

Minutes  
Bond Oversight Committee (BOC)  
November 15, 2011, 6:00 p.m.

**NOTE: THE MINUTES FOR THIS MEETING HAVE BEEN EXPANDED FOR THIS MEETING ONLY AS THE TAPE RECORDER MALFUNCTIONED AND THE MEETING WAS NOT RECORDED.**

**Call to Order**

The Bond Oversight Committee was convened at 6:04 pm by Chair Vilma Luna. All committee members except John Havenstrite, and all three alternates were in attendance. A quorum was present. John Havenstrite joined the meeting shortly after the meeting was convened.

**Introductions**

Larry Keiser introduced the District staff in attendance: Teresa Wilbanks, Bond Accountant, Les Reddin, Executive Director of Facility Management, and Susan McBride, Administrative Assistant of Facility Management.

Chair Luna noted the typos in the previous minutes would be corrected. Specifically, the date for the November 2012 meeting is on November 20, 2012, rather than the 22nd. A motion was made by Paul Walsh to accept the minutes with corrections and the motion was seconded by Bryan Noteboom. The motion passed unanimously.

**Pending Business**

Chair Luna called on John Havenstrite to present the recommendation of the Communication Work Group appointed at the last BOC meeting. The Work Group was comprised of John Havenstrite, Paul Walsh, Coralie Pledger and Mike Frost. The Work Group was tasked with reviewing issues related to the development of a communication strategy for the BOC. The primary focus of the Work Group was assessing whether the BOC has a communication need beyond what is already dictated in the approved BOC operating procedures and policies. Mr. Havenstrite passed out a proposed communication strategy document devised by the Work Group and briefly summarized its contents for the BOC. (See attachment.) A BOC Member questioned how the process would work if there was not unanimous agreement on a BOC action. Chair Luna stated that the operating policies and procedures require a majority vote for passage but that all actions are ascribed to the BOC as a whole. For that reason, there would not be a dissenting opinion in any communication strategy. John Havenstrite, on behalf of the Communication Work Group, recommended that the BOC accept and approve the Proposed Communication Strategy. A motion was made by Paul Walsh to accept the proposed communication strategy as presented and the motion was seconded by Bryan Noteboom. The motion passed unanimously.

**Financial Update**

Larry Keiser explained the updated financial work sheets that had been emailed out to the BOC previously. He explained that the work sheets show the costs previously expended, the costs expended in the current period and then the amounts that have been encumbered by project. There is also a summary of all projects and a cash flow schedule. Many projects are currently in design phase so the BOC should expect to see more financial information as the work moves forward.

A BOC Member asked a follow up question of Larry Keiser about the investment of bond funds in alternatives other than Texpool. Mr. Keiser said they had called around to various banks for short-term CDS interest rates but and have not found anything that would work yet. Teresa Wilbanks is continuing to make inquiries. The BOC Member suggested that they consider longer term CDs with higher rates but measure the impact of early withdrawal penalties. A BOC Member asked about the District's investment policy regarding funds kept at banks. Mr. Keiser stated that the options in the policy were to either have FDIC insurance or pledged assets.

### **ADA Presentation**

Chair Luna started by presenting the goals for the BOC ADA agenda item as follows:

- to share information from the District and receive input from the community;
- to present a brief history of the District's planning and policy regarding ADA compliance;
- to get BOC and the community familiar with terminology pertaining to ADA used by the District, architects, registered accessibility specialists (RAS) and contractors so that everyone is referring to the same thing when certain terms or items are referenced; and
- to have a clear understanding about what ADA projects are encompassed in the current bond program.

Les Reddin then introduced John Rickard with Olicon Design, Jaime Beaman with Casa Bella Architects, Rachel McDaniel with Casa Bella Architects and Codi Newsom with Broaddus and Associates.

