

**AMPHITHEATER PUBLIC SCHOOLS
Tucson, Arizona**

MINUTES OF SPECIAL PUBLIC MEETING OF THE GOVERNING BOARD

Place, Date and Time of Meeting

Wetmore Center, 701 West Wetmore Road, July 24, 2012, 5:00 p.m.

Board Members Present

Mrs. Diana Boros, President
Mrs. Susan Zibrat, Vice President
Dr. Kent Paul Barrabee, Member
Mr. Jeff Grant, Member
Dr. Linda Loomis, Member

Central Administrators Present

Mr. Patrick Nelson, Superintendent
Todd A. Jaeger, J.D., Associate to Superintendent and General Counsel (attended telephonically)
Mr. Scott Little, Chief Financial Officer

Central Administrators Absent

Ms. Monica Nelson, Associate Superintendent

OPENING OF MEETING - Call to Order

Mrs. Boros called the meeting to order at 5:01 p.m.

1. Executive Session

A. Motion to Recess Open Meeting and Hold an Executive Session for:

1. Discussion and Consultation for Legal Advice with Legal Counsel, Pursuant to A.R.S. §38-431.03(A)(3), Regarding Hearings Concerning Non-Renewal and Dismissal of Certificated Staff Members.

A motion was made by Mr. Grant that the Board recess into Executive Session pursuant to A.R.S. §38-431.03(A)(3), as presented. Dr. Barrabee seconded the motion and it passed unanimously, 5-0. Mrs. Boros called a recess at 5:04 p.m. for the purpose of holding Executive Session for Discussion and Consultation for Legal Advice.

B. Motion to Close Executive Session and Reconvene Open Meeting

Upon return to the Board Room, a motion was made by Mrs. Boros and seconded by Mr. Grant that the meeting reconvenes into open session; the motion passed, unanimously, 5-0. Mrs. Boros declared the meeting in open session. The time was 5:46 p.m.

OPENING OF MEETING

Call to Order and Signing of Visitors' Register

Mrs. Boros called the meeting to order at 7:09 p.m. and asked members of the audience to sign the visitors' register. Procedures for addressing the Board were described.

Pledge of Allegiance

Mr. Nelson led the Pledge of Allegiance.

Announcement of Date and Place of Next Special Governing Board Meeting

Mrs. Boros announced the next regular meeting of the Governing Board: Tuesday, August 7, 2013, 7:00 p.m., Wetmore Center, 701 W. Wetmore Road.

PUBLIC COMMENT

There were no comments from the public.

2. CONSENT AGENDA

Mrs. Boros asked if there were Board member requests to have items addressed separately; there were none. A motion was made by Mr. Grant to approve the Consent Agenda items A-J, as presented. The motion was seconded by Dr. Loomis and it passed unanimously, 5-0. Appointment of personnel is effective, provided all district, state, and federal requirements are met.

A. Approval of Appointment of Personnel

Certified and classified personnel were appointed, as listed in Exhibit 1.

B. Addendum to Approval of Personnel Changes

Certified and classified personnel were appointed, as listed in Exhibit 2.

C. Addendum to Approval of Separation(s) and Termination(s)

Leave of Absence requests were approved for certified and classified personnel, as listed in Exhibit 3.

D. Approval of Out of State Travel

Out of state travel was approved for staff (source of funding indicated): from District Offices to attend the EnergySMART 2012 Conference in Boston, MA on September 30-October 4, 2012 (M & O funds designed for staff development).

Travel was previously approved at the May 22, 2012 Board Meeting for Staff from Walker Elementary School to attend Advancement Via Individual Determination (AVID) on July 29-August 2, 2012; cost of travel has increased.

E. Approval of Vouchers Totaling and Not Exceeding Approximately \$3,294,303.88

A copy of vouchers for goods and services received by the Amphitheater Schools and recommended for payment has been provided to the Governing Board. The following vouchers were approved as presented and payment authorized:

| <u>2012-2013 Fiscal Year</u> | | <u>2011-2012 Fiscal Year Encumbrances</u> | |
|------------------------------|---------------|---|---------------|
| Vo. 501 | \$ 160,947.49 | Vo. 422 | \$ 54,692.40 |
| Vo. 502 | \$ 622,834.97 | Vo. 423 | \$ 838,085.49 |
| Vo. 503 | \$ 120,969.40 | Vo. 424 | \$ 283,290.43 |
| Vo. 504 | \$ 180,750.38 | Vo. 425 | \$ 120,213.12 |
| | | Vo. 426 | \$ 82,065.05 |
| | | Vo. 427 | \$ 830,455.15 |

F. Acceptance of Gifts

Donations were accepted by the Governing Board as listed in Exhibit 4.

