

**APPROVED MINUTES
ALUM ROCK ELEMENTARY SCHOOL DISTRICT
2930 Gay Avenue
San Jose, CA 95127**

**MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES
of the Alum Rock Union School District
Held on Thursday, August 9, 2018, 5:30 p.m. at the Alum Rock Union School
District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127
Meeting #02-18/19**

1. OPEN SESSION

1.01 Call to Order / Roll Call

President Esau Ruiz Herrera welcomed everyone in the audience. President Esau Ruiz Herrera called the Board Meeting to order at 5:30 p.m. followed by Roll Call.

Board Members Present:

Esau Ruiz Herrera	President
Karen Martinez	Vice-President (<i>arrived late at 5:32 p.m.</i>)
Dolores Marquez-Frausto	Clerk
Andrés Quintero	Member
Khanh Tran	Member

Administrative and Support Staff Members Present:

Dr. Hilaria Bauer	Superintendent
Rene Sanchez	Assistant Superintendent, Instructional Services
Jess Serna	Interim Assistant Superintendent, Human Resources
Kolvira Chheng	Assistant Superintendent, Business Services
Marie Sanchez	Sr. Executive Assistant, Superintendent's Office
Angel Rodriguez	Executive Assistant/Communications Support, Superintendent's Office
Jackie Guevara	Executive Assistant, Superintendent's Office

1. OPEN SESSION (*continued*)

1.02 Announcement and Public Comments Regarding Items to be Discussed In Closed Session

President Esau Ruiz Herrera reported that *Agenda Item 2.03 Public Employee Discipline/Dismissal/Release, Title: Superintendent*, would be deleted from this agenda and would be placed on a future meeting and would need to be placed into an evaluation process and that would be requested at a later time. He asked his colleagues if there was any objection and all were in consensus to accept the removal of this agenda item. President Esau Ruiz Herrera announced the items that would be discussed in Closed Session.

Public Comments:

- 1) Karen Martinez – Board Member, publically stated that she was requesting to have the Fiscal Expert and Fiscal Advisor present during Closed Session.
- 2) Janet Odell – Community member, stated that she was backing up the same request that Vice-President Karen Martinez had just requested.
- 3) Jocelyn Merz – AREA President, stated that on behalf of AREA and the 600+ teachers, was also making the same request as the previous two.
- 4) Andrés Quintero – Board Member, also in public, stated he would like the two Fiscal Advisors to be present during Closed Session.

1.03 The Board will Adjourn to Closed Session at Approximately 5:30 p.m.

The Board recessed to Closed Session at 5:34 p.m. President Esau Ruiz Herrera announced that the Board would reconvene to Open Session at approximately 6:35 p.m.

3. RECONVENE TO OPEN SESSION

3.01 Call to Order / Pledge of Allegiance

The Board reconvened to Open Session at 6:48 p.m. President Esau Ruiz Herrera welcomed everyone and took a second Roll Call in which all Board Members were present with the exception of Vice-President Karen Martinez who was temporarily absent.

3.02 Report of Action Taken in Closed Session

Superintendent Hilaria Bauer reported that in Closed Session under *Agenda Item 2.01 Public Employee Appointment/Employment*, the following action was taken (*see next page*):

3. RECONVENE TO OPEN SESSION *(continued)*

3.02 Report of Action Taken in Closed Session

- 1) Principal: By a unanimous vote from the Board, Mr. Diedrich Bonemeyer was appointed principal of an elementary school effective immediately.
- 2) Assistant Principal: By a unanimous vote from the Board, Ms. Tanu Kohli was appointed as Assistant Principal at Aptitud effective immediately.
- 3) Coordinator, Academic Services: By a unanimous vote from the Board, Ms. Brittany Rykels was appointed as the Coordinator, Academic Services, effective immediately.

3.03 Agenda Review and Adoption

Vice-President Karen Martinez asked to pull the following agenda items to follow after ***Agenda Item 8.10 CMAS Contract No. 7-17-99-31-02 Mohawk Carpet Distribution, Inc.*** and in this order:

11.02 FCMAT Update

11.01 Fiscal Expert Update

9.08 Construction Management Agreements for Measure I and J. Terminate Contract between ARUSD and Del Terra

9.06 Direct Administration to seek an Independent Opinion from Legal Counsel, other than the ARUSD General Counsel

9.05 Termination of ARUSD's Contract with General Counsel, Leal and Trejo

Vice-President Karen Martinez asked that these two agenda items be combined together as one item:

9.02 2018-19 CSBA Membership Dues for \$13,122

9.03 2018-19 CSBA Education Legal Alliance Membership Dues for \$3,280

Member Khanh Tran asked to pull the following agenda items to follow after ***Agenda Item 7.02 Written Update on the Citizen's Bond Oversight Committee (CBOC):***

9.09 Resolution No. 02-18/19 Board of Trustees of ARUESD, Authorizing the Issuance of Election of 2016 General Obligation Bonds, Series A, and Actions Related Thereto

9.10 Resolution No. 03-18/19 Requesting Board of Supervisors of the County of Santa Clara to Establish Tax Rate for Bonds of the Alum Rock Union Elementary School District Expected to be Sold during Fiscal Year 2018-19, and Authorizing Necessary Actions in Connection Therewith

3. RECONVENE TO OPEN SESSION *(continued)*

3.03 Agenda Review and Adoption

President Esau Ruiz Herrera suggested that we move all these agenda items after ***Agenda Item 8.10 CMAS Contract No. 7-17-99-31-02 Mohawk Carpet Distribution, Inc.***, as there was a need to get to all the items in ***Category 8 Contracts Over \$100,000.***

President Esau Ruiz Herrera confirmed the modification of the order of business as follows: Following ***Agenda 7.02 would be 9.09, 9.10, 11.02, 11.01, then 9.08, 9.06, and ending with 9.05*** (see previous page for description of the agenda items). There was consensus from the Board to accept the agenda as modified.

