

**APPROVED AMENDED 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, April 12, 5:30 p.m. at the Alum Rock Union School  
District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127  
Meeting #18-17/18**

**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 5:32 p.m. followed by Roll Call.

Board Members Present:

Esau Ruiz Herrera	President
Karen Martinez	Vice-President ( <i>arrived late at 5:56 p.m.</i> )
Dolores Marquez-Frausto	Clerk
Andrés Quintero	Member ( <i>arrived late at 5:33 p.m.</i> )
Khanh Tran	Member

Administrative and Support Staff Members Present:

Dr. Hilaria Bauer	Superintendent
Rene Sanchez	Assistant Superintendent, Instructional Services
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

Administrative Staff Absent:

Jess Serna	Interim Assistant Superintendent, Human Resources
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## 1. OPEN SESSION (*continued*)

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

President Esau Ruiz Herrera announced the items that would be discussed in Closed Session.

Public Comments:

- 1) Ray Mueller – COC Chair, stated he wants a better understanding of our relationship with legal counsel. If legal counsel wrote a letter that was 2 months late and missed her deadline, why do we have this attorney? He clarified that he was referring to ***Agenda Items 2.01 Conference with Legal Counsel-Anticipated Litigation*** and ***2.02 Conference with Legal Counsel-Initiation of Litigation***. He stated that if the Board had waived legal attorney privileges, then he was asking for a Public Records Request for all information regarding billing between the Board and the attorney.
- 2) Alison Cingolani – COC representative, briefly spoke on ***Agenda Item 2.02 Conference with Legal Counsel-Initiation of Litigation***. She stated she was concerned about the Board's treatment of money and hoped that they would not initiate litigation during Closed Session.
- 3) Olivia (*no last name given*) – Community member that also spoke on ***Agenda Items 2.01 Conference with Legal Counsel-Anticipated Litigation*** and ***2.02 Conference with Legal Counsel-Initiation of Litigation***. She stated she was motivated to fight for the students and was proud that the community was taking action. The community continues to demand accountability and put the student's education first. She commented that she was happy that the SCCOE was listening to them and was using their powers to correct what was going on in the District. She mentioned that one member of the Board took action with the Board and they were not compliant with the Brown Act. She said that the community would be holding the Board accountable for their actions.
- 4) Ernesto Bejarano – Sheppard parent spoke on ***Agenda Items 2.01 Conference with Legal Counsel-Anticipated Litigation*** and ***2.08 Public Employee Discipline/Dismissal/Release*** and stated that he was disappointed that here the parents were again sitting in the board meeting discussing the failures each month. He reported that he attends various events at different schools and he sees the potential of success within the District. He commented that the community was tired of all this and the time for change was coming!

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

The Board recessed to Closed Session at 5:43 p.m. President Esau Ruiz Herrera announced that the Board would reconvene to Open Session in approximately 60 minutes.

### **3. RECONVENE TO OPEN SESSION**

#### **3.01 Call to Order / Pledge of Allegiance**

The Board reconvened to Open Session at 6:52 p.m. President Esau Ruiz Herrera welcomed everyone and took a second Roll Call in which all Board Members were present. President Esau Ruiz Herrera led the Pledge of Allegiance.

#### **3.02 Report of Action Taken in Closed Session**

President Esau Ruiz Herrera reported that there was nothing to report from Closed Session at this time; however, the Board would be reconvening to Closed Session at the end of the meeting to finish its Closed Session business.

#### **3.03 Agenda Review and Adoption**

President Esau Ruiz Herrera reported the following changes:

- Delete *Agenda Item 8.03 Award of Contract Hazard Management Services* from this agenda
- Delete *Agenda Item 12.05 Approve the 2016-17 Annual Performance Audit Report for Measure J and Measure I* from this agenda
- Move *Agenda Item 12.06 Approval of Escuela Popular Proposition 39 Project* before *Agenda Item 10.01 Ratification of ARUSD's Appeal of the SCCOE's Determination to Stay and Rescind all Actions*
- Move *Agenda Item 6.01 Renaissance at Fischer and Renaissance at Mathson* before *Agenda Item 4.01 Requests to Address the Board*

Member Andrés Quintero asked to move *Agenda Item 10.01 Ratification of ARUSD's Appeal of the SCCOE Determination to Stay and Rescind all Actions* before *Agenda Item 8.01 The Board will receive a written update on the status of Bond Projects*.