John Rickard explained the 2003 SHW accessibility review, and how what is referred to as the "ADA Matrix" was established in 2006. In 2006, an accessibility survey was performed and the District hired three Registered Accessibility Specialists and an architectural firm to accomplish the review. John became involved with EISD during this time frame as one of three Registered Accessibility Specialists (RAS) involved in the review. The schools were split up and assigned to each of the three survey groups. The results were varying reports with no conformity as to content or reporting style. A Task Force was then formed and included parents of special needs students. The Task Force ranked all the items as to priority and created an ADA Transition Plan (also referred to as the ADA Matrix). This document continued to be maintained by Broaddus and Associates.

Mr. Rickard passed out a handout that explained the differences in the old Texas Accessibility Standards (TAS) versus the new Texas Accessibility Standards (TAS) to be implemented in 2012. Les Reddin stated that EISD is designing and constructing to the most stringent standards.

Jaime Beaman with Casa Bella Architects joined in the question and answer session. Mr. Beaman explained his history with the district. His firm is engaged to prepare all the design plans for ADA projects including the four playgrounds in the 2011 Bond Program. He consults with Mr. Rickard in his design process. The district originally planned to design and construct the first two playgrounds and then design and construct the second two playgrounds. Instead, to be more efficient, all four playgrounds will be designed now and then the playground construction dates will be scheduled. Les Reddin stated that the construction dates are impacted by the campus activities and input from the principals on each campus.

A BOC Member asked when the Texas Department of Licensing and Regulation (TDLR) gets involved with the projects. Mr. Rickard explained that the TDLR certifies Registered Accessibility Specialists to review project plans, perform follow up inspections, and notify the state when a project is completed. Mr. Rickard is certified by the TDLR as a RAS to perform these services.

A BOC Member asked how the design for the new and more stringent standards was going to impact the bond costs for these programs. Les Reddin stated that although they were not complete yet, and there was concern about the cost, so far the cost estimates appear to be within the current bond line items given the contingencies.

## **Open Forum**

Coralie Pledger read the charge to the Committee that was given to them by the Board of Trustees' and the rules for the public forum as follows:

The Eanes Independent School District ("EISD" or "the District") Board of Trustees (the "Board") authorized a Bond Oversight Committee ("BOC") in conjunction with the bond proposition that was approved by EISD voters on May 14, 2011 (the "2011 Bond"). The BOC is a Board-appointed 9-Member committee responsible for monitoring the progress of the 2011 Bond projects. The BOC's duties include: 1) reviewing bond expenditures and timelines, 2) reviewing possible scope changes and making recommendations to the Board, and 3) making public reports to the Board twice a year.

The purpose of the BOC is to monitor the progress of 2011 Bond projects. The BOC is established to provide transparency and enhance public confidence in the use of proceeds from the sale of the 2011 Bond.

Rules regarding conduct of the public portion of the meetings:

i) Public Participation

- (1) The public may address the BOC during the Open Forum portion of the meeting on items listed on the agenda or otherwise related to the charge of the committee. Speakers shall sign up on a form prior to the Open Forum. Following the speakers who have signed up, other speakers may address the BOC after being recognized by the Presiding Officer.
- (2) Each speaker will be allocated three minutes. Delegations (groups of five or more people wishing to speak on a single subject) may appoint a spokesperson to express the views of the delegation. Delegations will be allocated five minutes each.
- (3) Public comments shall not include complaints or comments about individual students, employees or officials of the District. Speakers with specific complaints regarding District personnel shall be referred to Board Policy FNG (Local) or GF (Local).
- (4) The Presiding Officer may terminate the time of any speaker who does not adhere to the established rules.

ii) Response to Public Comments

- (1) BOC Members will carefully consider comments made during the Open Forum.
- (2) BOC Members will not respond to or enter into discussions with the speakers or the audience during the meeting since items on the agenda will be discussed as appropriate and scheduled on the agenda, and discussions of items not on the agenda are not permitted.
- (3) BOC Members, after being recognized by the Presiding Officer, may ask clarifying questions only of speakers and/or the Presiding Officer during the Open Forum.

iii) Meeting Protocol

- (1) The BOC shall be guided by BOC policies and parliamentary procedure as detailed in Robert's Rules of Order.
- (2) The Presiding Officer has the responsibility to keep the discussion focused on the agenda items or motion before the BOC and shall limit any discussion that does not apply to such items or motions.

