAIR GIPSON: Here.

24 COMMISSIONER SHEARMAN: Commissioner
25 Bergman?

1 (No response.)

2 COMMISSIONER SHEARMAN: Commissioner

3 Shearman is here.

4 Commissioner Chavez?

5 (No response.)

6 COMMISSIONER SHEARMAN: And Commissioner

7 Carr?

8 VICE CHAIR GIPSON: Commissioner Carr?

9 COMMISSIONER SHEARMAN: Jeff, are you
10 there?

11 COMMISSIONER ARMBRUSTER: Do you want me
12 to call him on my phone?

13 MS. FRIEDMAN: I will.

14 COMMISSIONER SHEARMAN: We just need all
15 six of us, or we don't have a quorum.

16 VICE CHAIR GIPSON: And we had one until
17 we called roll.

18 FROM THE FLOOR: So he's evidently dropped
19 his call; so he needs to call back.

20 COMMISSIONER SHEARMAN: Jeff, are you
21 waiting for the meeting?

22 COMMISSIONER CARR: I'm here. I heard all
23 of you; but I guess you didn't hear me.

24 VICE CHAIR GIPSON: No, we did not. So
25 could you just please confirm that you're present?

1 COMMISSIONER CARR: Commissioner Carr is
2 present.

3 COMMISSIONER SHEARMAN: Thank you.

4 Madam Vice Chair, there are six
5 Commissioners present.

6 VICE CHAIR GIPSON: Thank you very much.

7 Now, I'll ask Commissioner Ambruster to
8 lead us in the Pledge of Allegiance, and
9 Commissioner Conyers in the Salute to the New Mexico
10 Flag.

11 (Pledge of Allegiance and Salute to the
12 New Mexico Flag conducted.)

13 VICE CHAIR GIPSON: All right. The second
14 order of business is Approval of the Agenda, which
15 is a very short agenda. So if everyone has had a
16 chance to take a look at it, I'll entertain a motion
17 for approval of the agenda.

18 COMMISSIONER POGNA: I move that we accept
19 the agenda.

20 VICE CHAIR GIPSON: Commissioner Pogna has
21 moved to accept the agenda.

22 COMMISSIONER ARMBRUSTER: Move to accept
23 the agenda.

24 VICE CHAIR GIPSON: And Commissioner
25 Ambruster has seconded.

1 Third item on the agenda is Discussion
2 of -- oh, I'm sorry. I'm sorry. Can we -- we can
3 do that by a voice vote, can't we?

4 MR. LANGE: Yes.

5 VICE CHAIR GIPSON: All in favor?

6 (Commissioners so indicate.)

7 VICE CHAIR GIPSON: Anyone not in favor?

8 (No response.)

9 VICE CHAIR GIPSON: Thank you. By a
10 unanimous vote, the agenda is approved.

11 All right. So we have reconvened today so
12 that hopefully we can settle the matter for the
13 extension for the facility build for McCurdy.

14 So if you could just give us, once again,
15 a brief synopsis of why this extension needs to take
16 place and where you're looking to move to?

17 MS. BENNETT ANDERSON: All right. Short
18 summary.

19 VICE CHAIR GIPSON: Yeah.

20 MS. BENNETT ANDERSON: To begin with,
21 thank you all for taking the time. I know this was
22 not the expected; but I really appreciate you all
23 coming together and being able to listen again.

24 McCurdy Charter School, since our very
25 inception, since the day that we wrote our Letter of

1 Intent, has been committed to the education of
2 students in the Española Valley. And even after
3 almost five years, we're still deeply committed to
4 our students and their families and our community.

5 When we approached the Public Education
6 Commission some 18 months ago and asked for a
7 24-month extension, part of the rationale at that
8 time was that we were submitting applications to
9 three different organizations, and that we needed to
10 be able to work on, complete, and, in one case,
11 start a financial feasibility study, an
12 architectural feasibility study, and an appraisal.

13 And the Public Education Commission
14 understood what we were trying to do. And since
15 that time, almost 18 months later, those
16 organizations, the three that we were submitting
17 applications to, declined basically to either fund
18 us, because of a difference in mission, or a
19 difference in interest rates, which made the
20 payments too high. Lots of different reasons.

21 Since those applications went away, we've
22 talked with numerous other financial institutions,
23 including U.S. Bank, Los Alamos National Bank; a
24 whole set. Let's put it that way. And the
25 applications themselves are not trivial. In many

1 cases, they can be up to 20 different kinds of
2 documents, all the way from financial position to
3 what is the property being involved, what is the
4 justification for this and that.

5 And as a charter school, we cannot incur
6 debt; by law, this school is not allowed to incur
7 debt. So what we do is we worked with -- in this
8 case we were working with McCurdy Schools of
9 Northern New Mexico.

10 And it -- we were having a very difficult
11 time finding financial backing to be able to support
12 the project, because our -- our promise, the part of
13 the mission and the charter acceptance, was that we
14 had to be able to meet the weighted New Mexico
15 Condition Index for facilities. That's always been
16 our goal.

17 And it has only been recently that we have
18 been able to find a financial group and situation
19 that we believe can really provide financial backing
20 necessary for the project.