Vice-President Karen Martinez asked to table *Agenda Item 10.07 The Board will have discussion on Beautiful Day* until the next board meeting.

### **6. SPECIAL PRESENTATION AND/OR RECOGNITION**

#### **6.01 Special Presentation: Renaissance Academy at Fischer and Renaissance Academy at Mathson**

Superintendent Hilaria Bauer introduced Mr. Doug Kleinhenz, Principal at both Renaissance Academy at Fischer and Renaissance Academy at Mathson. Principal Doug Kleinhenz gave a PowerPoint presentation.

## 6. SPECIAL PRESENTATION AND/OR RECOGNITION *(continued)*

### 6.01 Special Presentation: Renaissance Academy at Fischer and Renaissance Academy at Mathson

Principal Doug Kleinhenz presented some of his highlights:

#### Why Are We Here?

- We believe all students will be successful when they are properly led and supported
- We will build up our students' hearts and minds with the knowledge, skills, and habits to achieve success in high school, college, and life and to be able to change our communities for the better

#### How Do We Do It?

- Academies, Culture, Art, Science, and Social Justice

#### Testimonials

- 1) Angela Lomeli – 7<sup>th</sup> grade student at Renaissance Academy at Fischer, spoke about her experience at her school
- 2) Darius (*no last name given*) – 8<sup>th</sup> grade student at Renaissance Academy at Mathson, spoke about his experience
- 3) Adrienne Tejeda – Parent, shared that she has an 8<sup>th</sup> grade student at Renaissance Academy and 3 Renaissance alumni
- 4) Vanessa Kerr – English Language teacher at Renaissance Academy at Mathson, commented that she knows all her students and the parents because it is a small school. There is a lot of collaboration at Renaissance Academy within the staff and she is fortunate to have the full support of her administrators.

#### Recognitions

- 2017 California Gold Ribbon Award
- 2018 Innovate Public Schools Award for being the top bay area public schools for underserved students

President Esau Ruiz Herrera stated that there is a lot of positive and good work happening at both Renaissance sites.

Clerk Dolores Marquez-Frausto gave special thanks to Principal Doug Kleinhenz for presenting on the parent survey and she appreciated the enjoyable comments from the parents.

## **6. SPECIAL PRESENTATION AND/OR RECOGNITION *(continued)***

### **6.01 Special Presentation: Renaissance Academy at Fischer and Renaissance Academy at Mathson**

Member Andrés Quintero thanked Principal Doug Kleinhenz for all the positive things happening at both Renaissance sites, especially the report on the graphic data.

Member Khanh Tran asked Principal Doug Kleinhenz if he had the graphic data available by ethnicity.

Vice-President Karen Martinez thanked Principal Doug Kleinhenz for the good things happening at both sites. Good job!

At the end of the presentation, President Esau Ruiz Herrera asked the students which college would they be attending.

## **4. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD**

### **4.01 Requests to Address the Board**

Public Comments:

- 1) Jeff Markham – Community member, gave shout-outs to the following people: Member Andrés Quintero for the appeal letter sent to Tom Torlakson, State Superintendent of Public Instruction. He commented that this took courage; and Assistant Superintendent Kolvira Chheng, for working tireless hours cleaning up after other people's messes. The community appreciates your work
- 2) John Garza – LUCHA parent, reported that this was his first time attending a board meeting and was looking forward to more. He stated that we need to focus more on the students and leave the political agendas aside. He gave thanks to Superintendent Hilaria Bauer for her work here and also reported that he is on the District Advisory Committee (DAC)
- 3) Alison Cingolani – COC representative, commented that she was excited about the Renaissance presentation. She briefly spoke about the appeal letter sent to Tom Torlakson, State Superintendent of Public Instruction. She stated that we are spending too much money on attorney fees when this money should be going to the students
- 4) Flor DeLeon – Renaissance parent, briefly spoke about LCAP, security at the schools, and her support for Superintendent Hilaria Bauer and stated, "Do not fire her!"
- 5) Bruce Huynh – Community member, first time speaking at a board meeting; however, he reported that he has been watching. He gave thanks to Member Andrés Quintero for going above and beyond; he thanked Assistant Superintendent Kolvira Chheng for his work in cleaning the books; and, gave thanks to Superintendent Hilaria Bauer for her leadership.