The first speaker on the sign-in sheet was called to speak. Laura Avery, a Valley View elementary parent, addressed the Committee with the following prepared remarks (redacted for confidential student information).

"First, thank you to Vilma Luna, the BOC committee and the administration for all the work you are doing in the area of ADA.

My name is Laura Avery and I have 2 children at Valley View Elementary. The area of ADA and accessibility is of particular interest to me because of [my child's special needs]. We have heard a lot about code, regulations and the law tonight, but I wanted to give you a personal perspective on what accessibility really means for children in our schools.

We've talked about the ADA Transition Plan, or "Matrix", quite a bit tonight, and I definitely think that involving parents in the prioritization process there was extremely important. In my opinion, the Health/Safety/Evacuation issues certainly take priority, including restroom access. Second, program access is crucial. The ADA requires that children have access to school programs with their peers. So I'm sure you can imagine that accessing not only the school building, but also the playground and recess is a big issue.

- Provide Access to the play area with accessible ground surface material. When talking specifically about the playgrounds, first the child needs to be able to get to the playground structures where recess is being held. The ground surface material is very important – and a "turf-type" material such as the one used on the Forest Trail playground is ideal. It is a smooth surface that allows access to all the play areas, including swings, playscape, etc.

But then the question is, "What can the child do once he/she gets to the playscape?"

- Provide Access to each type of play component on the playground. The first thing children want to do is climb up on the playscape, go down the slide, etc. And children with disabilities want to slide, climb, and swing along with their peers. So there has to be a way to provide access to each type of play component on the playground – slide, swing, rocking, turning, musical components, etc. The easiest way to do that is a simple ramp to the upper portion of the playscape. A ramp provides access to everyone – we have children with mobility impairments in the district, but also children with visual impairments, hearing impairments, autism spectrum disorders, sensory disorders just to name a few.
- Select Inclusive Play Components. Another consideration is using play components that encourage interaction and inclusion. Many children have disabilities that make social engagement more difficult, and recess is a great time to build social skills in all children. So let's look for components that encourage inclusion and interaction.
- Involve the Community. I'm so glad to hear we will be using the new 2012 design standards on all the ADA projects. The design standards are a guide and will help achieve the goals for the project. But involving the actual users – the children, parents, and staff who use the playgrounds every day – will always lead to a more positive outcome and help answer design questions along the way.

I look forward to hearing about opportunities for community involvement in the process. Please consider taking the designs to the special education community – as was done with the Adult Transitions project – to give the parents an opportunity to provide input before construction begins.

As well, these new playgrounds will benefit ALL children for many years to come and will be a big improvement in our facilities. The designs should be shared with the campus PTOs for input as well.

We have the money now, the playgrounds will be here for the next 15-20 years, let's do it right.

Thank you.”

A BOC Member asked if Ms. Avery had had any opportunity to comment or get involved with the design process so far on her campus. She responded that there has been no input process yet. A BOC Member suggested that she might want to go through the campus CLT (Campus Leadership Team) to work on this issue. Ms. Avery replied that she was on the campus CLT but there had thus far been no information available on the ADA projects or playgrounds yet through the CLT. Les Reddin responded that they were still in the early design phase and that each campus principal would be involved in deciding how to involve the parents. The first meeting with Valley View Elementary was in the process of being scheduled. The Principals will be in charge of getting people to the meetings and getting that input. A BOC Member asked for clarification on the future opportunity for parent and community input. Les Reddin responded that there would be and that process would be started soon.

