

From: Gary Nellesen
To: Bill Scroggins
Date: 1/29/2015
Subject: Closed Session Agenda for February

Please add the following items to the closed session agenda for the February meeting.

- Conference with Legal Counsel - Pending Litigation (one case)
- Conference with Legal Counsel - Potential Litigation (one case)

Item 1 - Pending litigation - The purpose of this item is to update the Board on the status of the binding arbitration between the District and ACI, Inc., the general building contractor on the Administration Building project. Arbitration took place in October of this year, and the arbitrator issued his interim award earlier this week. The case included a \$338,520 claim by the district for liquidated damages, extended inspector costs, and costs related to a settlement paid by the district to another contractor. ACI claimed \$1,112,394 against the district for labor inefficiency and delay caused by the district. The arbitrator awarded \$0 to ACI and \$232,000 to the district. In addition, because the district had made a settlement offer to ACI in an amount greater than their award, certain legal costs and expert witness costs can be awarded to the district. We expect these costs to be in the neighborhood of \$100,000. We should consider this a significant victory. No action will be required on this item in the closed session.

Item 2 - Potential Litigation - The purpose of this item is to continue the discussion of the issues surrounding the parking structure construction. Since we intend to submit Lease/Leaseback agreement to the board this month for approval of the first phase of the parking structure construction, the board should consider a resolution indicating that the parking structure is not subject to the City of Walnut jurisdiction. Counsel is in the process of drafting this resolution, and a copy will be forwarded later this week. I recommend using a "place holder" for both the lease/leaseback agreement and the resolution since we will not have final guaranteed maximum price figures for the phase 1 construction until after February 4. No action will be required on this item in the closed session.

Please let me know if you have questions or further direction on these items.

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