G. Sole Source Agreements Fiscal Year 2012-2013

Board book information: *The District utilizes products and services from a limited number of sole source vendors. Products and services available from a single source to include professional development, supplemental curriculum materials, MAP testing, programs for the deaf, law enforcement, and software upgrades.*

The Governing Board approved the *University of Cambridge*, Cambridge, England as a sole source vendor for the Cambridge Academy program at Amphitheater High School for fiscal year 2012-2013.

H. Award of Contracts for McKinney Vento Transportation Services Based on Responses to Request for Proposal (RFP) 11-0078

Board book information: *McKinney Vento Transportation Services are services required to transport students living outside district boundaries to and from district schools. Taxi cabs may be utilized. All passengers are transported in air-conditioned vehicles in the rear seat.*

Request for Proposal (RFP) 11-0078 was mailed to ten vendors; 3 vendors responded: A & K Transportation (dba Handicar), Total Transit, and American Pony Express. Vendors were asked to provide detailed information regarding their driver training and vehicle maintenance programs in addition to their cost of service. The Amphitheater Transportation Department Director, Marc Lappitt, the Chief Mechanic, Robert Knickerbocker, and Renee Christian - the staff person responsible for scheduling McKinney Vento students, visited each vendor's facility. Vehicle inspections included mechanical condition, current registration, seat belts, car seats, first aid kit, vehicle cleanliness, etc. The drivers' records check-list included DOT physical, drug testing, fingerprint results, driver's license, current first aid/CPR certificate and training. The RFP text listed 3 evaluation criteria: experienced in providing McKinney Vento Transportation Services, drivers' records & vehicle inspections and the cost per mile. All 3 vendors met the first criteria. They were experienced in delivering this type of service. The cost per mile ranged from a low of \$2.95 from American Pony Express, \$3.00 from Total transit, to \$3.10 from A & K Transportation.

A & K Transportation and Total Transit received high marks from the evaluators, excellent driver training documentation, newer vehicles and their maintenance programs looked efficient. American Pony Express passed the drivers' records evaluation however their vehicles showed tires at the wear bars, marginal cleanliness and frayed seatbelt straps. The recommendation of the evaluators is to award a primary contract to Total Transit with a secondary award (contract) to A & K Transportation to allow adequate coverage for the Amphitheater McKinney Vento Transportation Program.

The Governing Board approved the award of contracts for McKinney Vento transportation services to *Total Transit* as the primary award and to *A & K Transportation (dba Handicar)*, as the secondary award based on their responses to RFP 11-0078.

I. Award of Contracts for Special Needs Transportation Services Based on Responses to Request for Proposal (RFP) 11-0079

Board book information: *Special Needs Transportation Services are services contracted to qualified vendors to provide vehicles, equipment, and drivers for the safe transportation of regular and special education program students to and from school, between schools, and to other district activities.*

Request for Proposal (RFP 11-0079 was mailed to ten vendors; 3 vendors responded: A & K Transportation (dba Handicar), Total Transit, and American Pony Express. Vendors were asked to provide detailed information regarding driver training and vehicle maintenance programs in addition to their cost of service. The Amphitheater Transportation Department Director, Marc Lappitt, the Chief Mechanic, Robert Knickerbocker and Renee Christian - the staff person responsible for scheduling Special Needs students visited each vendor's facility. Vehicle inspections included mechanical condition, current registration, seat belts, car seats, first aid kit, vehicle cleanliness, etc. The drivers' records check-list included: DOT physical, drug testing, fingerprint results, driver's license, current first aid/CPR certificate, and training records. The RFP text listed three evaluation criteria: experienced in providing Special Needs Transportation Services: driver records & vehicle inspection and the cost per mile. All 3 vendors met the first criteria, experienced in delivering this type of service. The cost per mile ranged from a low of \$3.00 from Total Transit, \$3.10 from A & K Transportation to \$3.50 from American Pony Express.

A & K Transportation and Total Transit received high marks from the evaluators for excellent driver training documentation, their newer vehicles, and their efficient maintenance programs. American Pony Express passed the driver records evaluation however their vehicles had tires at the wear bars, marginal cleanliness and frayed seatbelt straps. The recommendation of the evaluators is to award a primary contract to Total Transit with a secondary award (contract) to A & K Transportation to allow adequate coverage for the Amphitheater Special Needs Transportation Program.