Coralie Pledger called on the second speaker Cheryl Fries. Ms Fries introduced herself and gave the following prepared remarks:

“My name is Cheryl Fries. I am a former WHS English teacher, a long-time resident of the district, and a volunteer who has served as a room mother, on the Campus Leadership Team, and a member of the ADA Task Force. Most of all, I am the mom of a child on wheels, and therefore of necessity I am an advocate. I've listened to the presentations and your many questions and I'd like to address some of those from that advocate perspective.

For my child, a staircase is a “Not Welcome” sign. When we talk about architectural barriers, we are talking about issues that literally mean the difference between whether she will be able to access her education or not. This is a very, very important issue that I've been working on for about seven years.

You've heard a lot about TAS, but the legal picture is larger than that. In 1973 the federal government passed the Rehabilitation Act. Section 504 of that Act said that entities that receive federal funds cannot discriminate against people with disabilities. This was broadened by the Americans with Disabilities Act of 1992, signed by President H.W. Bush. The ADA is a civil rights law protecting disabled people from discrimination. Architectural barriers are a part of that, because those barriers in and of themselves can create discrimination. The Individuals with Disabilities in Education Act (IDEA) is also an issue for public schools in this area.

When the ADA was passed, the feds recognized that this would be an expensive and big process, and they gave entities time to come into compliance. They mandated that entities create what is called an ADA Transition Plan to do this. This is what the district refers to as “The Matrix,” but in fact it is an ADA Transition Plan. The feds also said that entities should have an individual responsible for ensuring that the plan was implemented.

When we started comparing notes years ago, we discovered that parents were dealing with serious barriers: wheelchairs not evacuated during fire drills, kids who couldn't participate in recess like mine, kids who couldn't participate in graduation or get on the stages at their schools. There was no ADA Transition Plan. There was no designated person in charge of compliance. ADA issues were handled as "wish list" items on bonds. A few were put in, and some were done, but if the money ran out, they were just kicked down to the future bond.

We approached the district and said, let us help you create an ADA Transition Plan. We had parents from a wide range of disability—mobility impairment, blindness, autism, cognitive disability—and we volunteered hundreds of hours. We toured every campus with the principal, architects and inspectors and we looked at how kids move around the schools, how they are segregated, how they are evacuated in emergencies. Then we sat with the superintendent and created a priority list. We knew it couldn't all be done at once. We didn't care about how high the light switches were; we cared about safety and segregation.

Our top priorities were safety: ramp slopes, side guards, rails, bathrooms, emergency evacuation. Our second priority was segregation that causes discrimination. If my daughter has to go in through the back door, that's discrimination. If my daughter can't play at recess, that's discrimination. We made a priority list based on these things.

Sadly, once this was created, we were dismissed. We wanted to stay on as part of the compliance process, to help when budget choices needed to be made, when priorities were determined, but we were not allowed to. The single biggest recommendation I can make to you is to ask that the ADA Task Force be reconstituted and made part of this compliance process. We have the most to gain from ensuring that this is done correctly.

One other thing—there are significant flaws in the inspection process. Projects are poorly designed and built. There is inconsistency in RAS reports. The Texas Dept of Licensing and Regulation is overstretched and understaffed. If the projects aren't built correctly, there is no accountability. The disabled person's only recourse is to use the courts. Our district has a long history of failure: Bridgepoint failed, Hill Country remodel failed, Forest Trail...I know because I went to TDLR and pulled all the files. This flawed system does not serve either the district nor its children well.

I know this can be confusing, but I'd refer you to [ADA.gov](http://ADA.gov), especially the segment for local governments, as a user-friendly overview and reference. It will tell you, for example, that there is no such thing as a "grandfather clause" in the ADA.

