

Minutes of Meeting of Board of Trustees
El Paso Independent School District
April 13, 2004
5:00 p.m.
Education Center-Boeing

Present: Mr. Sal Mena, Jr., President
Dr. Lorraine O'Donnell, Vice President
Mr. Carlos Cordova, Secretary
Ms. Lisa Colquitt-Muñoz
Mr. David Dodge
Miss Leonor Garcia
Dr. Charles Roark
Mr. Charles L. Tafoya, Superintendent
Mr. Anthony Safi, School District Attorney

The meeting was called to order at 5:07 p.m. by Mr. Mena. The Pledge of Allegiance was led by Ms. Margaret Gallardo, Director, Communications. Mr. Luis Villalobos, Executive Director, Communications and Business Partnerships, gave the Thought for the Day.

1. Recognition of Center for Career and Technology (CCTE) Information Technology Students' Participation in State and National Competitions

Eleven students enrolled in Career and Technology Education were recognized. (A list of the students is attached to the permanent file of these minutes.)

2. Recognition of EPISD Campuses for Being Named "Just for the Kids High-Performing Schools" by the National Center for Educational Accountability

Nine EPISD schools were recognized. (A list of the recognized schools is attached to the permanent file of these minutes.)

3. Recognition of April 2004 Partner of the Month

The Sergeant Majors Academy-Class #54 was recognized.

4. Recognition of April 2004 Volunteer of the Month

Ms. Rebecca Ibarra, a volunteer at Stanton Elementary School, was recognized.

5. Awards to April 2004 Employees of the Month

Ms. Pat Gonzales, bilingual clerk in Research, Evaluation, Planning and Accountability, was recognized as the Non-Certified Employee, and Ms. Leslie Roberts, librarian at Schuster Elementary School, was recognized as the Certified Employee.

6. National School Library Media Month Proclamation

Dr. O'Donnell read the proclamation into the record (copy attached to the permanent file of these minutes).

7. National Athletic Training Month Proclamation

Ms. Colquitt-Muñoz read the proclamation into the record (copy attached to the permanent file of these minutes).

8. 21st Century Educational Excellence Fund (Public School Finance) Resolution

Dr. O'Donnell read the Public School Finance Resolution into the record.

It was moved by Dr. Roark, seconded by Mr. Mena, and carried unanimously that the Board adopt the Public School Finance Resolution as presented (copy attached to the permanent file of these minutes).

16. Refile for Year 2002 (Year 5) E-Rate Funding from USAC (Universal Service Administrative Company) Schools and Libraries Division

Mr. Jack Johnston, Assistant to the Superintendent, Special Projects, Technology and Information Systems, provided a history on the refile for Year 2002 E-Rate for which select school districts were allowed the opportunity to refile for funding originally denied on Year 5. He reviewed the process that was followed by the administration to determine the projects needing completion.

A. Award of Internal Connections for E-Rate Year 2002 (Year 5) Refile CSP #22-04

It was moved by Mr. Cordova, seconded by Mr. Dodge, and carried unanimously that the Board award this CSP to Diversified Technical Services, Inc. (DTSI) for Technical Support and Maintenance of the Network; Amherst Technologies for Cisco SMARTnet Maintenance; ValCom Computer Center for Novell School License Agreement (SLA); and Desert Communications, Inc. for Cabling and Network Electronics.

B. Award of CSP for Internet Protocol (IP) Telephony Pilot Program for E-Rate Year 2002 Refile, #04.637

Mr. Nick Corona, Executive Director, Facilities, Maintenance and Construction, advised that this project was intended to pilot a system at Alta Vista and Douglass Elementary Schools. He stated that during the review process of the proposals, the review committee determined that it would be best to pilot more than one brand of system in order to gather data for comparison purposes. Mr. Corona advised that the recommendation was to award contracts to three vendors, with the long-term goal being to select one system Districtwide.

There was discussion on developing a rating system to compare the three systems to predetermined performance standards; the rationale for the model for the three pilot systems; and the pilots determining which of the systems is the best solution for the District and the most economical in the long run.