21 But before I say any more about that --
22 because I want -- I want Laura Fiemann to be able to
23 address the financial backing, because she can
24 address it much better than I can -- there are a
25 great number of supporters, very strong supporters

1 in this whole enterprise in the whole project.
2 Primarily, one of them is McCurdy Schools of
3 Northern New Mexico, with the trade name of McCurdy
4 Ministries. At this point, they are donating about
5 \$850,000 to the project. They have been --

6 MS. LAURA FIEMANN: In cash.

7 MS. BENNETT ANDERSON: In cash. They have
8 been instrumental in starting, and now have
9 completed, the financial feasibility study. They
10 backed the architectural work that Sanjay and his
11 company have been working on. They have been
12 incredibly supportive, even though there have been
13 challenging times; no two organizations are exactly
14 alike. But not only the \$850,000 in cash, but
15 they're bringing almost ten acres of property and
16 two buildings to the project that will be donated.

17 So they have a huge investment in making
18 sure that the school is -- is successful. We've had
19 good relationships with the Public Schools
20 Facilities Authority. Sanjay, and in concert with
21 the school and our contributors, as such, in terms
22 of information, have gone through the first three
23 levels of approval with Public Schools Facilities
24 Authority. And Sanjay is anticipating that we will
25 be able to go and submit the construction drawings

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1 around the 1st of May, which are the ones that are
2 necessary for permitting.

3 And at some point, I'm hoping that Martica
4 can be able to speak to that.

5 But we've had incredible support. It's a
6 much different situation than what it was 18 months
7 ago. We have things in hand, as opposed to trying
8 to submit applications.

9 But if I may, I'd really like for Laura to
10 be able to speak to the financial arrangements that
11 are underway, if that's okay.

12 MS. LAURA FIEMANN: It's Laura Fiemann
13 with Charter Schools Development Corporation. I
14 appreciation, once again, everybody coming together
15 once again. We're going to try to make this as
16 brief as possible so you have the time to answer
17 questions, and we all can still get out of here in a
18 reasonable time.

19 My organization was introduced to this
20 project actually two years ago. The -- at that
21 time, there were multiple things going on. And
22 really, I thought Raza was the best solution; so I
23 backed away. A very similar-mind mission-based
24 organization, sister organization, if you want to
25 call it, was involved, and I thought, you know, I

1 don't -- my involvement is not necessary.

2 So I was reintroduced to the project in
3 October. So when Deborah talks about "recent" like
4 "recent" is October, because of the process that
5 this all takes.

6 So reintroduced to the project in October,
7 and we've been working towards all of these PSFA
8 requirements and all of the requirements of the New
9 Markets Tax Credit program.

10 We are now at that critical point. The
11 New Markets Tax Credit program has granted us the
12 allocation, but needs the final board approval. I
13 don't know all of the levels of approval that they
14 have. And that happens on April 28th of this month.
15 One of the things that it's necessary to get in
16 front of them to actually get those tax credits, so
17 that this project is affordable for McCurdy Charter
18 School, is the knowledge by the tax credit provider,
19 Finance Authority of New Mexico -- New Mexico
20 Finance Authority -- is that, indeed, we can deliver
21 this building within that time frame, so that we've
22 got a viable tenant, basically, in the building.

23 And so the ask, really, is for
24 approximately a six-month extension beyond the
25 current expire of February 17th. So we're saying

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1 we need until September 30th. That's the date that
2 we really need.

3 Again, as I mentioned, I think in the last
4 meeting, we really think this is a ten-month
5 construction project; but we want to make sure that
6 we don't have a crazy winter or something like that
7 and that we're not coming back to this Commission.

8 So our ask, really, is for the -- school's
9 ask is for really an approximate six-month extension
10 beyond the current -- beyond the current deadline so
11 that these last remaining pieces of the -- of that
12 very big puzzle can all come together, and we can
13 break ground in mid-July.

14 Everyone has confidence of that, because
15 of the support that the Ministries has provided to
16 this project. They have funded -- they have fronted
17 \$220,000 of architecture and permitting and design
18 fees to date. And so we're just really at that
19 critical point.

20 Beyond that, all of the negotiations
21 between myself and the school, as far as the
22 structure of this transaction so that we can indeed
23 provide the support until such time the school
24 potentially can access capital on their own or
25 create a foundation to borrow on their own, we're

1 here to support them until that period, and if the
2 end time comes. So --

3 MR. LEO VALDEZ: The only thing I want to
4 add is Charter School Development Corporation will
5 be the owner -- owner, as a nonprofit; I mean,
6 Charter School Development Corporation is. They
7 will develop the project. They will oversee the
8 construction. At the end of the day, they will be
9 the landlord and their [inaudible] transaction.

10 But at the end of the day, if something
11 were to go wrong, Charter School Development
12 Corporation is on the hook for the entire
13 transaction. So, you know, for that perspective,
14 they have, like -- they already own about
15 29 properties throughout the country. And their
16 whole mission, as Laura explained, is to help
17 charter schools get going and get their facilities
18 in place.

19 VICE CHAIR GIPSON: Okay. Thank you.
20 Before we have questions, I'm -- this might be a
21 good time for Martica to speak.