4. SPECIAL RECOGNITION / PRESENTATION

4.01 School Resource Officer's (SRO) Program Presentation

Assistant Superintendent Hilaria Bauer introduced Ms. Norma Flores, Director of Student Services, who presented a PowerPoint presentation with a brief overview of what resource officers do at the middle schools. She introduced Sergeant Martinez who was present due to the unavailability of Sergeant Dominguez. Sergeant Martinez reported that he was there in a twofold role: as a police officer and as an Adelante parent. Sergeant Martinez discussed how we have moved from a zero tolerance and how the school resource officer can now assist in a better outcome for fights, intruders on campus, and school safety in general. Sergeant Martinez commented that the SROs are here to support the school staff and to be mentors to the student body. Friendships are made with some of the students and this makes it easier to assist in a better outcome. He reported that the response time takes approximately 9.2 minutes to arrive at the scene. He reported that Adelante does not have an SRO at that site.

Principal Imee Almazan shared her testimonial about the impact of SROs at Fischer Middle School and Renaissance at Fischer. Officer Lee serves as an SRO and is there to help solve issues on campus. He participates with school activities and has been a critical aspect at her school.

Vice-President Karen Martinez gave thanks to Sergeant Martinez for being present at this meeting. She commented that she was a little concerned and questioned the 9.2 response time. She commented that she would like the SROs at the middle schools to be able to respond to the elementary schools. Sergeant Martinez stated that it was possible and it could happen; however, it was up to the District Sergeant. Vice-President Karen Martinez asked what the role was for Sandra Avila in the police department. Sergeant Martinez answered that she was the community lead who runs workshops, works with school liaison groups, and crime stoppers. She commented that she would like to see more focus on restorative justice and would like to see this partnership happen and if we could add this into the job scope and have a way to track the progress of this throughout the year.

4. SPECIAL RECOGNITION / PRESENTATION *(continued)*

4.01 School Resource Officer's (SRO) Program Presentation

Member Khanh Tran commented that he does not want the officers to shoot the students or to taze them but to focus on safety and handle students with care. He stated that he disagrees with Vice-President Karen Martinez – focus on the safety but don't worry about anything else.

Member Andrés Quintero stated that he thinks safety is very important and wants people that are trained dealing with students. Safety is his priority and he thinks there is a way of achieving this and going beyond. He mentioned a group in Nashville that are award-winning and who have gone through specialized training. He stated that he is interested in forming specialized groups that are highly trained on how to deal with difficult people. He is going to pursue it for the Small Schools Innovative Committee and begin the dialogue on who wants to start collaborating and investing in this.

Clerk Dolores Marquez-Frausto thanked Sergeant Martinez and Principal Almazan for their shared information. She stated that 30 years ago, she was not a proponent for officers on campus and in the past, the officers had language barriers and could not communicate with our parents. However, she stated that she now appreciates what they do.

President Esau Ruiz Herrera also gave thanks to Sergeant Martinez. He was in agreement that safety is a critical factor and safety is enhanced by having positive relationships and role models for our community.

5. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD

5.01 Requests to Address the Board

Public Comments:

- 1) Janet Odell – Community member stated that she did not notice anything on the agenda regarding the grand jury response and asked if anything would be reported back.
- 2) Saul Ramos – Director of Somos Mayfair, gave thanks to Superintendent Hilaria Bauer for her leadership, commitment, and her support to his program. He announced that this year they added Evergreen Community College. He especially wanted to highlight the 'Bridge to Kinder' that continues to guide families.
- 3) Loretta Tanner – George teacher, commented that as a teacher, it was very disturbing to see on the agenda the dismissal of Superintendent Bauer again – it is a threat! She said that it makes it very difficult to focus on how she can be the absolute best – there was no reason to wait until 5:30 pm today to remove it from the agenda! Her last comment to the Board was, "get over it and move on".

5. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD *(continued)*

5.01 Requests to Address the Board

- 4) Bertha Razo – Community member, stated that she is in agreement with Ms. Tanner – it is time to move on! It is very disturbing to her to see this agenda item on month after month after month. She commented that the news sees what is going on and it is unfair to see parents remove their kids from the district and enroll them to the charter schools because they think the district is a disaster—but it is not! She addressed Trustee Khanh Tran and stated that he needs to do some work—and commented that he was worse than a kindergartener. She asked him to please stop harassing the Superintendent and remember that November was around the corner!
- 5) Ernesto Bejarano – Sheppard parent, commented that it is very frustrating being a parent in this district. He stated that as a community member, he would like to have some discussion about what really is the Board's strategic rationale on wanting to push the dismissal of the Superintendent and the community has the right to know the reason why. He is requesting some transparency with this item.

6. COMMENTS AND COMMUNICATION

6.01 Teamsters

There were no representatives from Teamsters at this time.

6.02 California School Employee's Association (CSEA)

There were no representatives from CSEA at this time.

6.03 Alum Rock Administrator's Association (ARAA)

Ms. Lyssa Perry, new ARAA President, shared about some of the programs provided during the summer. She reported that a group of administrators went to UCLA and focused on communication and leadership. Another group of administrators traveled to Chicago for a principals' training. She also reported that the management team attended a management retreat and got to understand ideas around old and new power, but more importantly, the retreat reenergized the team for this next school year. Lastly, she commented that she wanted to thank Superintendent Hilaria Bauer for leading the district and her team with her 'heart'.