The Governing Board approved the award of contracts for Special Needs transportation services to *Total Transit* and *A & K Transportation (dba Handicar)* based on their responses to RFP 11-0079.

J. Approval of Oro Valley Police Department, Tucson Police Department and Pima County Sheriff's Department Special Duty Program Agreements

Board Book information: *At the request of the District, the Oro Valley Police Department, Tucson Police Department and the Pima County Sheriff's Department provide police officers for law enforcement support, such as when needed for special events taking place at the schools within their respective jurisdictions.*

The proposed agreements are attached for the Board's convenience. The current agreements expired on June 30, 2012 or shortly thereafter. Approval of these agreements is necessary to authorize use of Oro Valley Police, Tucson Police and Pima County Sheriff's Departments personnel as needed for the 2012-2013 fiscal year.

Within their respective jurisdictional limits, it is necessary to seek these law enforcement units to provide these kinds of special duty police services. On June 19, 2012, the Board approved Sole Source procurement for police services rendered within Pima County and the Town of Oro Valley.

The Governing Board approved the special duty agreements with *Oro Valley Police Department, Tucson Police Department, and Pima County Sheriff's Department* for the 2012-2013 school year.

3. ACTION

A. Determination of Whether to Appoint a Hearing Officer to Hold a Hearing, Hear Evidence, Prepare a Record and Issue a Recommendation to the Governing Board Regarding Non-Renewal and Dismissal of Katia Garcia-Huerta, a Guidance Counselor Fiscal Year 2012-2013

Board Book information: *On June 5, 2012, the Governing Board authorized the administration to issue a notice of intention not to renew the contract of Ms. Katia Garcia-Huerta, a certificated guidance counselor, who has been employed at Amphitheater High School for the last four years. The notice of non-renewal which was approved by the Board is attached to this item for reference.*

A copy of the notice of non-renewal was delivered to Ms. Garcia-Huerta, and she subsequently requested a hearing to challenge the non-renewal of her contract. Pursuant to A.R.S. § 15-541, the Governing Board must determine whether to hold the hearing itself or appoint a hearing officer to designate a hearing officer to hold the hearing, hear the evidence, prepare a record and issue a recommendation to the governing board for subsequent action.

This item is presented for the Board to make the determination of whether to hold the hearing as a tribunal or to appoint a hearing officer for the same purpose. Further explanation of this determination follows.

In all cases, the Governing Board (for the District) is responsible for all expenses of a hearing. The employee and the governing board do pay their own attorney and witness fees, unless the governing board determines not to dismiss the employee following the hearing, in which case the governing board does pay reasonable attorney and witness fees incurred by the employee.

Board as Tribunal: *If the Board determines to hold the hearing itself, a Board meeting for that purpose will need to be scheduled in accordance with the open meeting law. Ms. Garcia-Huerta must also be given three days' advance notice of the hearing date. Ms. Garcia Huerta will have the option as to whether the hearing shall be held in executive session or in public. Regardless of the venue for the hearing (private or public), following a hearing held by the Board itself, the Board would take public action to either affirm or withdraw the resolution for non-renewal.*

Hearing Officer: *If Board elects to appoint a hearing officer to hold the hearing, the District administration will need to contact Ms. Garcia-Huerta for the purpose of arranging a hearing officer who is suitable to both parties. State law provides the hearing officer cannot have a personal interest which would conflict with the hearing officer's objectivity and requires that the choice of hearing officer be agreeable to both the District and Ms. Garcia-Huerta. If the parties cannot agree upon a hearing officer, then one must be selected from a list provided by the Arizona Department of Education or the American Arbitration Association.*

Within ten days after a hearing conducted by a hearing officer, the hearing officer delivers a written recommendation to the governing board that includes findings of fact and conclusions. The Board has ten days to decide how to rule on the recommendation after receiving it. The affected employee and the District administration also have the right to object to the findings of the hearing officer and present oral and written arguments to the Governing Board, before the Board takes action on the recommendation.