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

##### **4.01 Requests to Address the Board**

- 6) Ernesto Bejarano – Sheppard parent, gave thanks to Member Andrés Quintero for doing the right thing. He commented that he appreciates seeing the successes at the various sites.
- 7) Pilar Navarette – Spanish-speaking Cureton parent, gave thanks to Superintendent Hilaria Bauer and to some of the Board Members for making available the tutoring program. This program has truly helped her child. She also spoke about the importance to her about providing security cameras at the schools for the safety of the students. Lastly, she asked the Board to keep Superintendent Hilaria Bauer here because she has helped the parent community.
- 8) Ray Mueller – COC Chair, addressed his comment to President Esau Ruiz Herrera with regards to his sending the letter without approval from the entire Board and requested to know the amount of money that was billed from the attorney for writing this letter.
- 9) Camille Llanes-Fontanilla – SOMOS Mayfair representative, stated that there were a lot of amazing things happening at the school sites. She gave special thanks to Superintendent Hilaria Bauer for her leadership.

#### **5. COMMENTS AND COMMUNICATION**

##### **5.01 Teamsters**

There were no representatives from Teamsters at this time.

##### **5.02 California School Employee's Association (CSEA)**

There were no representatives from CSEA at this time.

##### **5.03 Alum Rock Administrator's Association (ARAA)**

Dr. Sandra Sarmiento, ARAA president, briefly highlighted the following:

- Alum Rock continues to demonstrate that Alum Rock Rocks!
- Cesar Chavez March
- Arbuckle/Adelante II had "An Evening with NASA" with approximately 750 in attendance
- Sheppard's World Tour 2018
- Renaissance presentation
- Schools preparing for the SBAC Testing

## **5. COMMENTS AND COMMUNICATION *(continued)***

### **5.04 Alum Rock Educator's Association (AREA)**

Jocelyn Merz, AREA president, gave special thanks and congratulated the students that participated in the Renaissance Academy presentation! She reported that Ms. Maimona Berta, RSP teacher at Fischer Middle School and AREA Executive Board Member, has been appointed to the Franklin-McKinley School Board. She commented that she was happy that we were receiving the support and guidance from SCCOE with the Fiscal Expert. She briefly read from and cited the "Stay and Rescind" letter focusing on the struggles around the Board governance. She stated that AREA was appreciative of this intervention by Superintendent Mary Ann Dewan and maybe it wasn't too late for us to embrace the offered guidance from the SCCOE. Lastly, she gave thanks to the two members who were listening!

### **5.05 Superintendent**

Superintendent Hilaria Bauer reported that she went to Chavez school that morning and witnessed a 2<sup>nd</sup> grade class building robots for Code to the Future—so exciting! She also reported that she has been working with SCCOE to pilot and bring a free pre-school for students to the Alum Rock community and this was a great opportunity for our families. There are wonderful things happening at Alum Rock! She commented, *"Hatred can only be conquered through love, and the only thing that dissipates darkness is light. I live and breathe, and whatever you hear, that's what I'm all about."*

### **5.06 Board of Trustees**

Vice-President Karen Martinez reported that she would be passing her turn to speak because the Board would be returning to Closed Session after the end of the Open Session meeting.

Member Khanh Tran commented that what we see on the news these days is chaotic. He commented that people are not following the laws and he believes that the facts speak for itself. He said that this Board is doing their best to serve the students and we are here to educate them. He stated that our financial books are unbalanced and money is missing and he promises that this Board will get to the bottom of this. We need to stop the leakage. He commented that he hopes the Board will agree to a forensic audit and hold the responsible people accountable!

Member Andrés Quintero stated that in an earlier conversation with Member Khanh Tran, his anger got the better of him in the way he had responded to him; therefore, he wanted to apology to Member Khanh Tran, not for the content of his comments, but for the way in which he delivered them. He reported that; unfortunately, he was not able to attend certain events this month. He did report that he attended a Jim Beall event.

## **5. COMMENTS AND COMMUNICATION *(continued)***

### **5.06 Board of Trustees**

Clerk Dolores Marquez-Frausto reported that during the month, she attended a funeral of a long-time friend and employee, Ms. Josie Renteria, who was actually Dr. Bauer's office assistant when she worked at Fischer Middle. Ms. Josie Renteria left behind four children. She also reported that she attended the Annual Cesar Chavez March and was happy it was held at a new location. She wanted to give a shout out to Mr. Mario Sanchez for always contributing to this event.