Meeting Closed

The meeting was recessed at 6:05 p.m. to a closed meeting by Mr. Mena under Section 551.071 of the Texas Government Code for legal advice regarding the award of the CSP for Internet Protocol and the authorization to File FCC Form 471.

The closed meeting started at 6:07 p.m. The closed meeting ended at 6:32 p.m.

Meeting Opened

The meeting was reassembled in Open Session at 6:33 p.m.

16. Refile for Year 2002 (Year 5) E-Rate Funding from USAC (Universal Service Administrative Company) Schools and Libraries Division

B. Award of CSP for Internet Protocol (IP) Telephony Pilot Program for E-Rate Year 2002 Refile, #04.637

It was moved by Mr. Dodge, seconded by Ms. Colquitt-Muñoz, and carried unanimously that the Board approve the award of this CSP to Currey Adkins Cook, subject to the review and approval of the District's attorney and contingent on E-Rate funding.

C. Authorization to File FCC Form 471 for Refile for Year 2002 E-Rate Funding (approx. \$5,128,970.48)

It was moved by Mr. Dodge, seconded by Mr. Mena, and carried unanimously that the Board approve the submission of the projects for the E-Rate Year 2002 refile to the Schools and Libraries Division for the vendors listed in the estimated amounts indicated for an estimated amount not to exceed \$5,128,970.48 and authorize the EPISD administration to file FCC Form 471 for the refile for Year 2002 E-Rate funding, with the EPISD's estimated matching portion not to exceed \$1,076,168.03.

D. Commitment of Undesignated Fund Balance in Support of Refile for Year 2002 E-Rate Funding (\$1,076,168.03)

It was moved by Mr. Dodge, seconded by Mr. Mena, and carried unanimously that the Board commit the District's undesignated Fund Balance in support of the refile for Year 2002 E-Rate funding in the amount not to exceed \$1,076,168.03, the EPISD's estimated matching portion.

Mr. Orin Heend, President, Funds for Learning®, the District's E-Rate Consultant, spoke about his company working with the EPISD to complete the application for E-Rate funding.

9. Public Forum

The following person requested to speak on Public Forum:

1. Senator Eliot Shapleigh spoke about school funding and the Board's approval of the Public School Finance Resolution (agenda item no. 8). He also spoke about the Community Scholars program (agenda item no. 13) and urged the Board to fund the program.

10. Consent Agenda

The following items were pulled from the Consent Agenda for discussion as follows:

Mr. Dodge - Item D., 3.

Dr. O'Donnell - Items B., 2. and 3.
Item D., 1.

Ms. Colquitt-Muñoz - Item D., 2.

Questions on Item B., 2., Revision to Board Policies – DP (Local), Personnel Positions.

Dr. O'Donnell commented on the issue of assistant principals being promoted after two years of related administrative experience and one year as assistant principal and recommended increasing both timeframes by one year.

Questions on Item D., 2., Purchases Requiring Board Approval – Recognition, Promotional, and Incentive Materials CSP #19-04 (approx. \$95,000.00)

Ms. Colquitt-Muñoz inquired about the need for this amount of funds for these types of materials. Mr. Terry Freiburg, Director, Purchasing, provided information on the development of this CSP, which would be used to purchase promotional items, primarily for the schools. Mr. Tafoya clarified that these items would be for students on the campus and that Central Office recognitions are handled through the Communications Unit.

Questions on Item D., 3., Purchases Requiring Board Approval – Irvin High School Boiler Replacement Bid #26-04 (\$47,536.50)

Mr. Dodge requested that the motion for this item be amended.

Questions on Item B., 3., Revision to Board Policies – EHBC (Local), Special Programs: Compensatory/Accelerated Services

Dr. O'Donnell expressed concerns about the remediation rates at the University of Texas at El Paso and inquired about starting a dialog with UTEP regarding the origin of these students and the major area of remediation. Ms. Elizabeth Montes, Executive Director, K-12 Instruction, provided information on a policy proposal that is currently in progress and the review being done on different factors of this issue.