I'm happy to share more of my experience if anyone wants to contact me. I do want to thank all of you for attending to this issue; it is extremely important to my daughter and others like her. I also thank the Eanes community; I've heard from many people how important this is, and I believe most people who live here want to get this right. I'm very excited to see significant funds dedicated, and I hope we get this right."

A BOC Member asked Ms. Fries whether, in her opinion, the current bond addresses all the A & B Priority Issues. She replied that she didn't know because she hasn't seen the Transition Plan since it left the ADA Task Force. It has been revised by a district consultant and some of the projects, according to the district, have been completed. The bond projects listed by the district are not specific.

Codi Newsom then explained the development of the ADA Matrix and clarified that the only changes that were made were based on recommendations from John Rickard as what needed to be done to make a project compliant and then completed projects were removed.

Les Reddin noted that the inspection failures that Ms. Fries referred to were before the 2006 bond and before the current management team was in place.

Coralie Pledger called on Al Cowan to speak. Al Cowan introduced himself and read these prepared remarks to the Committee:

“My name is Al Cowan. I have lived in Eanes ISD since 1974. Both of my children received all of their grade school education from this District and are both graduates of Westlake High School.

First, I want to thank you for the time you have already given and for the time you will give in the future as part of this committee. I have some knowledge of time commitment in service to this school district as I served on the Eanes Board of Trustees from 1999-2002.

Second, I urge you to adopt Ms. Luna’s suggestion to post the bond information on the website so the public can have advanced access to that information before the Committee takes it up.

Third, I want to encourage you to take your fiduciary duty seriously and to be critical in your examination of the projects and expenditures for the bond funds. This will require you to ask tough questions and demand factual and accurate answers.

By way of example, I would ask you to recall your last meeting’s discussion of whether or not to approve a change in scope for the project at West Ridge Middle School. While I was not present, I have listened to the audio recording of the meeting and I have reviewed the rationale of the Committee regarding its recommendation to the Board of Trustees. Because of my time limit, I will comment on but a few of the aspects of the rationale; however, please note that a more complete analysis would reveal numerous others.

**“The change is cost neutral”**

Can anyone tell me what the contractor’s price for the original project was? Can anyone tell me what the contractor’s price of the revised project is? Unless information was provided that could not be determined from listening to the audio, I submit that you cannot. Although several of you asked for the information at the meeting, as far as I could determine, it was not provided to you.

**“There are anticipated savings from field maintenance and operation expenses.”**

Can anyone tell me the representation by the staff of the amount of annual savings the District will achieve by replacing the natural grass surface with the artificial surface? My impression together with publications issued by the District is that the projected savings was represented to be \$70,000 per year. Would you be surprised to know that AISD states that they expect to achieve an annual savings of only \$12,000 per year for all costs including labor, water, pesticides, fertilizer, etc. resulting from replacing natural grass with artificial turf for a

competition high school stadium, not just a middle school field? No breakdown or factual data to support the cost savings was provided to the committee by the staff.

**“Water savings at WRMS will be significant.”**

A review of the District’s expenses for the 12 month period September, 2010 – August, 2011 shows that payments to the LCRA, other than radios, totaled \$56,555.25. Absent additional detail, I have assumed that that is the cost for all water to the District of which WRMS would only be a part. Again, no facts were provided by the staff to support statements about water costs or savings.

In summary, the change of scope was approved with few verified facts being presented to this Committee.

In my opinion, many of the estimates for the bond projects are substantially inflated and result in the Eanes versions of the \$1000 toilet seat, the \$400 hammer and the \$16 muffin. Many of these projects could be satisfactorily accomplished at less cost to the taxpayers, but only if this committee provides true and meaningful oversight.

Separating the wheat from the chaff about the projects that are brought to you for your review will not be easy, but if any real supervision and true stewardship of public monies will be accomplished through your efforts, this committee will need to demand accountability and be diligent in your evaluation and deliberation.

Thank you.”

Chair Luna thanked Mr. Cowan for his attendance and remarks.