6.04 Alum Rock Educator's Association (AREA)

Jocelyn Merz, AREA president, gave thanks to all the teachers that came to the board meeting and were in attendance. She stated that on behalf of the 600+ teachers that we have

6. COMMENTS AND COMMUNICATION *(continued)*

6.04 Alum Rock Educator's Association (AREA)

working hard to teach our students, she thanked the Board for removing ***Agenda Item 2.03 Public Employee Discipline Dismissal and Release, Title: Superintendent*** from Closed Session. She commented that this was a new school year with new challenges and teachers would be doing their best to prepare for these new challenges; however, to find out 3 days before the board meeting the possibility of Dr. Bauer being removed as Superintendent with less than two weeks before the start of school was very devastating! She, too, asked to know their motivation and thought process. All she could think of was thoughtless, wreckless, and selfish acts as a distraction and a desperate attempt from the Board to deflect the real issues going on in the District. She stated that for the past 18 months, Superintendent Hilaria Bauer has been a victim to the Board's threats, bullying, humiliation in silence, and constant attacks. She asked that the Board recognize that they will trigger lawsuits that will be similar to what happened in Montebello creating a financial burden on the District. She commented that we have a strong and focused educational leader in Superintendent Hilaria Bauer and rather than throwing her the axe, please provide her with the support of moving forward!

6.05 Superintendent

Superintendent Hilaria Bauer asked her administrative team to stand up and show off their '*leading with the heart teeshirts*'. Superintendent Hilaria Bauer informed the Board that her administrative team is ready to begin another school year and are grounding in leading with the heart and making sure that what we are doing is the best for those who need it the most!

6.06 Board of Trustees

Vice-President Karen Martinez stated that she was very disheartened as a Trustee and as a mom by knowing that she teaches her kids to identify bullying and know who to go to and how to handle it. She calls out that bullying is happening here. She asked the administrative team to stay focused on what we are here for and what the teeshirts say and the impact that it has in the classroom. She gave thanks to the community for speaking out and having the Board hear their voices. She commented that at times the Superintendent and her disagree on things, but she will continue to support her growth and will not support her dismissal. Lastly, she stated that she wants to re-emphasize that going into Closed Session, she will always ask for the SCCOE Fiscal Advisors to be present—whether the Board allows that—that is for all the public to watch and understand. She commented that we should practice restorative justice here with the Board!

Member Khanh Tran stated that he believes we all make mistakes and learn from them. For the last four years, our books have not been balanced and he is grateful that we are now under the jurisdiction of the SCCOE. He commented that this Board does not run the day-to-day operations; therefore, you can't blame us. He commented that he did not object to the dismissal of the Superintendent because he felt he did not need to object since the

6. COMMENTS AND COMMUNICATION *(continued)*

6.06 Board of Trustees

Superintendent is a public official and the public officials are being investigated by the Securities and Exchange Commission (SEC). He is an elected official and he does not get paid. He stated that he is running again for another term because he does not like dishonest people leading the District. We are a minority school district. He reported that he read the Grand Jury Report and that the Grand Jury was made up of 100% Republican, white, old men and how could the Republicans know what is best. He stated that the FCMAT report never said anything else about false invoicing and everything pointed to internal activity. He stated that the only reason why he supports President Esau Herrera as board president is because he believes as an attorney and a man who studies law, he would not jeopardize and put his license at risk. Lastly, he commented that this Board does not write the checks—the district staff does.

Member Andrés Quintero spoke to the parents in Spanish about the continual problems and connected with them. He gave special thanks to the folks that participated in the state audit in Sacramento on August 8. He stated that this state audit was not the same as the FCMAT or other audits. This audit will be very expensive with many pointed questions. He also reported that he had the opportunity to stop by the State Superintendent's office with a drafted letter as one board member asking him to remove the authority of the Alum Rock Board to sell bonds at this time. Member Andrés Quintero reported that the Bonds Facilities and Finance Committee would be reconvening at the end of this month and it would be held in the evening. The facilities assessment would be presented during this meeting. He also reported that he participated in the inaugural Santa Clara County Women's Caucus as a staff member and the inaugural was very powerful to have such a strong group of women!

Member Dolores Marquez-Frausto reported that no one had communicated to her anything as to what will happen to her committee members that have been on the Bond, Facilities, and Finance Committee since the beginning. She asked Member Andrés Quintero if she would still be co-chairing this committee with him? She commented that she was under the impression that Member Andrés Quintero was taking the lead here with his visit to Sacramento. She commented that if she had attended the Sacramento trip, she would have welcomed the audit.

President Esau Ruiz Herrera stated that good things happened at Alum Rock during the summer. He has been hearing nothing but good news from various stakeholders about the offering the District is putting out. He hopes that we continue to work together and keep creating good programs and meeting the needs of our community. He reported that the Grand Jury Report response was due on September 19 and the Board would be discussing this more during the September meeting. He stated that the safety issues raised our concerns but was pleased that police officers are recognizing that safety is important and also the relationships between the police department and our community and that they have the best intentions for our students.

6. COMMENTS AND COMMUNICATION *(continued)*

6.06 Board of Trustees

Member Andrés Quintero addressed Clerk Dolores Marquez-Frausto and thanked her for recognizing his leadership on these items and stated that he was representing his community who voted him in and that he went to Sacramento solely as a single board member. He also commented that he was unsure of what or when he may hear back with a response from the State Superintendent.