22 MS. MARTICA CASIAS: Certainly.

23 VICE CHAIR GIPSON: From the PSFA.

24 MS. MARTICA CASIAS: Madam Chair and
25 members, as you know our role is to talk about the

1 facility. Per statute, we're to talk about the
2 weighted NMCI and make sure the facility is
3 adequate. So I have a couple of topics I want to
4 talk about.

5 We have looked at the construction
6 documents that Sanjay's firm has submitted. And if
7 it is built as it is, it's -- it comes out with a
8 weighted NMCI score of 6. Weighted NMCI scores,
9 it's important to know that zero is perfect, and 6
10 is really close to perfect.

11 On the other hand, the existing facility,
12 as it is, has continued to age over the last five
13 years, and the condition has worsened. And it's in
14 about -- weighted NMCI of about 80. So we have some
15 concerns there about -- about that facility.

16 And in my position as a planning and
17 design manager, and our mission at PSFA, we hope
18 that the charter moves forward and gets into this
19 new facility that has an excellent rating.

20 When we look at the plans, the classrooms
21 are adequate; the playgrounds are adequate; the
22 stairs, the fire rating and everything would be
23 sufficient for the school.

24 We have seen the submissions. I have them
25 in front of me, the program statement -- we ask for

1 four stages of submission.

2 We had a program statement. SD is about a
3 30 percent design completion. And then we have the
4 design development, which is 60 percent.

5 So we anticipate the next submission, the
6 architect, Mr. Sanjay tell- -- Mr. Engineer, I'm
7 sorry -- tells us it will be on May 1st. So we will
8 probably turn that around and have the permit set
9 ready by -- within two weeks of that date. So we
10 will say, "Get ready, hire your contractor, and go
11 build."

12 So when the permit is ready, then they
13 have to go out for RFP for a contractor, unless this
14 is a design bid build.

15 MS. LAURA FIEMANN: We're going to bid.

16 MS. MARTICA CASIAS: You're going to bid.
17 Get the permit set. They should be able to go out
18 to bid about May 15th or so.

19 So from our agency's perspective again,
20 the facility meets the average weighted NMCI, and
21 it's good for the students. The existing facility
22 continues to age and deteriorate, as it is. But we
23 have a good working relationship with the architect.
24 And every time we call the school for information,
25 they're always there and present for us, for the

1 agency.

2 With that said, I stand for any questions,
3 if anyone has them, about the facility or anything
4 to that effect.

5 VICE CHAIR GIPSON: Any questions?
6 Commissioner Ambruster?

7 COMMISSIONER ARMBRUSTER: Sorry. This is
8 my first time dealing with this.

9 So you looked all around Española at empty
10 whatevers, and I know you would have to spend lots
11 of money to refurbish it. And so this was actually
12 the best option? Is that how this kind of started?

13 MS. BENNETT ANDERSON: Originally, when we
14 submitted the charter and it was accepted, we had
15 PSFA come out and look at -- there were originally
16 11 buildings on the campus that we intended to use.
17 And that's where the score of 80-plus came back from
18 PSFA.

19 And so the -- the group that was -- the
20 applicant group decided that it was more fiscally
21 responsible to look for a new building, rather than
22 trying to invest monies into older -- older -- older
23 buildings. I assure you; they're definitely older
24 buildings.

25 So it was -- it was really how can you be

1 fiscally responsible with whatever funding that you
2 do have.

3 MS. LAURA FIEMANN: I think another thing
4 of note is that this is a very large school. This
5 is 600 kids. We're not talking about, you know,
6 150 kids that we find a little warehouse -- I do it
7 all the time; right? I find a little warehouse. We
8 build eight classrooms. Boom. We're done. It's a
9 low-cost, low-impact project.

10 This is 600 kids. You can't put 600 kids
11 in a pieced-together modular campus. You can't put
12 600 kids and be able to meet the weighted average
13 without really looking at a solid facility solution.

14 And one of the issues in Española is that
15 in order for them to serve the student population
16 that they aim to serve, getting 10 to 12 acres of
17 land that has the utilities and has the access is
18 also very, very difficult.

19 So when their realtor looked, there wasn't
20 anything existing; there wasn't any land that was
21 reasonably priced that we wouldn't have had to have
22 cobbled together multiple parcels to try and put
23 this all together. And then you add, on top of
24 that, that the current owner is donating all of that
25 to this project, and the valuation from an appraisal

1 perspective was about a \$4 million donation, it
2 really makes us focus on this site pretty heavily.

3 VICE CHAIR GIPSON: Martica?

4 MS. MARTICA CASIAS: Commissioner, I
5 wanted to add to that, one of PSFA's jobs is to,
6 when a charter school calls us, we go make
7 assessments in that community. And we've done it in
8 Española for McCurdy, for Cariños, for the
9 Montessori school. And we have looked at several
10 buildings in the area.

11 So on our part, I think we've done --
12 they've asked us to look at more than one facility.
13 And when we did the assessment on that one, we took
14 out buildings; we put back in buildings. And the
15 new construction is the best, mixed with some of the
16 old.