**Other Business**

Chair Luna pointed out that part of the new communication strategy calls for items or questions directed to BOC members outside of BOC meetings to be forwarded to the Board. Such items will be noted in the minutes. A BOC Member brought up a contact he received regarding solar power. Les Reddin said a pilot is in place at Valley View.

A BOC Member stated that although he believed the Committee made the correct decision on the West Ridge field scope change at the last BOC Meeting, in hindsight he was uncomfortable with the fact that the information was first provided to the BOC at the meeting. He requested that in the future, scope change information be provided to the committee members in advance.

A BOC Member asked about the foundation problems at the ATS building. Les Reddin described the problem with the foundation that was discovered after demolition. A solution has been devised and the change order will be taken to the Board of Trustees. He does not believe that the cost change will be significant, and will not trigger a scope change.

A BOC Member commented that he believed that every committee such as the BOC should sow the seeds of its demise by performing in such a manner that future committees and oversight are unnecessary and that despite receiving a passing grade from the auditor, the results of the 2006 bond audit were not good and EISD must do better to regain the trust of the community if the community is to approve future bond issues.

A BOC Member renewed the suggestion that the projected savings from the scope change to install artificial turf at WRMS be escrowed as a designated reserve fund balance from the operating budget in order to pay for replacement of

the turf in the future. Larry Keiser stated that although in the past the school district did have escrow accounts for future capital expenditures, the current M&O budget constraints had eliminated that practice and escrowing M&O funds was not feasible.

A BOC Member asked if the comments from the 2006 Bond audit need to be reviewed by the BOC and whether the BOC should consider if any action is necessary for the 2011 Bonds.

As the BOC will now be meeting on a quarterly basis, there was discussion regarding the need for interim meetings or decisions on scope changes. There was a suggestion regarding using conference calls or webex technology however Chair Luna stated that any meeting that involves a vote will need to be in a public forum.

Chair Luna adjourned the meeting at 8:32 p.m.

Proposed Communication Strategy

November 15, 2011

Challenge:

In development of a communication strategy broader than the reporting specifically outlined in the Operating Procedures & Policies (OPP), there are a few issues to consider:

1. Communication must be additive. Meaning, it must broaden the public, Board, and administration's understanding of an item and the BOC's position with respect to that item.
2. Communication must be focused. Meaning, it must be specifically crafted to only address issues within the BOC's charge.
3. Communication must be timely. Meaning, it must be made available to the public and Board as soon after BOC meetings as practicable so that it maximizes transparency and usefulness.
4. Communication must be accessible. Meaning, it should be posted in a place(s) that is generally well known and accessible to the public, Board and administration and further the BOC's goal of transparency.
5. A communication strategy must be implementable. Meaning, since the BOC is a volunteer committee any strategy must be crafted so that it consistently meets the needs of the public, board, administration, and committee members.

Proposal:

After discussing the forgoing issues the BOC ad-hoc group proposes the following regarding each recommendation to the Board, and any action pertaining to bond expenditures and/or timelines:

- A. Appoint someone(s) with the task of preparing a summary outlining each BOC action.
- B. Request the Executive Committee to review and revise any summary as necessary.
- C. Distribute the revised summaries within two weeks of each BOC meeting to:
  - a. BOC members,
  - b. District Liaison or designee for posting on BOC webpage and distribution to EISD Director of Communications,
  - c. the Westlake Picayune and other outlets as appropriate.

- D. Understanding that some scope changes, recommendations or findings pertaining to bond expenditures and timelines will be more complex than others, summaries should identify the date of consideration and generally construct a bulleted narrative around the following outline:
- What is the BOC being asked to consider?
  - What project(s) does it affect?
  - How?
  - What is the administration's recommendation/position?
  - Why?
  - What is the BOC's recommendation/position?
  - Why?
- E. Add an agenda item to provide for BOC members to report any correspondence received, formal or informal, to the Board and/or administration.