7. BOND / FACILITIES

7.01 The Board will receive a written update on the status of Bond Projects

President Esau Ruiz Herrera reported that there was nothing to report at this time.

7.02 The Board will receive a written update on the Citizen's Bond Oversight Committee (CBOC)

Ray Mueller, Community Member, reported that they did not have a meeting last month; however, they would be meeting on Monday, August 13 and they would be discussing new members and upcoming items. He reported that this committee currently has vacant seats and was encouraging interested folks to join this committee.

9. SUPERINTENDENT / BOARD BUSINESS

9.09 Resolution No. 02-18/19. A Resolution of the ARUESD, Authorizing the Issuance of Election of 2016 General Obligation Bonds, Series A, and Actions Related Thereto

Member Khanh Tran stated that he has two buildings that need to be built and that's what he cares about. Our interest rate, construction, and materials have gone up. If we keep waiting for another day, costs will continue to go up. He stated he does not care who builds his buildings, he just wants his buildings built! He stated that Standard & Poor's downgraded us because the Superintendent failed to show up to a bond meeting—that's a fact and it's written in the report.

Member Andrés Quintero commented that this was one of the reasons that he asked for the Board's authority to be removed. It was irresponsible to sell \$35M in bonds while our ratings have been downgraded. It was clear that Superintendent Hilaria Bauer received direction from the Bond Counsel to not show up to the bond meeting. Member Andrés Quintero directly asked Superintendent Hilaria Bauer if this was correct? Her reply was, "Yes, this is correct, and I have it in writing." Member Andrés Quintero stated that he was

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.09 Resolution No. 02-18/19. A Resolution of the ARUESD, Authorizing the Issuance of Election of 2016 General Obligation Bonds, Series A, and Actions Related Thereto

in opposition of this item because we needed to take care of the everyday necessities first such as AC, bathrooms, heating, and roofing. He commented that this was not the right time considering all the problems around our bond program.

Vice-President Karen Martinez stated that she knows we need facilities, but right now is not the right time under the investigation and not the right time for the community to be impacted. We need to focus on what is right financially in order to fix what is wrong.

Member Khanh Tran stated that we are going in debt and need the money right now. He addressed this statement to Member Andrés Quintero and said, *"Andrés, I will support you if you are saying the Bond Counsel instructed the Superintendent not to attend the S&P meeting by showing me the public record in writing."*

Public Comments:

- 1) Ray Mueller – Community member, stated that the community has repeatedly asked the Board not to sell bonds at this time. He said that in the Standard & Poor's (S&P) report, poor governance was noted and the fact that the credit rating went down had less to do with the Superintendent not attending the meeting and more to do with the Board's bickering. He is asking that we wait and give the voters what they are asking for.
- 2) Candace Ley – Representative from the Mayor's Office read a letter from the Mayor that spoke on Dr. Bauer's possible dismissal, the legal action for conflict of interest, and the selling of bonds. In the letter, the Mayor asked the Board not to take action until the audits are complete.
- 3) Dr. William Gillaspie – SCCOE Fiscal Advisor, stated that they were here, in an advisory role, to help the Board make the right decision. He stated that they have heard many good points on why the District should not vote on bonds right now. We have already visited this issue in June. He compliments the Board to do the right thing for the students but there is a time to and a time not to – and this is not the time right now! He stated that the county is not trying to overreach, they are only trying to help the District. He also stated that the District's Bond Counsel had recently notified the District that the District would have to re-initiate and successfully navigate the bond rating process, among other things.
- 4) Ernesto Bejarano – Sheppard parent asked for transparency. He stated that this was a very significant decision. He commented that he was very disheartened with a Board Member willing to make a decision on the ability of someone being able to produce an email! He asked that the Board take the time to think this through.

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.09 Resolution No. 02-18/19. A Resolution of the ARUESD, Authorizing the Issuance of Election of 2016 General Obligation Bonds, Series A, and Actions Related Thereto

- 5) Bruce Nguyen – Teacher on the East Side, asked the Board to let the people speak. Folks have been coming out despite having to work long hours. He urged the Board to not move forward on this right now even if they put themselves on the ballot.
- 6) Brenda Zendajas – Community member, stated that she is a community member that pays taxes. She wants to wait for a ‘trusted board’ and stated that she does not trust this current board. She addressed Trustee Khanh Tran and stated, “I don’t trust you, I don’t understand why you continue to attack the Superintendent and other members—please think about the WE and not the I!”

President Esau Ruiz Herrera stated that we do need to tend to the needs of the District and the schools still have a lot to be done. The voters have spoken and have approved the issuance of the bonds and if we keep waiting, the construction costs will continue to go up. He commented that the investigations do not affect the conditions of our schools and we should be good stewards of the money. We will save ourselves more money in the long-run if we decide to proceed now. He stated that he, as one board member, wants to move forward and address the facility needs, particularly the heating and cooling. He stated that not too long ago, we had a facilities person perform an assessment and if we address all of the urgent matters and total them up, it’s a little over \$25M—we would still have money to address the community buildings.

Member Andrés Quintero reported that East Side Union High School District recently put out a parcel tax that unfortunately lost the tax election because there were many areas within Alum Rock District that voted against it because community members are looking at what’s going on in Alum Rock. He is asking his colleagues to defer this to the folks who get paid and are the experts. He commented that he is opposed to this because it is not the right time—the ‘*stay and rescind authority*’ will be enforced. Member Andrés Quintero addressed Clerk Dolores Marquez-Frausto and gave her thanks for recognizing his leadership for participating in the Sacramento trip. At this point, he is not sure if the State Superintendent will respond to his request.

