

Minutes of Meeting of Board of Trustees
El Paso Independent School District
March 25, 2003
5:00 p.m.
Education Center-Boeing

Present: Mr. Dan Wever, President
Dr. Gene Finke, Vice President¹
Mr. Sal Mena, Jr.
Dr. Charles Roark
Mr. Joe Rosales²
Mr. Richard Telles³
Mr. Charles L. Tafoya, Superintendent
Mr. Anthony Safi, School District Attorney

Absent: Miss Leonor Garcia, Secretary

The meeting was called to order at 5:02 p.m. by Mr. Wever. The Pledge of Allegiance was led by Col. Carr, Ft. Bliss. Dr. Linda Holman, Associate Superintendent, Curriculum and Instruction, gave the Thought for the Day.

6. Report from Ft. Bliss Public Works and Logistics on Residential Communities Initiative (RCI) (Military Family Housing Program)

Mr. Nolan Killebrew, Manager of Residential Communities Initiative (RCI), reported on the Military Family Housing Program and the chronic underfunding, inadequate conditions, and insufficient on- and off-post military housing. He provided an overview of the goals, objectives, and vision of the RCI and the status of initial projects and initiatives at other military bases. Mr. Killebrew advised that Ft. Bliss is scheduled for 2003. He reviewed the estimates and timelines for the Ft. Bliss initiative; local business participation; and the impact new military housing will have on the EPISD.

There was discussion about available property around Ft. Bliss for the new homes; the maintenance, management, and repair of the houses; the proposed EPISD bond reflecting school construction; and Mr. Killebrew participating in dialogue regarding the bond in order to keep the District informed on projections at Ft. Bliss.

9. Report by Marcus, Fairall, Bristol & Co., LLP and Edge, McLagan, Nugent & Co., EPISD Forensic Auditors, on Review of Process and Procedures Related to EPISD EMC/FMC (Energy Management Control/Facility Management Control) Systems Contract, #02.340 and Prior Related Contracts

Mr. David Marcus, Marcus, Fairall, Bristol & Co., L.L.P., the District's forensic auditor, provided background information on the review of the District's procedures related to the contract for energy management control/facility management control systems (EMC/FMC) and the sole source status of the manufacturer Automated Logic Corporation (ALC). He stated that the ALC web site indicates that ACL systems are "open systems," which allow integration of components from competing providers, and that the equipment does not qualify as sole source under the Texas Education Code. He recommended that the District release a competitive bid for EMC/FMC equipment.

¹ Dr. Finke departed the meeting at 6:02 p.m., prior to the start of Closed Session, and returned at 6:55 p.m., during discussion on Item #16.

² Mr. Rosales departed the meeting at 6:02 p.m., prior to the start of Closed Session, and returned at 6:55 p.m., during discussion on Item #16.

³ Mr. Telles departed the meeting at 7:17 p.m., prior to the start of Closed Session.

Mr. Marcus reviewed the District's bidding criteria and suggested a competitive bid criteria that assigns a higher weight to equipment quality and specifications rather than purchase price. He reviewed the firm's examination of the District's control over campus visits by outside contractors. He stated that there are no "working" controls in place and indicated a need for controls in order to monitor the contractors' work.

There was discussion on assurances received from the Superintendent and administration at a Board Investigative Services Committee meeting that the documentation of all campus visitors would be addressed; the Records Management Unit would begin documenting and storing documents related campus visits at a central location; and the burden of offering compatible replacement modules for existing ALC equipment being the responsibility of the supplier during the bidding process.

It was moved by Dr. Finke, seconded by Dr. Roark, and carried unanimously that the Board accept the report.

1. 2003 Superintendent's Honor Roll Recognition

Thirty EPISD schools were recognized for having attained 100 percent membership from their teachers, administrators, and staff during the Parent-Teacher Association (PTA) annual membership drive. (A list of recipients is attached to the permanent file of these minutes.)

2. Recognition of 2003 Gerald Cheek Community Service Award Recipient

Ms Patty Hughes, PTA member, Kohlberg Elementary School, was recognized.

8. Consent Agenda

It was moved by Mr. Mena, seconded by Mr. Wever, and carried unanimously that the items on the Consent Agenda be approved as listed below including any recommended vendors for any amounts indicated.