17 VICE CHAIR GIPSON: Right. And I do note
18 that you also added the additional information --
19 because there had been a question about portables,
20 and the feasibility of bringing in portables instead
21 of a new build. And it's truly not feasible.

22 MS. BENNETT ANDERSON: Well -- and the
23 idea that we have potentially ten acres being
24 donated.

25 VICE CHAIR GIPSON: Right.

1 MS. BENNETT ANDERSON: The portion of that
2 that is intended for the new school building is only
3 about three-and-a-half acres. And part of the
4 rationale to make it fit on there and have the
5 parking and the playgrounds that you need was why we
6 went to a two-story building, as opposed to a
7 one-story building.

8 COMMISSIONER SHEARMAN: Could I ask?

9 VICE CHAIR GIPSON: Sure. Commissioner
10 Shearman?

11 COMMISSIONER SHEARMAN: Thank you very
12 much.

13 In your presentation, I think I heard you
14 say a six-month extension. And on this paper, it
15 says a nine-month.

16 MS. BENNETT ANDERSON: She had talked with
17 other contractors since that was provided to you,
18 that I was unaware of the information that she had
19 been given.

20 COMMISSIONER SHEARMAN: So the official
21 request --

22 MS. LAURA FIEMANN: If you'd like to do
23 nine, we'd be thrilled; but six is really what we
24 need.

25 COMMISSIONER SHEARMAN: Just wanted to be

1 sure, you know, what we're being asked for.

2 MS. BENNETT ANDERSON: Nine would cover us
3 for sure.

4 COMMISSIONER SHEARMAN: I think that would
5 be better.

6 VICE CHAIR GIPSON: Because nine covers
7 the potential of any kind of stoppages because of
8 bad weather or materials don't come in on time or
9 anything like that. It's -- it's a -- it's not an
10 unreasonable request, when you're --

11 MS. BENNETT ANDERSON: But it also -- it
12 also poises us to be able to get the kids in over
13 the Christmas break. What a shame to have a brand
14 new building done, and we can't get the kids in as
15 soon as we possibly can.

16 COMMISSIONER SHEARMAN: They'll be glad to
17 get in it whenever they can.

18 MS. BENNETT ANDERSON: Can you imagine?
19 There's our new building, but we can't get in it?

20 COMMISSIONER SHEARMAN: A move might be
21 interesting while school's still in session, but --
22 I have two questions. I'm not sure I ever heard a
23 total price for this.

24 MS. LAURA FIEMANN: So the overall project
25 cost is -- and we're talking about the whole,

1 overall project, including the financing and
2 including all the things that are required -- is
3 about \$9.1 million.

4 COMMISSIONER SHEARMAN: Okay.

5 MS. LAURA FIEMANN: The actual
6 construction -- so the actual contractor's contract
7 will be right around \$155, \$150 a square foot. So
8 that's just under \$5 million -- is that right? --
9 \$6 million. So it's about a \$6 million, you know,
10 economic impact to this community, as well.

11 VICE CHAIR GIPSON: Great. Great.

12 COMMISSIONER SHEARMAN: And my other
13 question, to make the payments on this amount, are
14 you looking at just the lease assistance amount?
15 Will that cover it? Or are you going to have to use
16 operational funds, as well?

17 MS. BENNETT ANDERSON: We will have to use
18 operational funds. Our original thinking had been
19 that with 584 children, that that would bring in
20 around \$430,000 each year. And we have been
21 planning for some time, expecting for some time,
22 that there would be about another \$57,000 of
23 operating funds that we could readily handle.

24 So the expectation is that, you know,
25 we're set up to be able to handle about another

1 \$75,000, including increases in insurance, increases
2 in maintenance.

3 COMMISSIONER SHEARMAN: Right.

4 MS. BENNETT ANDERSON: You know, other
5 attendant parts. But it's all in the pro forma
6 that, you know, Laura has seen and her financial
7 partners have seen. And I believe that that's
8 acceptable.

9 MS. LAURA FIEMANN: Yes. Yes.

10 MS. BENNETT ANDERSON: They've seen all
11 the pieces that we've --

12 VICE CHAIR GIPSON: And you've factored in
13 the physical cost of the move, as well?

14 MS. LAURA FIEMANN: The good news is that
15 the move is just across the parking lot; so that's
16 part of it.

17 MS. BENNETT ANDERSON: That's true.

18 MS. LAURA FIEMANN: One of the other
19 things in the construction budget is new furniture
20 for the school.

21 VICE CHAIR GIPSON: Oh, okay.

22 MS. LAURA FIEMANN: So a lot of the stuff,
23 you know, books and stuff have to be moved; but the
24 furniture itself will be new, and it will be in the
25 facility already.

1 VICE CHAIR GIPSON: Okay. Okay.

2 COMMISSIONER SHEARMAN: Another question
3 occurred to me; but -- oh, yes, ma'am. I do have
4 another.

5 VICE CHAIR GIPSON: Okay.

6 COMMISSIONER SHEARMAN: So the only -- the
7 only gate left to open is this approval for the tax
8 credit?

9 MS. LAURA FIEMANN: Uh-huh.

10 COMMISSIONER SHEARMAN: That's it?

11 MS. LAURA FIEMANN: Yes, that's it.

12 COMMISSIONER SHEARMAN: And if that is
13 granted, then everything is a go; right? If it's
14 not granted, it's not a go?