Clerk Dolores Marquez-Frausto stated that she shared President Herrera’s sentiments—the construction costs are going up. She commented that she does not hold the fiscal advisors highly because they are dictating how we are supposed to be moving forward with general counsel. She felt they were overstepping their boundaries and thought it was inappropriate of Dr. William Gillaspie to come up to the podium and share his thoughts.

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.09 Resolution No. 02-18/19. A Resolution of the ARUESD, Authorizing the Issuance of Election of 2016 General Obligation Bonds, Series A, and Actions Related Thereto

Member Khanh Tran stated that he respects Mayor Sam Liccardo, but for him to threaten the Board stating to act a certain way, then he does not support them! He commented that when SOMOS Mayfair organized the walkout, they were not about the benefit of the students. He stated that, today, we still have a building that hasn't been built that is costing the District \$20M. He commented that President Esau Ruiz Herrera and Clerk Dolores Marquez-Frausto are about kids; Vice-President Karen Martinez voted for Del Terra and then turned against them; and Member Andrés Quintero is cool and ok.

MOTION #02-01 by Clerk Dolores Marquez-Frausto to move forward with Resolution No. 02-18/19 a Resolution of the Issuance of Election of 2016 General Obligation Bonds, Series A, as presented. MOTION #02-01 was seconded by Member Khanh Tran.

Member Andrés Quintero stated that at the end of the day, this will have to get resolved in courts. He will not be supporting this resolution.

Member Khanh Tran commented that when we execute this resolution, it's still not an automatic thing and the SCCOE has to write a letter and has to go through a process.

MOTION #02-01 carried with a vote of 3 in favor (President Esau Ruiz Herrera, Clerk Dolores Marquez-Frausto, and Member Khanh Tran); 2 in opposition (Vice-President Karen Martinez and Member Andrés Quintero); no absent; and no abstention.

9.10 Resolution No. 03-18/19. A Resolution Requesting Board of Supervisors of the County of Santa Clara to Establish Tax Rate for Bonds of the Alum Rock Union Elementary School District expected to be Sold During Fiscal Year 2018-19, and Authorizing Necessary Actions in Connection Therewith

MOTION #02-02 by Clerk Dolores Marquez-Frausto to accept and adopt Resolution No. 03-18/19 as presented. MOTION #02-02 was seconded by Member Khanh Tran.

Public Comments:

- 1) Ray Mueller – Community member stated, “Why are we wasting our time on this item when we still have 22 other items on this agenda?” School will be starting soon!

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.10 Resolution No. 03-18/19. A Resolution Requesting Board of Supervisors of the County of Santa Clara to Establish Tax Rate for Bonds of the Alum Rock Union Elementary School District expected to be Sold During Fiscal Year 2018-19, and Authorizing Necessary Actions in Connection Therewith

- 2) Janet Odelle – Community member asked, “Since the Bond Counsel has to go through the things they do to sell the bonds, and now we will have a state audit, will that affect us even more?”

MOTION #02-02 carried with a vote of 3 in favor (President Esau Ruiz Herrera, Clerk Dolores Marquez-Frausto, and Member Khanh Tran); 2 in opposition (Vice-President Karen Martinez and Member Andrés Quintero); no absent; and no abstention.

11. BUSINESS

11.02 FCMAT Update

Assistant Superintendent Kolvira Chheng invited Dr. Donald Zimring to speak. Dr. Donald Zimring, SCCOE Fiscal Expert, shared some updates. He reported that staff has made some significant progress and there is no missing money, it was just provided in a different format. He stated that the sale of the bonds at this time would set us back. He recognizes the increase in construction costs will have an impact; however, the District is under investigation and it would be more prudent to wait until the contractor is changed. The current contractor has been given Measure I money even though bond money hasn't been pulled for Measure I. The Board does have responsibility in this area.

11.01 Fiscal Expert Update

Assistant Superintendent Kolvira Chheng stated this agenda item was combined with ***Agenda Item 11.02 FCMAT Update***; therefore, there were no additional updates.

9. SUPERINTENDENT / BOARD BUSINESS

9.08 Construction Management Agreements for Measure I and Measure J. Terminate Contract between ARUSD and Del Terra Real Estate

Member Andrés Quintero commented that there seems to be patterns with the same individuals always involved in turmoil. We recently have read about the settlements in Montebello with the bullying involving the same contractors. He wants this District to move on and focus on quality education. He reported that after the last special board meeting, a letter was sent in regards to the 3rd party vendor, and we still have not received

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

**9.08 Construction Management Agreements for Measure I and Measure J.
Terminate Contract between ARUSD and Del Terra Real Estate**

the requested documentation that we have been asking for. How is it that this vendor is going to have millions of dollars worth of projects in just two binders!

MOTION #02-03 by Member Andrés Quintero to terminate the contract with Del Terra Real Estate Services for Construction Management Agreements for Measures I and J. MOTION #02-03 was seconded by Vice-President Karen Martinez.

Public Comment:

- 1) Janet Odell – Community member, stated if we do terminate the management contract with Del Terra, won't that show that we are trying to do the right thing?

MOTION #02-03 failed with a vote of 2 in favor (Member Andrés Quintero and Vice-President Karen Martinez); 2 in opposition (President Esau Ruiz Herrera and Clerk Dolores Marquez-Frausto); no absent; and 1 abstention (Member Khanh Tran).