Questions on Item D., 1., Purchases Requiring Board Approval – Option to Extend Existing RFP – Newspaper Advertising & Publication Rates RFP #07-02 (approx. \$65,000.00)

Dr. O'Donnell inquired about the possibility of discontinuing newspaper advertising and utilizing more cost-effective online advertisements. Mr. Safi advised that the Texas Education Code still refers to the requirement of newspaper advertisements once a week for at least two weeks prior to the deadline for receiving bids.

It was moved by Mr. Mena, seconded by Mr. Cordova, and carried unanimously that the items on the Consent Agenda be approved as listed including any recommended vendors for any amounts indicated, with the exception of item no. B., 2., Revision to Board Policies – DP (Local), Personnel Positions, and item no. D., 3., Purchases Requiring Board Approval – Irvin High School Boiler Replacement Bid #26-04 (\$47,536.50).

A. Minutes

1. February 2004 Minutes

- a. February 3, 2004, and February 24, 2004, Board Finance Committee Meetings; and February 10, 2004, Board's Employee Health/Insurance Committee Meeting
- b. February 3, 2004; February 10, 2004; and February 24, 2004, Meetings of the Board of Trustees

2. Minutes of March 30, 2004, Board Policy Committee Meeting

B. Revision to Board Policies

1. DK (Local), Assignment and Schedules (copy attached to the permanent file of these minutes).
3. EHBC (Local), Special Programs: Compensatory/Accelerated Services (copy attached to the permanent file of these minutes).

- C. Budget Amendment – Irvin High School (\$1,900.00). This item is to ensure that the library has funds available to purchase magazine subscriptions for next year's student body.
- D. Purchases Requiring Board Approval
1. Option to Extend Existing RFP – Newspaper Advertising & Publication Rates RFP #07-02 (approx. \$65,000.00), final option to extend to El Paso Times, Inc. (copy of bid tabulation attached to the permanent file of these minutes).
 2. Recognition, Promotional, and Incentive Materials CSP #19-04 (approx. \$95,000.00) was awarded to the vendors listed for future purchases on an "as-need" basis, with an option to extend for two additional years, one year at a time (copy of bid tabulation attached to the permanent file of these minutes).
- E. Construction Contract Award – HVAC Upgrade to Administration Area and Library – Alta Vista Elementary School, #03.746 (\$149,000.00), to Thermodyn Contractors, Inc., subject to the review and approval of the District's attorney.
- F. Job Order Contract Award – Districtwide Gas Piping Pressure Testing/Replacement, Phase 4, #04.374 (\$200,000.00)

The Board waived the technicalities of Mustang, Inc. for the mathematical calculation errors made on their proposal evaluation form, the failure to submit AIA Document A305 titled Contractor's Qualification Statement ten days prior to the bid opening date, and the failure to submit a proper bid security with their bid package and awarded this contract to Mustang, Inc., subject to the review and approval of the District's attorney.

- G. Professional Services Contract Award – Andress High School Fire Alarm System Upgrade, #04.515 (\$26,000.00), to Borunda & Associates, Inc., subject to the review and approval of the District's attorney, for the preparation of plans, specifications, bid documents and other additional program elements as may be required.

10. Consent Agenda

- B., 2. Revision to Board Policies – DP (Local), Personnel Positions

Dr. O'Donnell recommended strengthening the requirements for principal positions by increasing the years of experience by one year as previously discussed.

It was moved by Dr. O'Donnell, seconded by Mr. Cordova, and carried unanimously that the revisions to this policy be approved as amended (copy attached to the permanent file of these minutes).

- D., 3. Purchases Requiring Board Approval – Irvin High School Boiler Replacement Bid #26-04 (\$47,536.50)

It was moved by Mr. Dodge, seconded by Mr. Cordova, and carried unanimously that the Board award this bid to Massey Johnson Associates in the amount of \$3,322.50 and Metal Products in the amount of \$44,214.00, with the provision that the Maintenance Department document all costs associated with the removal of old boiler equipment and the installation of new boiler equipment and that a report on the related costs be provided to the Board of Trustees.