RECOMMENDATION: *The administration recommends that the Board take action at this time to determine whether to serve as tribunal concerning the notice of intent not to renew or dismiss Ms. Katia Garcia-Huerta or to appoint a hearing officer for the same purpose. Alternative forms of motion are suggested below:*

If the Governing Board intends to serve as tribunal itself: *"I move that the Governing Board act as tribunal to hear evidence, prepare a record and take final action to affirm or withdraw the notice of intention not to renew the employment contract of Katia Garcia-Huerta. I further move that the Superintendent be authorized to coordinate with Ms. Garcia-Huerta, or her legal counsel, for scheduling of the hearing to be held within 30 days of the date of her request for the hearing, or as expeditiously as possible thereafter, as the parties may agree."*

If the Governing Board intends to have a hearing officer hold the hearing: *"I move that Governing Board appoint a hearing officer to hold a hearing, hear the evidence, prepare a record and issue a recommendation to the governing board for subsequent action as to whether to affirm or withdraw the notice of intent not to renew the employment contract of Katia Garcia-Huerta. I further move that the Superintendent be authorized to determine a list of hearing officers acceptable to the District for submission to Ms. Garcia-Huerta or her counsel for selection and that, if a hearing officer cannot be promptly agreed to, that the Superintendent select one from a list provided by the Arizona Department of Education or the American Arbitration Association. I further move that the hearing be held within 30 days of the date of Ms. Garcia-Huerta's request for a hearing, or as expeditiously as possible thereafter, as the parties may agree."*

Mr. Nelson reviewed the agenda item, stating that Ms. Garcia-Huerta has requested a hearing to challenge the Board's Notice of Intention of Non-renewal of her employment contract and dismissal that had been previously issued to her. Following Executive Session, just concluded, the Board shall determine whether to serve as tribunal or to appoint a hearing officer concerning the notice of intent not to renew or dismiss Ms. Garcia-Huerta's employment.

Following significant discussion, each Board member stated their preferred option and the basis for their decision.

Discussion ensued regarding timelines related to an expeditious course of action and outcome. Mr. Nelson reviewed the schedule of 'back to school' events requiring staff commitment and time. Clarification was provided on the status of the non-renewal process; Mr. Nelson stated that once the appeal is received, the non-renewal is held in abeyance until after the hearing process and the Board's decision.

Mr. Nelson provided clarification about hearing officer options. Discussions included possibly scheduling this during the week of August 6th.

Note: Mr. Jaeger joined the regular meeting telephonically at 5:55 p.m.

Mr. Jaeger stated that a timeline can accompany a list of hearing officer candidates to be sent to the employee in order to expedite the process (reasonable to be within a day or so). In response to an inquiry and concern about a delay in this process that may afford continued compensation, Mr. Jaeger stated that the appointed Hearing Officer can set the hearing date, for which a three-day notice can be established. There are some controls against unnecessary delays. It would be preferable to have this hearing scheduled as soon as possible, if this is the action to be taken (versus tribunal). In any case, Mr. Jaeger believes that this matter should be resolved by the third week of August.

No further discussion or comments.

Mr. Grant moved that Governing Board appoint a hearing officer to hold a hearing, hear the evidence, prepare a record and issue a recommendation to the governing board for subsequent action as to whether to affirm or withdraw the notice of intent not to renew the employment contract of Katia Garcia-Huerta. Mr. Grant further moved that the Superintendent be authorized to determine a list of hearing officers acceptable to the District for submission to Ms. Garcia-Huerta or her counsel for selection and that, if a hearing officer cannot be promptly agreed to, that the Superintendent select one from a list provided by the Arizona Department of Education or the American Arbitration Association. He further moved that the hearing be held within 30 days of the date of Ms. Garcia-Huerta's request for a hearing, or as expeditiously as possible thereafter, as the parties may agree. Dr. Loomis seconded the motion.

Dr. Barrabee inquired about the thirty-day timeline. Clarification was given that it is 30 days from the receipt of the appeal (July 2, 2012). The motion passed 3 – 2; Mr. Grant, Dr. Loomis, and Mrs. Boros voted yes, and Mrs. Zibrat and Dr. Barrabee voted no.

Mrs. Boros requested that this process be expedited.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

There were no new Board Member requests.

PUBLIC COMMENT

There were no public comments.

ADJOURNMENT

A motion was made by Mr. Grant that the Board Meeting be adjourned; Dr. Barrabee seconded the motion; and it passed unanimously, 5-0. Mrs. Boros declared the meeting was adjourned; the time was approximately 6:04 p.m.

Respectfully submitted,
Margaret Harris

Mrs. Diana Boros, President

Date

Approved: 8.7.12