9.06 Direct Administration to seek an Independent Opinion from Legal Counsel, other than the ARUSD General Counsel, relative to California Government Code Section 1090, Conflict of Interest, and Del Terra Real Estate, specifically looking into issues raised in the past by ARUSD's previous Legal Counsel

Member Andrés Quintero stated that several issues have been raised by our previous general counsel; therefore, he is asking for a full and unbiased legal opinion. Because of the relationship that Attorney Maribel Medina has had with Del Terra, he is not confident in moving forward with her findings; therefore, we need to find an independent firm so we can receive an honest assessment.

MOTION #02-04 by Member Andrés Quintero to move to empower the SCCOE Fiscal Experts to find an independent third party law firm, not tied with Del Terra, and then give us an honest opinion relative to California Government Code Section 1090, Conflict of Interest. MOTION #02-04 was seconded by Member Khanh Tran.

Member Khanh Tran agrees if we find a person who is agreed upon by general counsel and the SCCOE Fiscal Advisor, that can work in a joint collaborative effort and then we can split the cost.

President Esau Ruiz Herrera stated that he will not support this. He does not trust the SCCOE Fiscal Advisor because he feels the fiscal advisor is an adverse partner and not sure if he would look to them for any legal interests. He feels the Board should not delegate this responsibility to anyone other than themselves.

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.06 Direct Administration to seek an Independent Opinion from Legal Counsel, other than the ARUSD General Counsel, relative to California Government Code Section 1090, Conflict of Interest, and Del Terra Real Estate, specifically looking into issues raised in the past by ARUSD's previous Legal Counsel

Clerk Dolores Marquez-Frausto commented that she will not be supporting this either. The Board was elected by the voters to make legal decisions and she does not trust the SCCOE.

Dr. William Gillaspie, SCCOE Fiscal Advisor, stated that the SCCOE will work in collaboration with the Board to find the very best third party attorney and then bring final approval to the Board.

President Esau Ruiz Herrera stated he would support the process of the collaboration that would bring back a legal counsel to the Board.

Public Comment:

- 1) Jocelyn Merz – AREA President, commented that it was getting late and we have gone through an hour of ridiculous discussion about bonds. And now, why would we trust the Board to make a decision to select an attorney when the majority vote would win – there was no point in doing this now!

Member Andrés Quintero commented the reason why he brought this item up was because he believes there would be a buffer and a trusted person to bring a third party. This would get us to where we want to go.

Member Khanh Tran commented that he is glad to live in a democracy—all board members make their own decisions. This is a board room, and it is not a place to elect new officials! He addressed Jocelyn Merz and told her, “Get back in the classroom and start teaching!”

MOTION #02-04 carried with a vote of 4 in favor; no opposition; no absent; and 1 abstention (Clerk Dolores Marquez-Frausto).

9.05 Termination of Alum Rock Union Elementary School District's Contract with General Counsel, Leal and Trejo, APC

Member Andrés Quintero stated that he constantly see issues with general counsel. Over the course of time, she has overstepped her boundaries and has taken action without board approval and he finds this very concerning. In addition, her response was filled with several errors. In addition, her hourly fee of \$260 is too expensive.

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.05 Termination of Alum Rock Union Elementary School District's Contract with General Counsel, Leal and Trejo, APC

MOTION #02-05 by Member Andrés Quintero to terminate the Contract with General Counsel, Leal and Trejo as presented. MOTION #02-05 was seconded by Vice-President Karen Martinez.

MOTION #02-05 failed with a vote of 2 in favor (Member Andrés Quintero and Vice-President Karen Martinez); 2 in opposition (President Esau Ruiz Herrera and Clerk Dolores Marquez-Frausto); no absent; and 1 abstention (Member Khanh Tran).

8. CONTRACTS OVER \$100,000

8.01 Approve San Jose Police Department, Secondary Employment Unit, for Middle Schools, \$180,000

MOTION #02-06 by Member Andrés Quintero to accept and approve the San Jose Police Department Contract as presented. MOTION #02-06 was seconded by Clerk Dolores Marquez-Frausto.

Vice-President Karen Martinez requested that she wants anti-bullying prevention services be provided to staff, students, and parents and she wants to ensure that we add to the language, in the job scope, that we are able to make some updates.

President Esau Ruiz Herrera commented that he was not sure that we can determine their job duties. We can only provide guidelines and parameters such as positive role-modeling and assistance, but not beyond that.

MOTION #02-06 carried with a unanimous vote; no opposition; no absent; and no abstention.

8.02 Approve AchieveKids, Special Education, \$188,714

MOTION #02-07 by Clerk Dolores Marquez-Frausto to accept and approve the AchieveKids Contract as presented. MOTION #02-07 was seconded by Member Andrés Quintero.

MOTION #02-07 carried with a unanimous vote; no opposition; no absent; and no abstention.

8. CONTRACTS OVER \$100,000 (continued)

8.03 Approve Maxim Healthcare Services, Student Services, \$100,000

MOTION #02-08 by Clerk Dolores Marquez-Frausto to accept and approve the Maxim Healthcare Services Contract as presented. MOTION #02-08 was seconded by Vice-President Karen Martinez.

MOTION #02-08 carried with a unanimous vote; no opposition; no absent; and no abstention.

8.04 Approve Think Together “Late Start Kinder Academy” Contract, 9 Schools, State & Federal, \$112,640

MOTION #02-09 by Member Andrés Quintero to accept and approve the Think Together Contract as presented. MOTION #02-09 was seconded by Clerk Dolores Marquez-Frausto.

MOTION #02-09 carried with a unanimous vote; no opposition; no absent; and no abstention.

8.05 Approve Citizen Schools, ASES Program, 4 Schools, State & Federal, \$627,617

MOTION #02-10 by Member Andrés Quintero to accept and approve the Citizen Schools ASES Program Contract as presented. MOTION #02-10 was seconded by Vice-President Karen Martinez.