11. Certification of Additional State Textbooks for 2004

Ms. Barbara Brown, Assistant Director, Instructional Materials, provided information on the process to protest proposed textbook adoptions.

It was moved by Mr. Cordova and seconded by Dr. O'Donnell that the Board certify the recommendations of the 2004 EPISD Local Textbook Adoption Committee and authorize the ordering of the specified textbooks in the areas of K-12 Technology Applications and Career and Technology Education programs, in accordance with Texas Education Code 31.101. Upon the vote, the motion carried with Dr. Roark voting "present."

12. Revision to 2004-05 Instructional School Calendar

It was moved by Dr. O'Donnell, seconded by Mr. Cordova, and carried unanimously that the Board approve the revision to the 2004-05 Instructional School Calendar as presented and that Richardson and Wiggs Middle Schools be included with other middle schools on the modified dates for the first and last days of instruction, pending approval of the application through the administrative process.

13. Request from Community Scholars for Funding for Summer 2004 Program (\$50,000.00)

It was moved by Ms. Colquitt-Muñoz and seconded by Mr. Mena that this item be postponed until April 27, 2004.

Dr. Roark suggested creative funding alternatives such as the EPISD Fund, El Paso Empowerment Zone grants, and foundation boards. Mr. Tafoya requested direction from the Board on the amount to be funded for this program.

Ms. Veronica Escobar, Executive Director, Community Scholars, expressed a willingness to work with the Board and the Superintendent on innovative funding. She reviewed the plans to enhance the program; how the \$6,100.00 per student per year will be utilized to increase the value of the program for the students; the need for funding partnerships with local school districts; and lowering the cost per scholar to increase the number of participants.

Mr. Dodge commented on the need for Community Scholars to solicit funds from the business community or to seek grants to fund the program. Ms. Colquitt-Muñoz urged accessing resources other than local District funds and the District committing its support of the program through a partnership with Community Scholars and the business community.

Ms. Christine Castillo, Andress High School graduate, spoke about her experience with Community Scholars and how she benefited from participation in the program.

Motion Amended

Dr. Roark amended the motion by adding that the administration be requested to seek creative funding strategies, including the EPISD Fund, El Paso Empowerment Zone, and other funding alternatives to determine if the District can partner with Community Scholars to help the program continue its development of our students in an amount of \$50,000.00. Ms. Colquitt-Muñoz accepted the amendment.

Upon the vote on the main motion, the motion, as amended, carried with Miss Garcia voting against the motion.

14. Retaining Legal Counsel to Represent the EPISD in Immigration Law Matters

It was moved by Dr. Roark, seconded by Dr. O'Donnell, and carried unanimously that the Board President and the Superintendent be authorized to retain Kathleen C. Walker from the Kemp Smith law firm as special legal counsel to represent and assist the District with immigration law issues related to the extension of work visas for teachers employed by the EPISD.

15. Hiring of Consultant/Facilitator for Workshop to Determine Board/Superintendent Goals for 2004-05

Dr. O'Donnell commented on establishing goals for the Superintendent for next year and requested clarification on whether using a certified facilitator could earn the Board members continuing education credits. Mr. Safi advised that TEA rules generally disallow receiving training credits and simultaneously doing the business of the District. Dr. O'Donnell recommended hiring an outside facilitator to assist the Board in developing the goals for the Superintendent. Mr. Dodge suggested that the Board itself extract District goals for 2004-05 from the 5-Year Strategic Plan, which would lead into the development of goals for the Superintendent.

There was discussion among the Board on the use of a facilitator to compile and prioritize the goals introduced by individual Board members and the need for conformity of the Board's and Superintendent's goals with the Strategic Plan goals.

It was moved by Ms. Colquitt-Muñoz and seconded by Dr. O'Donnell that the Board use a facilitator to assist the Board in the development of goals for the Board and Superintendent for 2004-05. Upon the vote, the motion carried with Mr. Dodge voting against the motion and Dr. Roark voting "present."

There was further discussion on possible dates in May 2004 for the goals-setting session and providing names of possible facilitators to the Superintendent.