A. Approval of Minutes

1. October 8, 2002, and November 26, 2002, Board School Name Committee Meetings; November 5, 2002, Board Finance Committee Meeting; and November 12, 2002, Board Investigative Services Committee Meeting
2. November 12, 2002, November 26, 2002, Meetings of the Board of Trustees

B. Approval of Budget Amendments

1. Henderson Middle School (\$1,200.00). This item is to pay for eighth grade Humanities student trips to Austin, Texas, and Washington D.C.
2. Occupational Center (\$1,010.00). This item is to assist in purchasing additional equipment for student programs.
3. School Health and Related Services (SHARS) (\$20,000.00). This item is for the hiring of two Licensed Vocational Nurses (LVNs) to support the medical services needed by medically fragile students with disabilities at Moreno and Whitaker Elementary Schools

C. Purchases Requiring Board Approval

1. Additional Expenditure Request on Existing Bid – Paper Towel & Toilet Tissue Bid #94-02 (\$27,212.00) to Baron Chemical Co., Inc. (copy of bid tabulation attached to the permanent file of these minutes).
2. Periodical Bid #09-03 (approx. \$125,000.00) was awarded to W. T. Cox Subscriptions, with net terms and an option to extend for an additional 24 months, 12 months at a time (copy of bid tabulation attached to the permanent file of these minutes).

D. Construction Contract Awards

1. 2003 Portable Classrooms – Phase 1, #03.641 (\$395,648.00), was awarded to Garick Electrical & Mechanical, Inc., subject to the review and approval of the District's attorney.
2. 2003 Portable Classrooms – Phase 2, #03.645 (\$474,777.00), was awarded to Garick Electrical & mechanical, Inc., subject to the review and approval of the District's attorney.
3. San Juan Park – Hawkins Elementary School Project, 303.532 (\$684,000.00), was awarded to Dantex Construction Co., subject to the review and approval of the District's attorney.

Meeting Closed

The meeting was recessed at 5:58 p.m. to a closed meeting by Mr. Wever under Sections 551.071, 551.074, and 551.082 of the Texas Government Code as follows:

19. Closed Meeting

- D. Grievance Hearing – Dolores W. Horiuchi, Nurse at Wainwright Elementary School, and Felicitas Garnica, Nurse at Cooley Elementary School

Meeting Opened

The meeting was reassembled in Open Session at 5:59 p.m.

Meeting Closed

The meeting was again recessed at 6:00 p.m. to a closed meeting by Mr. Wever under the authority previously cited as follows:

19. Closed Meeting

- D. Grievance Hearing – Dolores W. Horiuchi, Nurse at Wainwright Elementary School, and Felicitas Garnica, Nurse at Cooley Elementary School
- F. Consultation with Attorney Regarding Pending Litigation – Pete N. Duran, Plaintiff v. El Paso Independent School District, Defendant; in the 171st Judicial District Court, El Paso County, Texas; Cause No. 99-577

The closed meeting started at 6:02 p.m. The closed meeting ended at 6:20 p.m.

Departure of Board Members

Dr. Finke and Mr. Rosales departed the meeting at 6:02 p.m.

Meeting Opened

The meeting was reassembled in Open Session at 6:23 p.m.

19. The action as a result of items discussed in closed meeting was as follows:

D. Grievance Hearing – Dolores W. Horiuchi, Nurse at Wainwright Elementary School, and Felicitas Garnica, Nurse at Cooley Elementary School

It was announced that the grievance filed by Dolores W. Horiuchi and Felicitas Garnica would be handled administratively.

3. Region 19 Education Service Center Trustee Election

Mr. Tafoya distributed the ballots for the election of the Board of Directors for Region 19 Education Service Center, Places 1, 4, and 7 and requested that the Trustees mark and seal the ballots. The ballots were returned to Mr. Tafoya to be forwarded to Region 19.

7. Public Forum

There were no speakers on Open Forum.

4. Discussion and Possible Approval of Resolution Against Vouchers

After Dr. Roark read the resolution into the record, it was moved by Mr. Wever, seconded by Mr. Mena, and carried unanimously that the Board accept the resolution (copy attached to the permanent file of these minutes).

Item Withdrawn

It was announced that item no. 5, Naming of Alternative Middle School, had been withdrawn from the agenda.

10. Report from Delgado Acosta Spencer Linebarger Heard & Perez, LLP on Delinquent Tax Collections for the Period of January 1, 2002, through December 21, 2002

Ms. Carmen Perez, Delgado Acosta Spencer Linebarger Heard & Perez, LLP, reviewed the process followed to collect delinquent taxes owed to the District and the results that were realized.

11. Appointment of EPISD Bond Election Ad-Hoc Committee

Mr. Tafoya presented the nominees for the EPISD Bond Election Ad-Hoc Committee, and Dr. Roark read the names into the record.

It was moved by Dr. Roark, seconded by Mr. Mena, and carried unanimously that the Board approve the appointments to the Ad-Hoc Bond Election Committee as presented (copy of names attached to the permanent file of these minutes).

12. Approval of Employee Representation Election Procedures

Mr. Tafoya reviewed the 2003 Representation Election Ballot as developed and approved by the Employee Representation Election Committee. He advised that the election would be held on April 16, 2003, at the middle and high school sites, the Professional Library at Education Center-Boeing, and the James Gamble Warehouse Facility.