President Esau Ruiz Herrera reported that he also attended the Annual Cesar Chavez March but only for part of the event due to a work commitment. He stated that the energy at the event was outstanding. He reported that he attended the Arbuckle/Adelante II NASA Event.

## **7. PUBLIC HEARING**

### **7.01 Public Hearing CSEA Chapter 305 Initial Bargaining Proposal to Open Negotiations with ARUSD, July 1, 2018 – June 30, 2019**

President Esau Ruiz Herrera opened the Public Hearing at 8:07 p.m. and announced that it would remain open throughout the meeting.

## **10. SUPERINTENDENT/BOARD BUSINESS**

### **10.01 Ratification of ARUSD's Appeal of the SCCOE's Determination to Stay and Rescind all Actions**

President Esau Ruiz Herrera reported that County Superintendent, Mary Ann Dewan, had issued a "Stay and Rescind" letter to the State Superintendent of Public Instruction. He reported that there was no violation of the Brown Act. He reported that since there was no board meeting scheduled and they only had a five-day window, the District's General Counsel was taken at his request in order to preserve the District's ability to respond to the County's letter. He reported that the State did not deny the appeal and they took no action. President Esau Ruiz Herrera stated that the Board may or may not ratify the appeal.

Member Khanh Tran reported that when he was Board President, he too was presented with a time-sensitive matter that was brought to the Board for ratification. He stated that the Board is here to support the community. He reported that he supports the action taken by President Esau Ruiz Herrera to challenge the County Superintendent's overreach of her authority. He also reported that he supports filing a lawsuit against the SCCOE.



## **10. SUPERINTENDENT/BOARD BUSINESS *(continued)***

### **10.01 Ratification of ARUSD's Appeal of the SCCOE's Determination to Stay and Rescind all Actions**

Vice-President Karen Martinez commented that we have had several Special Board Meetings and she would have liked to have seen a Special Board Meeting to discuss this action taken by President Esau Ruiz Herrera especially since this reflects on the Alum Rock School Board and that this action taken did not reflect her or her wishes.

**MOTION #18-01 by Clerk Dolores Marquez-Frausto to Ratify the Alum Rock Union Elementary School Board's Appeal of the SCCOE's Determination to Stay and Rescind all Actions to the State. MOTION #18-01 was seconded by Member Khanh Tran.**

Clerk Dolores Marquez-Frausto commented she understood that there was an earlier opportunity to act upon this; however, the Board had not been advised by Superintendent Hilaria Bauer or the District's prior attorneys. She said she was sure that the Board would have appealed at that time. She stated that County Superintendent Mary Ann Dewan, who was appointed to her position and did not even need to apply, was trying to override the voters who voted her into this seat. She commented that she will be supporting this appeal and did not see how County Superintendent Mary Ann Dewan could have this power.

Member Andrés Quintero commented that he had several questions for general counsel that needed clarification.

Member Andrés Quintero asked if general counsel's firm had put together this appeal – and how it was involved in the March 22 letter. General counsel replied that the Board had taken action directing to write a letter rejecting the fiscal advisor and when it received the letter from SCCOE, the letter stated all actions, not just fiscal decisions per the Board action and the direction of the Board President.

Member Andrés Quintero asked if we had received any drafts of this memo and general counsel replied, "No." Member Andrés Quintero commented to general counsel that this is not how we should work and asked why he wouldn't know about this as a member of the Board. He would like to know what actions we are taking. He stated that, per Board Policy, the Board President does not have the ability to direct without a vote from the Board. The only person who has that ability to direct is the Superintendent. Member Andrés Quintero asked general counsel how many people from her firm had worked on this. General counsel replied, "Myself, a partner, and an associate." Member Andrés Quintero asked for the cost. General counsel replied, "I have not done the calculation yet." Member Andrés Quintero asked if general counsel is collecting funds from anyone else other than ARUSD for work about ARUSD. General counsel replied, "Absolutely not."