15 MS. LAURA FIEMANN: That is correct.

16 VICE CHAIR GIPSON: Actually, I had that
17 question. Can you -- do you have an idea of the
18 likelihood of it being granted or not being granted?

19 MS. LAURA FIEMANN: Sure. So New Mexico
20 Finance Authority, again, is an elected commission
21 of folks. And on the drive here, I received three
22 phone calls from the staff member who is -- his only
23 job is to prepare this for the 28th presentation.
24 So I received three phone calls from him just in
25 that period of time. They have five staff members

1 working on this project right now to prepare for
2 that -- for that meeting.

3 So what I can tell you is that from a
4 staff perspective and a prioritization perspective,
5 we are in the priority group. They have
6 \$8.5 million of tax credits remaining from their
7 last allocation. They need to allocate those by
8 September 1st. We have a buyer for the tax credits.

9 This is getting kind of complicated here.
10 But basically, we've got the lender that needs to be
11 part of the structure, the buyer of the tax
12 credits -- actually, the tax credits are already
13 purchased, and it's sitting in New Mexico Finance
14 Authority's bank account now. So they have to
15 allocate this by September 1st, or it's a "Use it or
16 lose it" federal program.

17 We are the top priority. So we think that
18 there's going to be lots of motivation. We don't
19 think there's any fatal flaw in all of this. And,
20 again, it -- I think our only risk at this point,
21 quite honestly, is a political risk, if there's some
22 political thing out there we don't know about.

23 But the project is prioritized and scored
24 high in the project -- or in their criteria. There
25 are two main criteria. Although, they are concerned

1 about kids, and they're concerned about education,
2 their two criteria have to do with economic
3 development and job creation. And we have met all
4 of those criteria, and we are confident that the
5 amount of construction jobs that will be created
6 through the construction of this project, the
7 retention of the existing jobs that are currently
8 active on that campus, as well as the new jobs
9 created -- new permanent jobs created all create a
10 very compelling argument.

11 We have also sort of used that angle about
12 the fact that this is a K-through-12 school, that,
13 we hope upon graduation, will be providing members
14 of society who can add to the economic base and add
15 to the overall benefit in the Española Valley.

16 And they have not really heard that
17 before, because a lot of times New Markets Tax
18 Credits are, quite honestly, focused on construction
19 jobs. That's a lot of times what they are; lots of
20 multi-family housing and things like that are done
21 with them. At the end, there's not much permanent
22 jobs, but there's a permanent community benefit.

23 So we feel very, very strongly that the
24 28th will be a very good day for all of us. And
25 then at that point, it's putting together the

1 papers. At that point, it's the 18 lawyers that are
2 involved in the transaction that will layer on all
3 of the federal program stuff with the tax credits
4 and layer on the New Mexico Finance Authority stuff
5 and make lots of requirements of me, so that we can
6 get the money to get in the ground by July,
7 July 15th.

8 VICE CHAIR GIPSON: Are there any other
9 questions?

10 Commissioner Carr, do you have any
11 questions? No, because he's not there.

12 COMMISSIONER ARMBRUSTER: He can hear us;
13 but we can't hear him.

14 COMMISSIONER CARR: I'm here. I'm here.
15 I do have a question.

16 VICE CHAIR GIPSON: Sure.

17 COMMISSIONER CARR: And I'd like to -- I
18 guess, some clarification. I -- you know, I hope
19 you know that I've been a cheerleader for this
20 school for quite some time; and I'm rooting for you
21 guys. But I have -- you know, but I'm worried, you
22 know.

23 I -- I -- I am trying to remember what the
24 deadline was for the lease purchase agreement to be
25 done. And I was a little confused about whether

1 this was a -- going to be a lease purchase agreement
2 or not.

3 MS. LAURA FIEMANN: So the -- this will
4 eventually be a lease purchase. Is that the right
5 way to say it, Susan?

6 MS. SUSAN FOX: Probably.

7 MS. LAURA FIEMANN: It will eventually be
8 a lease purchase. During the New Markets period,
9 which is a seven-year period of time that this
10 federal program that adds a lot of subsidy to the
11 project, ownership of the project cannot be
12 transferred during that period. I have -- CSDC, we
13 have to own the project during that seven-year
14 period.

15 And so during that seven-year period,
16 there will -- the transaction will be a lease that
17 seven years and one day will become a lease
18 purchase. And that's a -- it's a tax issue at that
19 point. I mean, my intent, from the very beginning,
20 was to offer the school a lease purchase, a straight
21 lease purchase, as it's required under the Lease
22 Purchase Act.

23 So we are anticipating that it will be the
24 so-called straight lease during that seven-year
25 period to make sure we protect that -- that federal

1 requirement. And then on that very next day, it
2 enters into a lease purchase, where the school is,
3 you know, then, the title owner of the project and
4 buying the building from me over time; or at that
5 time, there may be other options available for them
6 to borrow directly, or create a foundation that that
7 foundation then borrows directly.