It was moved by Mr. Mena, seconded by Dr. Roark, and carried unanimously that the employee representation election procedures be approved as presented and recommended by the administration and the Employee Representation Election Committee.

13. Approval of *Quick Reads*[™] Reading Fluency Program for Grades 2 – 4 Bilingual Teachers from Pearson Learning Group (\$128,957.73)

It was moved by Mr. Telles, seconded by Mr. Mena, and carried unanimously that the Board approve the program.

14. Approval of Proposed Full-Priced Student Meal Price Increase

Ms. Nancy Nordell, Director, Food Services, advised that the Child Nutrition Fund Balance is projected to be depleted by the end of the 2002-03 school year and requested an increase to the full-priced student breakfast and lunch meal prices. She reported that the price increases would generate over \$600,000.00 per year.

There was discussion on student participation in free or reduced meals and full-priced meals and federal funding that is received for free and reduced meals.

It was moved by Mr. Mena, seconded by Dr. Roark, and carried unanimously that the Board approve the price increases commencing with the 2003-04 school year as recommended by the administration (copy of pricing attached to the permanent file of these minutes).

15. Approval of Renewal of Property Insurance RFP #28-02

It was moved by Mr. Mena, seconded by Mr. Telles, and carried unanimously that the Board approve the renewal of RFP #28-02 to Chubb Group of Insurance Companies through Rogers & Belding Insurance Agency, Inc. as broker for the EPISD's property insurance coverage for an annual premium of \$804,615.00, effective April 16, 2003, through April 16, 2004.

Arrival of Board Members

Dr. Finke and Mr. Rosales returned at 6:55 p.m. and were present to vote in any subsequent action by the Board of Trustees.

16. Purchase Requiring Board Approval – School Bus Bid #04-03 (\$1,182,012.00)

It was moved by Mr. Rosales, seconded by Mr. Mena, and carried unanimously that Bid #04-03 be awarded to as follows: Longhorn Bus Sales, Item 3, \$351,87.00, net 30; One Stop Bus Stop, Inc., Item 1, \$223,842.00, net 30; and Thomas Bus Gulf Coast, Item 3, \$606,300.00, net 30 (copy of bid tabulation attached to the permanent file of these minutes).

17. Approval of Extension of Consultation Agreement with Tomás Gabaldón for Services as Special Education Consultant (\$25,000.00)

It was moved by Mr. Mena, seconded by Mr. Rosales, and carried unanimously that the Board approve the extension of the Consultant Agreement through June 30, 2003.

18. Approval of Purchase of PowerPlay Video Conferencing Solutions from BNI Solutions (approx. \$72,058.80)

It was moved by Mr. Mena, seconded by Mr. Rosales, and carried unanimously that the Board approve this purchase from BNI Solutions, the sole source.

20. Approval of Proposed Revision to Board Policy DCB (Local), Employment Practices: Educator Term Contracts, and Adoption of Board Policy DCC (Local), Employment Practices: Continuing Contracts

Mr. Tafoya advised that proposed Board Policy DCC (Local) and the revisions to DCB (Local) were requested so that teachers who retired through the Texas Teachers Retirement System could be rehired by the District on a term contract basis and not on a continuing contract.

It was moved by Mr. Rosales, seconded by Mr. Mena, and carried unanimously that the Board approve the revisions to Board Policy DCB (Local) and adopt Board Policy DCC (Local) as recommended by the administration (copies attached to the permanent file of these minutes).

21. Consideration and Possible Action Regarding Appeal of Denial of Year 5 (2002) E-Rate Funding

Mr. Jack Johnston, Executive Director, Technology and Information Systems, advised that official notification had been received from the Schools and Library Division (SLD) that EPISD Year 2002 E-Rate funding had been denied. He stated that an appeal needed to be filed in order to clear the District's name and correct the impression that there was wrongdoing on the District's part.

Discussion followed on issues related to appealing the SLD's decision and the Board receiving advice on legal issues related to the appeal in Closed Session.

It was moved by Mr. Rosales, seconded by Mr. Telles, and carried unanimously that the Board authorize the District's attorney to develop and submit to the Schools and Library Division an appeal of the denial of funding for Year 2002 E-Rate funding. Mr. Mena was not present for the vote.

Item Withdrawn

It was announced that item no. 19, B., Personnel Appointment – Associate Superintendent, Finance, had been withdrawn from the agenda.