17. Memorandum of Understanding with Region 19 Education Service Center to Contract with Gibson Consulting Group for EPISD Staffing Study (approx. \$24,980.00)

Dr. Roark inquired about the use of Region 19 Education Service Center and the selection of this firm. Mr. James Damm, EPISD Consultant for Finance, explained that putting this contract through Region 19 would entail no additional cost to the District and would exhibit the EPISD's support for the interlocal agreement currently in place with Region 19. He reviewed entities for which Gibson Consulting Group has done similar work and the difference between the proposed staffing study and the previous study conducted by TASB.

It was moved by Mr. Dodge, seconded by Mr. Cordova, and carried unanimously that the Board approve this Interlocal Agreement/Memorandum of Understanding as presented. Dr. O'Donnell was not present for the vote.

18. Additional Expenditure for *Measuring Up*[™] to the Texas Essential Knowledge and Skills (TEKS) and Success Strategies for the TAKS (Texas Assessment of Knowledge and Skills) (approx. \$200,000.00)

Ms. Elfida Gutierrez, Associate Superintendent, Elementary/Middle Schools Division I, provided information on the recommendation to upgrade the *Measuring Up*[™] program and reviewed how the program would be used in the schools.

It was moved by Miss Garcia and seconded by Mr. Cordova that the additional expenditure for these items be approved from People's Publishing Group, Inc., the sole source, for the remainder of the 2003-04 school year.

Dr. Linda Holman, Associate Superintendent, Elementary/Middle Schools Division II, provided information on the 2002-003 TAKS administration being used as a baseline to provide a comparison for Research, Evaluation, Planning and Accountability to determine the effectiveness of these intervention materials.

There was discussion on current data being made available on improvements from one six-weeks grading period to the next; putting the emphasis on daily classroom work; and providing information to the Board in a timely manner. Mr. Tafoya commented on setting up a process of periodic benchmarks on the implementation of these types of materials that would provide a comparative demonstration of student progress.

It was moved by Miss Garcia that the debate be closed and an immediate vote be taken on the pending question.

Upon the vote on the main motion, the motion carried with Ms. Colquitt-Muñoz and Dr. Roark voting against the motion. Mr. Dodge was not present for the vote.

19. Purchase of High Point Reading Series, Basic & Levels A-C Sets, from Hampton-Brown (\$104,591.61)

It was moved by Miss Garcia and seconded by Mr. Cordova that the Board approve this sole source purchase.

Ms. Antonia Tapia, Director, Bilingual Education, provided information on the research report that was provided for this program at the District's request. There was discussion on the research being conducted by an external evaluator contracted by the publisher; the report appearing to be unprejudiced; and, in the future, using an independent evaluator or Research, Evaluation, Planning and Accountability.

Upon the vote, the motion carried unanimously.

20. Change Order No. 1 – Stadium Light Pole Upgrades – Austin High School, #03.733 (\$13,613.00)

It was moved by Miss Garcia and seconded by Mr. Mena that the Board approve this change order to Kendrick Electric Corporation, subject to the review and approval of the District's attorney, for the added costs to install lamp fixtures, drill two piers, and remove excavated material.

Mr. Dodge commented on there being no guarantee on the soil analysis provided by the District to the contractor, a similar situation occurring at another District school site, and approval of this change order setting a precedent. Mr. Nick Corona, Executive Director, Facilities, Maintenance and Construction, provided information on the soil situation for this project at Austin High School. Mr. Hector Martinez, Associate Superintendent, Operations, stated that the contractor would be informed that this item in his change order proposal would be rejected.

Motion Amended

It was moved by Mr. Dodge and seconded by Dr. Roark to amend the motion by deleting the added costs to drill two piers and remove excavated material and to install only lamp fixtures in the amount of \$6,818.00. Upon the vote, the motion carried with Mr. Cordova and Mr. Mena voting against the motion.

Mr. Corona provided information on the additional charge to remove the excavated material, which resulted from an inaccurate on-site decision made by a District employee.

Upon the vote on the main motion, the motion, as amended, failed with Dr. Roark, Dr. O'Donnell, and Mr. Dodge voting in favor of the motion and Miss Garcia, Mr. Cordova, Ms. Colquitt-Muñoz, and Mr. Mena voting against the motion.