8 We, as a support organization, want to be
9 there as long as is necessary. And then we are --
10 then we want to leave so that we can recycle our
11 funds to the next user or school.

12 COMMISSIONER CARR: Okay. So I -- PSFA --
13 or is there anybody there who can answer my
14 question?

15 VICE CHAIR GIPSON: Yes, Martica is here.

16 COMMISSIONER CARR: Because it's legal.

17 VICE CHAIR GIPSON: Yeah, Martica is here.
18 So go ahead.

19 COMMISSIONER CARR: And so, Martica, so
20 the question for her, I mean, is that -- does that
21 fit the law? Does that follow the proper guidelines
22 that we need?

23 MS. MARTICA CASIAS: Commissioner Carr, I
24 don't have the statute and that in front of me; but
25 to the best of my knowledge, it does. But there

1 is -- there are attorneys in the room that can
2 better answer that question than I can.

3 MS. BENNETT ANDERSON: Susan is the
4 school's attorney.

5 COMMISSIONER CARR: Okay. If she's there?

6 VICE CHAIR GIPSON: Susan Fox is here.
7 And Dylan is here -- Dylan Lange is here, as well.

8 COMMISSIONER CARR: Oh, very good. So,
9 yeah, I was wanting to get an answer, because that
10 does concern me.

11 MS. SUSAN FOX: Commissioner Carr, are you
12 talking about the 2015 deadline statute?

13 COMMISSIONER CARR: Yeah.

14 MS. SUSAN FOX: Yeah. Under that 2015
15 deadline statute, there's -- as you know, there's
16 three different ways -- three-and-a-half different
17 ways -- to satisfy it.

18 One is by being in a public building. The
19 other one is by being under a lease purchase.

20 VICE CHAIR GIPSON: Right.

21 MS. SUSAN FOX: But the third one is the
22 one that we would be, and other schools are in, when
23 they're in a straight lease with a private owner.
24 And that is to have a provision in the lease that
25 says that the owner is obligated to maintain the

1 facility.

2 COMMISSIONER CARR: I was just cut off
3 from -- I'm sorry. I need to have whatever was said
4 repeated.

5 MS. SUSAN FOX: Oh, okay. No worries. No
6 worries. Sorry. They're turning the phone around
7 here.

8 I was just reiterating the 2015 deadline.
9 Are you there?

10 Everyone is going to be really well-versed
11 in the 2015 deadline statute.

12 Can you hear us?

13 (A discussion was held off the record.)

14 COMMISSIONER CARR: Got cut off again.

15 MS. SUSAN FOX: No one is going to touch
16 the phone.

17 COMMISSIONER CARR: Okay.

18 MS. SUSAN FOX: All right. So I was just
19 sort of recapping the 2015 deadline statute and the
20 three-and-a-half ways that you can satisfy that.

21 One is by being in a public building. Two
22 is by being under a lease purchase agreement. And
23 three is by being in a regular lease with a private
24 owner, if the private owner is -- has, in the lease,
25 that it is willing and will maintain the property to

1 adequacy standards at no additional cost to the
2 school.

3 And so that is what we will have in any
4 straight lease with CSDC. They will be obligated to
5 maintain the facility -- first of all, the facility
6 will be built to adequacy standards in the first
7 place. But then they'll be obligated to maintain
8 that facility to adequacy standards at no additional
9 cost to the school.

10 And on top of that, having no public
11 buildings otherwise available for the school to be
12 in we think satisfies that 2015 deadline statute.

13 VICE CHAIR GIPSON: Is that satisfactory?

14 COMMISSIONER CARR: That's satisfactory.

15 VICE CHAIR GIPSON: Okay. Any other
16 questions?

17 Any other questions?

18 I guess I just have that doomsayer
19 question. What happens if the tax credits don't
20 come through? Just -- that's my prurient --

21 COMMISSIONER SHEARMAN: Back to square
22 one?

23 MS. BENNETT ANDERSON: Oh, please. I
24 really don't want to see that happen. I have to
25 tell you that.

1 VICE CHAIR GIPSON: Right.

2 MS. BENNETT ANDERSON: And nobody else
3 does. At that point, we would be in a real
4 difficult position, mostly because we start working
5 on our renewal papers --

6 VICE CHAIR GIPSON: Right.

7 MS. BENNETT ANDERSON: -- this particular
8 year, you know, submit them, you know, late this
9 fall. And one of the primary questions is, "Are you
10 in approved --

11 VICE CHAIR GIPSON: Right.

12 MS. BENNETT ANDERSON: -- facilities?"

13 And we would have to answer, "No."

14 So we would come back to you guys and --
15 you know, for the authorization, and there would
16 have to be a decision: Do we close the school
17 that's serving almost 600 students and their
18 families in a community that desperately needs this
19 school, because of a building?

20 I mean, I would rather keep trying
21 somehow. But it's certainly within your right to
22 say no. But it really -- it would be really a shame
23 to close this school that's so desperately needed,
24 because we're not quite there yet with the building.

25 I will be very frank. I'm praying very,

1 very hard that this whole thing works.