Meeting Closed

The meeting was recessed at 7:14 p.m. to a closed meeting by Mr. Wever under Sections 551.071, 551.074, and 551.082 of the Texas Government Code as follows and for consultation with attorney regarding legal questions related to Year 2002 E-Rate funding (item 21):

19. Closed Meeting

A. Appeal of Placement at Alternative Middle School – N. Z.

C. Superintendent's Personnel Recommendations

- I. Issuing Probationary Contracts for Teachers and Librarians
- II. Proposed Termination of Probationary Contracts for Certified Teachers
- III. Issuing Continuing Contracts
- IV. Proposed Termination of Continuing contracts for Certified Teachers
- V. Issuing Probationary Contracts for Certified Professional Personnel
- VI. Issuing Term Contracts for Certified Professional Personnel

- E. Consultation with School District Attorney Regarding Pending or Contemplated Litigation
 - 1. Site License Agreement with EdVision Corporation
 - 2. United States of America ex rel. Ramesh Gudur v. Texas Department of Health, et al.; In the United States District Court, Texas; Houston Division; Case No. C.A. No. H-00-1169

The closed meeting started at 7:17 p.m. The closed meeting ended at 7:45 p.m.

Departure of Board Member

Mr. Telles departed the meeting at 7:17 p.m. and was not present for any subsequent action taken by the Board of Trustees.

Meeting Opened

The meeting was reassembled in Open Session at 7:45 p.m.

- 19. The action as a result of items discussed in closed meeting was as follows:

- C. Superintendent's Personnel Recommendations

- I. Issuing Probationary Contracts for Teachers and Librarians

- It was moved by Mr. Rosales, seconded by Mr. Wever, and carried unanimously that the Board accept the Superintendent's recommendation that classroom teachers and librarians who have been employed for less than three successive school years and who have not been employed as teachers or librarians in public education for at least five of the last eight years prior to employment with the District, be issued the next regular Probationary Contract in accordance with Board Policy DCA (Legal), Employment Practices: Probationary Contracts.

- II. Proposed Termination of Probationary Contracts for Certified Teachers

- It was moved by Mr. Rosales, seconded by Mr. Mena, and carried unanimously that the Board accept the Superintendent's recommendation that Juan Hernandez, who is employed under a Probationary Contract, be given notice of the termination of his probationary employment contract at the end of the current contract term. The termination was deemed to be in the best interest of the school district.

- III. Issuing Continuing Contracts

- It was moved by Mr. Mena, seconded by Mr. Rosales, and carried unanimously that the Board accept the Superintendent's recommendation that teachers and librarians who have not retired under TRS (Teachers Retirement System) and who have been employed for three consecutive years under Probationary Contracts or who have been employed as teachers in public education for at least five of the last eight years prior to employment with the District and who have completed all requirements for certification in their teaching fields be issued Continuing Contracts in accordance with Board Policy DCC (Legal), Employment Practices: Continuing Contracts.

IV. Proposed Termination of Continuing Contracts for Certified Teachers

It was moved by Mr. Mena, seconded by Dr. Roark, and carried unanimously that the Board accept the Superintendent's recommendation that Jerry Estrada, who is employed under a Continuing Contract, be given notice of the proposed termination of his continuing employment contract.

V. Issuing Probationary Contracts for Certified Professional Personnel

It was moved by Mr. Rosales, seconded by Mr. Mena, and carried unanimously that the Board accept the Superintendent's recommendation that full-time professional employees, other than classroom teachers and librarians, who are required to hold a valid certificate or permit issued by the Texas Education Agency or the State Board for Educator Certification for their assignment, and nurses, and who have been employed for less than three successive school years with the District and have not been employed in public education for at least five of the last eight years, prior to employment with the District, be offered the next appropriate One-Year Probationary Contract in accordance with Board Policy DCB (Legal), Employment Practices: Term Contracts.

VI. Issuing Term Contracts for Certified Professional Personnel

It was moved by Mr. Mena, seconded by Mr. Rosales, and carried unanimously that the Board accept the Superintendent's recommendation that full-time professional employees including teachers and librarians who have retired under TRS (Teachers Retirement System) but not other classroom teachers and librarians, who are required to hold a valid certificate or permit issued by the Texas Education Agency or the State Board for Educator Certification for their assignment, and nurses, and who have been employed for three consecutive years with the District, or who have been employed in public education for at least five of the last eight years prior to employment with the District, or who are currently employed by the District under a Term Contract, be offered the appropriate One-Year Term Contract in accordance with Board Policy DCB (Legal), Employment Practices: Term Contracts.

E. Consultation with School District Attorney Regarding Pending or Contemplated Litigation

1. Site License with EdVision Corporation

It was moved by Mr. Rosales, seconded by Mr. Mena, and carried unanimously that the Board approve the language in the settlement agreement with EdVision Corporation in the amount of \$105,000.00 as presented by legal counsel.

Meeting Adjourned

The meeting was adjourned at 7:52 p.m.

Date Approved: June 24, 2003