Motion Amended

It was moved by Mr. Mena and seconded by Ms. Colquitt-Muñoz to amend the motion again by adding the removal of excavated materials in the amount of \$2,195.00 for a total amount of \$9,013.00.

Responding to comments from Dr. Roark and Mr. Dodge regarding the setting of a precedent, Mr. Safi clarified that the Board's action would not be a binding precedent, but in the future, the Board should be prepared to explain why this action was taken in one case and not in another. Mr. Tafoya advised that there was an administrative remedy on the decision made by the employee.

Upon the vote on the main motion, the motion, as amended, carried with Miss Garcia, Mr. Mena, Mr. Cordova, and Ms. Colquitt-Muñoz voting in favor of the motion and Dr. Roark, Dr. O'Donnell, and Mr. Dodge voting against the motion.

21. Procurement/Delivery Methods for Contracts Exceeding \$15,000.00

It was moved by Dr. O'Donnell, seconded by Miss Garcia, and carried unanimously that the Board approve the competitive bid process for the solicitation of the construction projects listed, subject to the review and approval of the District's attorney, and authorize the advertisement and issuance of relevant documents to prospective bidders/proposers.

- A. Districtwide Kitchen Hood Fire Suppression System Upgrades (Bond, Coldwell, Lee, Mesita, Rivera, Roosevelt, and Stanton Elementary Schools), #04.377
- B. Waste Line Replacement at Ross Middle School, \$04.383
- C. Paint Interior & Exterior – Silva Magnet, #04.516

Meeting Closed

The meeting was recessed at 8:42 p.m. to a closed meeting by Mr. Mena under Sections 55.071 and 551.072 of the Texas Government Code as follows:

22. Closed Meeting

- A. Proposed Sale of EPISD Surplus Property, #04.504 – Lot 1, Block 13, The Willows Unit 4, El Paso, El Paso County, Texas
- B. Consultation with School District Attorney Regarding Pending or Contemplated Litigation
 - 1. Stephen L., bnf Jacqueline A. v. El Paso Independent School District, TEA Docket No. 256-SE-0304
 - 2. Salvador Santana II, et al v. El Paso Independent School District; In the United States District Court, Western District of Texas; Case No. EP04CA095

The closed meeting started at 8:50 p.m. The closed meeting ended at 9:08 p.m.

Meeting Opened

The meeting was reassembled in Open Session at 9:10 p.m.

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

A. Proposed Sale of EPISD Surplus Property, #04.504 – Lot 1, Block 13, The Willows Unit 4, El Paso, El Paso County, Texas

It was moved by Mr. Dodge, seconded by Dr. O'Donnell, and carried unanimously that the Board authorize the Superintendent to proceed with the sale of this EPISD surplus property to Eduardo Fuentes, an individual, for a sale price of \$525,500.00, subject to the review and approval of the District's attorney.

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

1. Stephen L., bnf Jacqueline A. v. El Paso Independent School District, TEA Docket No. 256-SE-0304

It was moved by Dr. Roark, seconded by Miss Garcia, and carried unanimously that the Board authorize the law firm of Mounce, Green, Myers, Safi & Galatzan, PC to represent the District in this special education proceeding and furthermore that the Board authorize the Superintendent to retain substitute legal counsel in this case if he deems it to be in the best interest of the District.

2. Salvador Santana II, et al v. El Paso Independent School District; In the United States District Court, Western District of Texas; Case No. EP04CA095

It was moved by Miss Garcia, seconded by Mr. Mena, and carried unanimously that the Board authorize the law firm of Mounce, Green, Myers, Safi & Galatzan, PC to represent the District in this lawsuit and to represent on a joint defense basis such other defendants as may request such joint representation.

Item Withdrawn

Item no. 23, Extension of Agreement with Miratek for Professional Services Related to Geographic Information System (GIS) Software (\$17,000.00), was withdrawn from the agenda.

Meeting Adjourned

The meeting was adjourned at 9:11 p.m.

Date Approved: May 25, 2004