2 MS. LAURA FIEMANN: We've looked at it
3 also from the perspective of what could we do if the
4 New Markets thing doesn't happen. The New Markets
5 structure provides about \$2 million of subsidy to
6 this project. And in keeping with an attempt to
7 have the lease support as much as possible and
8 layering in the requirements of PSFA for the
9 adequacy requirements, especially for this large
10 number of students, and then we add in the just --
11 the reality of what the construction costs are going
12 to be for those facilities, those three things
13 cannot meet anywhere without that subsidy.

14 So we've looked at -- CSDC -- we've looked
15 at just straightforward financing this with our own
16 money, because we feel so strongly about this school
17 and the community that they serve. And, you know,
18 we can't make the economics work without that
19 \$2 million subsidy.

20 So I think if the subsidy isn't there, I
21 think -- I'm talking to Sanjay; we're talking to
22 lots of people about where in the world can we find
23 \$2 million, either in the reduction of the overall
24 construction cost or in some other form of subsidy
25 that might be available somewhere.

1 So -- and we've had those conversations.
2 We've tried to figure out how we can have a third,
3 fourth, fifth fallback plan. And it's because of
4 those three criteria being lined up with one
5 another.

6 I can finance the project for the school;
7 but their payment is going to be \$700,000 a year to
8 me. And that just covers my costs. So we don't
9 want to take that much money out of the classroom,
10 for sure.

11 MS. BENNETT ANDERSON: We can't afford it,
12 period. PED would not allow us to do that, because
13 they've got concerns about how much we pay per
14 square foot now.

15 VICE CHAIR GIPSON: Correct. Yeah, yeah.

16 MS. LAURA FIEMANN: So it's -- we're
17 stuck. It's stuck.

18 VICE CHAIR GIPSON: Okay. All right.
19 Are there any other questions?

20 COMMISSIONER ARMBRUSTER: I -- this is not
21 directly related to that, sort of. So what is --
22 you have 538 -- 38 -- something --

23 MS. BENNETT ANDERSON: We have 525.

24 COMMISSIONER ARMBRUSTER: And your cap is?

25 MS. BENNETT ANDERSON: 584.

1 COMMISSIONER ARMBRUSTER: Interesting
2 number. 584, as opposed to 600 or something.

3 MS. BENNETT ANDERSON: I can tell you how
4 we got there; but you really don't want to know.

5 COMMISSIONER ARMBRUSTER: No, it's fine.
6 So when you build this building, will it
7 house 584, not the 525?

8 MS. BENNETT ANDERSON: Exactly.

9 COMMISSIONER SHEARMAN: How many would it
10 house? What would be the absolute cap -- student
11 cap for the new building?

12 MS. JANETTE ARCHULETA: 584.

13 MS. LAURA FIEMANN: We wish we could build
14 more.

15 MS. MARTICA CASIAS: I'm sorry. I have a
16 comment on that, as well.

17 PSFA, when we do our -- our ranking of the
18 schools, we actually think that there -- that they
19 have -- they have enough general classroom space to
20 go up to about 600 or so. So even if you had to
21 fluctuate or you got to raise your cap later on --
22 Madam Chair, members, I'm sorry --

23 VICE CHAIR GIPSON: There's a little
24 cushion.

25 MS. BENNETT ANDERSON: We would never do

1 it without your authorization, just to be clear.

2 COMMISSIONER SHEARMAN: God bless you.

3 MS. BENNETT ANDERSON: Just to be clear.

4 MS. MARTICA CASIAS: Further comment.

5 Madam Chair, members, the cost of \$155 a square foot
6 sounds very good to PSFA, because we keep track of
7 all of our costs. And that's the lowest that we've
8 seen. So that's encouraging.

9 VICE CHAIR GIPSON: That's a good
10 construction cost down in Las Cruces; I know that.

11 COMMISSIONER SHEARMAN: Let me just ask
12 this. In Artesia, we're getting ready to build a
13 new administration building. And one of the reasons
14 that we agreed to do it right now is because --
15 well, we need it. Lots of reasons.

16 But our architects -- and perhaps you
17 might have something to say on this -- are saying
18 this is a really good time to build because the
19 economy is depressed. Lots of the larger
20 construction companies are not as busy as they are
21 in better times. We're looking to get a better bid
22 on our construction.

23 Do you perhaps see that in this instance.

24 MR. ENGINEER: Madam Chair, members of the
25 Commission, I think that the market is very

1 favorable right now. There's another reason. The
2 oil prices are down. And the construction industry
3 is driven by oil prices. So competition is there.
4 There are strategies we have implemented on the
5 project to keep those costs in control. And we are
6 looking at, you know, a successful effort on this --
7 at this point. So the timing is appropriate.
8 Correct.

9 COMMISSIONER SHEARMAN: So is it your
10 best -- I don't want to use the word "guess"; that's
11 not the right word -- your best thought --

12 VICE CHAIR GIPSON: Professional opinion.

13 COMMISSIONER SHEARMAN: -- expert opinion
14 on how this contract, or how this might come in on
15 bid? Are you leaning more towards the \$5 million or
16 up towards the 6?