MOTION #02-10 carried with a unanimous vote; no opposition; no absent; and no abstention.

8.06 Approve YMCA of Silicon Valley-East Valley Branch, 2 Schools, ASES Program, State & Federal, \$234,576

MOTION #02-11 by Clerk Dolores Marquez-Frausto to accept and approve the YMCA of Silicon Valley-East Valley Branch Contract as presented. MOTION #02-11 was seconded by Member Andrés Quintero.

MOTION #02-11 carried with a unanimous vote; no opposition; no absent; and no abstention.

8. CONTRACTS OVER \$100,000 (continued)

8.07 Approve City of San Jose, Parks, Recreation, and Neighborhood Services, Lyndale, ASES Program, State & Federal, \$113,123

MOTION #02-12 by Member Andrés Quintero to accept and approve the City of San Jose, Parks, Recreation, and Neighborhood Services, for the Lyndale ASES Program Contract as presented. MOTION #02-12 was seconded by Vice-President Karen Martinez

Assistant Superintendent Rene Sanchez confirmed that we have the ASES Program at all of the schools.

MOTION #02-12 carried with a unanimous vote; no opposition; no absent; and no abstention.

8.08 Child Nutrition Services-RFP 1819-CNS01 Distribution of Commercial Food Products-Food and Nutrition Products, Paper Supplies, Cleaning Supplies, and Delivery Services for the 2018-19 School Year, \$1,000,000

MOTION #02-13 by Clerk Dolores Marquez-Frausto to accept and approve the CNS Contract as presented. MOTION #02-13 was seconded by Member Andrés Quintero.

Board Comments: Clerk Dolores Marquez-Frausto and Member Khanh Tran.

Mary Fell, Director, Child Nutrition, spoke on this item and briefly explained the process.

MOTION #02-13 carried with a unanimous vote; no opposition; no absent; and no abstention.

8.09 Assignment of United States Department of Agriculture (USDA) Commodities for 2018-19 School Year, \$1,715,000

MOTION #02-14 by Member Andrés Quintero to accept and approve the United States Department of Agriculture (USDA) Commodities Contract as presented. MOTION #02-14 was seconded by Clerk Dolores Marquez-Frausto.

Mary Fell, Director, Child Nutrition, spoke on this item and briefly explained the contract.

MOTION #02-14 carried with a unanimous vote; no opposition; no absent; and no abstention.

8. CONTRACTS OVER \$100,000 (continued)

8.10 Approve CMAS Contract No. 7-17-99-31-02 Mohawk Carpet Distribution, Inc., MOT, \$106,000

MOTION #02-15 by Member Andrés Quintero to accept and approve the CMAS with Mohawk Carpet Distribution Contract as presented. MOTION #02-15 was seconded by President Esau Ruiz Herrera.

Assistant Superintendent Kolvira Chheng reported that this contract was for the entire district; however, mainly for the school sites and our own maintenance staff would be the installers.

MOTION #02-15 carried with a unanimous vote; no opposition; no absent; and no abstention.

9. SUPERINTENDENT / BOARD BUSINESS

9.01 Request to Change Date of September Board Meeting

There was dialogue on this agenda item with the Board revisiting possible meeting dates other than the scheduled September 13 date. However, after the discussion, no action was taken and the meeting date remained as originally scheduled, September 13, 2018.

There was consensus from the Board to combine both of these agenda items with one action:

9.02 2018-19 CSBA Membership Dues for \$13,122 per year, period from July 1, 2018-June 30, 2019

9.03 2018-19 CSBA Education Legal Alliance (ELA) Membership Dues for \$3,280 per year, period from July 1, 2018-June 30, 2019

MOTION #02-16 by Member Andrés Quintero to Table both Agenda Items 9.02 and 9.03 until next month. MOTION #02-16 was seconded by Clerk Dolores Marquez-Frausto.

The Board had dialogue on both agenda items.

MOTION #02-16 failed with a vote of 2 in favor (Member Andrés Quintero and Clerk Dolores Marquez-Frausto); 2 in opposition (President Esau Ruiz Herrera and Vice-President Karen Martinez); no absent; and 1 abstention (Member Khanh Tran).

The Board had additional dialogue. Administration reminded the Board that payment was due on both agenda items by Friday, August 31, 2018.

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.02 2018-19 CSBA Membership Dues for \$13,122 per year, period from July 1, 2018-June 30, 2019

9.03 2018-19 CSBA Education Legal Alliance (ELA) Membership Dues for \$3,280 per year, period from July 1, 2018-June 30, 2019

MOTION #02-17 by Member Andrés Quintero to accept and approve both Agenda Items 9.02 and 9.03 as submitted. MOTION #02-17 was seconded by President Esau Ruiz Herrera.

MOTION #02-17 carried with a unanimous vote; no opposition; no absent; and no abstention.

9.04 Call for CSBA Nominations for Directors-At-Large Asian/Pacific Islander and Hispanic

President Esau Ruiz Herrera gave some information from past CSBA Nominations. The Board had brief dialogue on this agenda item. President Esau Ruiz Herrera nominated Mr. George Sanchez, Board Member from Franklin McKinley School District, and explained to the audience his reasons why.

MOTION #02-18 by President Esau Ruiz Herrera to nominate Mr. George Sanchez, Franklin McKinley School District, for the CSBA Director-at-Large, Asian/Pacific Islander and Hispanic. MOTION #02-18 was seconded by Member Andrés Quintero.

MOTION #02-18 carried with a unanimous vote; no opposition; no absent; and no abstention.