17 MR. ENGINEER: Madam Chair, members of the
18 Commission, I think what we have done is we have
19 solicited actual contractor support in pricing off
20 these drawings that we have prepared to date. We
21 are very close to finalizing of the drawings.

22 But at about 60 percent of project
23 development, we had an independent general
24 contractor look at the whole project and price the
25 project, so that we can ensure that that's what the

1 market is going to support.

2 I think the value is a little bit
3 different than what's been thrown out here. So I
4 would not hang up on the \$155 number right now;
5 because there is site work. There is other things
6 associated with the project that has some supporting
7 costs; that is, utility work, that needs to be done.

8 The good news is that the properties that
9 are being donated have most of the utilities in
10 close proximity, so that the extension of utilities,
11 or costs associated with infrastructure work, is
12 very limited. All the dollars are going towards
13 building the classrooms. That's a great benefit for
14 this project.

15 And the way we've come up with its design,
16 its compact layout, trying to economize, sizes and
17 spaces, so that you have the economy of scale, in
18 terms of, you know, the project costs -- and we
19 are -- we are confident that it will be in that
20 range.

21 COMMISSIONER SHEARMAN: Okay. Thank you
22 very much.

23 VICE CHAIR GIPSON: Okay. Thanks.

24 Are there any other questions?

25 So let me just make this clear. For a

1 motion, you are requesting an extension for your
2 construction period for nine months, not six months;
3 and the date is correct, from -- November 15th of
4 2017 would be your -- okay.

5 So I will entertain a motion for an
6 extension for McCurdy School's construction to
7 November 15th, 2017, which is a nine-month
8 extension.

9 COMMISSIONER SHEARMAN: Madam Chair?

10 VICE CHAIR GIPSON: Commissioner Shearman?

11 COMMISSIONER SHEARMAN: I move that the
12 Public Education Commission grant the extension to
13 McCurdy Charter School, extending their date for
14 successful construction to November 15th, 2017.

15 Is that right?

16 VICE CHAIR GIPSON: Yes. Yeah.

17 Do I have a second?

18 COMMISSIONER ARMBRUSTER: Second.

19 COMMISSIONER POGNA: (Indicates.)

20 VICE CHAIR GIPSON: Commissioner Pogna?

21 And Commissioner Shearman, if you will do
22 a roll-call vote.

23 COMMISSIONER SHEARMAN: All right.

24 Commissioner Pogna?

25 COMMISSIONER POGNA: Pardon?

1 COMMISSIONER SHEARMAN: How do you vote on
2 the question?

3 COMMISSIONER POGNA: Yes.

4 COMMISSIONER SHEARMAN: Thank you.
5 Commissioner Toulouse is not here.
6 Commissioner Armbruster?

7 COMMISSIONER ARMBRUSTER: Yes.

8 COMMISSIONER SHEARMAN: Commissioner
9 Conyers?

10 COMMISSIONER CONYERS: Yes.

11 COMMISSIONER SHEARMAN: Commissioner
12 Peralta is not here.

13 Commissioner Gipson?

14 VICE CHAIR GIPSON: Yes.

15 COMMISSIONER SHEARMAN: Commissioner
16 Bergman?

17 Commissioner Shearman votes "Yes."

18 Commissioner Chavez?

19 Commissioner Carr?

20 COMMISSIONER CARR: Yes.

21 COMMISSIONER SHEARMAN: Thank you.

22 Madam Chair, that is a unanimous six-to-zero vote
23 affirming the motion.

24 VICE CHAIR GIPSON: Okay. Thank you very
25 much. Congratulations.

1 COMMISSIONER ARMBRUSTER: Good luck.

2 VICE CHAIR GIPSON: We hope to hear great
3 things in the near future.

4 (Applause.)

5 VICE CHAIR GIPSON: We thank all the
6 Commissioners for extending yourselves and coming.
7 And, Commissioner Carr, thank you very much for your
8 patience on the phone.

9 COMMISSIONER CARR: You're welcome.

10 VICE CHAIR GIPSON: Have a great rest of
11 your evening. Safe travels. And this meeting is
12 now adjourned.

13 (Proceedings adjourned at 3:47 p.m.)

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1 BEFORE THE PUBLIC EDUCATION COMMISSION

2 STATE OF NEW MEXICO

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6
7 REPORTER'S CERTIFICATE

8 I, Cynthia C. Chapman, RMR, CCR #219, Certified
9 Court Reporter in the State of New Mexico, do hereby
10 certify that the foregoing pages constitute a true
11 transcript of proceedings had before the said
12 NEW MEXICO PUBLIC EDUCATION COMMISSION, held in the
13 State of New Mexico, County of Bernalillo Fe, in the
14 matter therein stated.

15 In testimony whereof, I have hereunto set my
16 hand on April 19, 2016.

17
18
19 

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SECRETARY OF EDUCATION

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PEC Special Meeting

April 12, 2016

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Tim Rybarczyk	PSFA
Janette Archuleta	McCurdy Charter
Deborah Bennett Anderson	MCS
NANCY O'BRYAN	MES
Susan Fox	Matthews Fox
LAURA FIEMANN	CSDC
LED VALDEZ	HSE