9.07 Administration will provide a Verbal Report on the status of the Vietnamese Dual Language Immersion Program at ARUSD

Member Andrés Quintero stated that he asked this item be placed on the agenda and wanted to know about the progress today from a year ago. Superintendent Hilaria Bauer stated that she has been working with Principal Le Tran and are currently looking for teachers with certification with a possibility of a Saturday school or an afterschool program, but first need to verify if families are interested. Superintendent Hilaria Bauer commented that she will be following up and will inform the Board when she has more information.

10. INSTRUCTIONAL SERVICES

10.01 Title I – Authorization for School-Wide Program at Adelante II Dual Language Academy

MOTION #02-19 by Member Andrés Quintero to accept and approve the Title I- Authorization for School-Wide Program at Adelante II as presented. MOTION #02-19 was seconded by Clerk Dolores Marquez-Frausto.

***MOTION #02-19 carried with a unanimous vote; no opposition; no absent;
and no abstention.***

10.02 English Language Learners-Reclassification Criteria

MOTION #02-20 by Vice-President Karen Martinez to accept and approve the English Language Learners-Reclassification Criteria as presented. MOTION #02-20 was seconded by Clerk Dolores Marquez-Frausto and Member Andrés Quintero.

***MOTION #02-20 carried with a unanimous vote; no opposition; no absent;
and no abstention.***

10.03 Seal of Biliteracy Achievement Awards-Criteria

MOTION #02-21 by Member Andrés Quintero to accept and approve the Seal of Biliteracy Achievement Awards-Criteria as presented. MOTION #02-21 was seconded by Clerk Dolores Marquez-Frausto.

***MOTION #02-21 carried with a unanimous vote; no opposition; no absent;
and no abstention.***

10.04 Obsolete Materials: Teacher Curriculum and Instruction (TCI)

MOTION #02-22 by Clerk Dolores Marquez-Frausto to accept and approve the Obsolete Materials: TCI as presented. MOTION #02-22 was seconded by Member Andrés Quintero.

Member Khanh Tran asked if “obsolete” meant computers. Superintendent Hilaria Bauer replied, “No, it means books.”

***MOTION #02-22 carried with a unanimous vote; no opposition; no absent;
and no abstention.***

12. HUMAN RESOURCES

12.01 Information Regarding Resignations

There was consensus from the Board to accept the resignations as presented.

13. CONSENT CALENDAR

Member Andrés Quintero asked to pull two agenda items to be discussed separately:

13.02 Approve Contracts for Professional Services – Firms

13.08 Approve the Certification of Correction for the 2016-17 Audit Report

Member Khanh Tran asked to pull one agenda item to be discussed separately:

13.01 Approval of Minutes for the following meetings: (1) June 14, 2018 and (2) July 12, 2018, Regular Board Meetings

MOTION #02-23 by Vice-President Karen Martinez to accept and approve the Consent Calendar as amended. MOTION #02-23 was seconded by Clerk Dolores Marquez-Frausto.

MOTION #02-23 carried with a vote of 4 in favor (President Esau Ruiz Herrera, Clerk Dolores Marquez-Frausto, Member Andrés Quintero, and Member Khanh Tran); no opposition; no absent; and no abstention. Vice-President Karen Martinez not voting.

13.01 Approval of Minutes for the following meetings: (1) June 14, 2018 and (2) July 12, 2018, Regular Board Meetings

Member Khanh Tran asked administration if the previous minutes had been corrected? Marie Sanchez, Recording Secretary, replied, "Yes, they have been corrected."

MOTION #02-24 by Member Khanh Tran to accept and approve the Minutes for June 14, 2018 and July 12, 2018 as presented. MOTION #02-24 was seconded by Member Andrés Quintero.

MOTION #02-24 carried with a unanimous vote; no opposition; no absent; and no abstention.

13. CONSENT CALENDAR *(continued)*

13.02 Approve Contracts for Professional Services – Firms

Member Andrés Quintero stated that he had some concerns with the auditing firm contract. He would like the District to begin to search for other firms because he has lost confidence with this firm. Member Khanh Tran also was in agreement with Member Andrés Quintero and also wants them out and perhaps have the fiscal advisor recommend another audit firm.

MOTION #02-25 by Member Andrés Quintero to accept and approve the Contracts for Professional Services-Firms as presented. MOTION #02-25 was seconded by Member Khanh Tran.

MOTION #02-25 carried with a unanimous vote; no opposition; no absent; and no abstention.

13.08 Approve the Certification of Correction for the 2016-17 Audit Report

Member Andrés Quintero stated that after reviewing the recent reports, he would now be supporting the certification.

MOTION #02-26 by Member Andrés Quintero to accept and approve the Certification of Correction for the 2016-17 Audit Report as presented. MOTION #02-26 was seconded by Member Khanh Tran.

MOTION #02-26 carried with a unanimous vote; no opposition; no absent; and no abstention.

Member Khanh Tran addressed to President Esau Ruiz Herrera that he had a question on ***Agenda Item 13.07 Notices of Employment and Changes of Status/August 9, 2018, HR Department.***

President Esau Ruiz Herrera stated this agenda item had not been pulled for separate discussion; therefore, it could not be addressed at this time.

14. FUTURE BOARD AGENDA REQUESTS

14.01 Requests from Board of Trustees and/or Public


President Esau Ruiz Herrera reminded the Board that they could submit any future agenda items in writing via email.

15. ADJOURNMENT

15.01 President Adjourns the Meeting

President Esau Ruiz Herrera adjourned the meeting at 10:10 p.m.

Respectfully submitted,



Dolores Marquez-Frausto
Board Clerk