## **10. SUPERINTENDENT/BOARD BUSINESS *(continued)***

### **10.01 Ratification of ARUSD's Appeal of the SCCOE's Determination to Stay and Rescind all Actions**

#### **Public Comments:**

- 1) Alison Cingolani – COC representative, addressed her comment to President Esau Ruiz Herrera stating, "You claimed that the appeal was not denied." Then she reads from the rejection letter, ".....for the reasons stated above, the appeal is denied." This means that the County Superintendent's authority is clearly documented.
- 2) Jocelyn Merz – AREA president, thanked Alison Cingolani for reading sections of the rejection letter. She addressed the Board and stated that she did not understand why they are insisting on pursuing this. Not only have you violated the Brown Act, written an appeal that was denied, and now you want to do it all over again and spend this money that is totally wasted and on what! Jocelyn then addressed Member Khanh Tran and stated to him, "Trustee Tran, if you have or know of information that we don't, please share this with us."
- 3) Flor DeLeon – Parent that commented that it was amazing to her that this Board thinks they are stupid....we can read....when is this going to stop! She commented that she was glad that the SCCOE was watching over the District.
- 4) Ernesto Bejarano – Sheppard parent, reported that he echoes the same sentiments just stated. He commented that it was very frustrating to him how we continue to try to do things with no basis or no rationale. And it's more frustrating to have Trustee Khanh Tran making all these threats.

#### **Board Comments:**

President Esau Ruiz Herrera reported that his actions were right with directing the administrative appeal—it was the proper thing to do. He was not going to call a Special Board Meeting just to take an administrative action. He commented that perhaps the County Superintendent was correct in stating that Alum Rock is in a financial crisis. However, our Superintendent tells us that the District can meet its obligations this year and the next year. He stated that either the County Superintendent is wrong or maybe the Alum Rock Superintendent is wrong—both cannot be right! He commented that our CBO is making strides and at least we know we are making progress. We do not know where this is going to end, and only the audit will show. He stated that this action was to ratify or not ratify the appeal. He stated that he thinks the County Superintendent is not correct.

Member Khanh Tran stated that the Board receives numerous reports that the books are unbalanced and cash has not been reconciled, meaning cash is missing or has been stolen. He stated that he tends to disagree with President Esau Ruiz Herrera because he thinks the County Superintendent is correct. He stated that he welcomes the fiscal expert to be here looking at the books so that he can figure out what is wrong here. Member Khanh Tran then asked Assistant Superintendent Kolvira Chheng if he had or had not recovered the \$12.8M?

## **10. SUPERINTENDENT/BOARD BUSINESS *(continued)***

### **10.01 Ratification of ARUSD's Appeal of the SCCOE's Determination to Stay and Rescind all Actions**

President Esau Ruiz Herrera interjected and stated that we were not here to interrogate subordinates.

Member Khanh Tran commented that he believes the County Superintendent and the fiscal expert should be here helping us to make sure that our books are accountable. He reported that he supports this appeal because he believes that as a Board, they should be making this decision; and ultimately, the Board is responsible.

Member Andrés Quintero commented that he is not an attorney, but he can read. He said that County Superintendent Dewan has identified that our general counsel filing an appeal is the person under a conflict of interest investigation. He stated that it would be a huge error if we were going to proceed and ratify this appeal. He also pointed out that under their board policy, it does not relinquish the power to the Board President to act without seeking approval from the entire Board, only the Superintendent can do this. He also commented that we have recently gotten off the watch list from Moody's due to the fact that we now have a fiscal advisor assigned to us and the Board can no longer take unilateral action without their support.

***MOTION #18-01 carried with a vote of 3 in favor; 2 in opposition (Vice-President Karen Martinez and Member Andrés Quintero); no absent; and no abstention.***

## **12. BUSINESS**

### **12.06 Approval of Escuela Popular Proposition 39 Project**

Assistant Superintendent Kolvira Chheng introduced Mr. Ray Ruiz, Escuela Popular's Project Manager and Consultant, who reported that he recently prepared an energy expenditure plan (EEP) under the program guidelines, which was approved by the Energy Commission on May 18, 2017. He highlighted their Letter of Intent and here are some of the highlights:

- The approved plan secured \$143,861.37 in funding for an HVAC retrofit. The approved funding has been calculated to fully fund the project and if the project overruns in cost, then it will be the sole responsibility of the school
- They have received their Prop 39 funding and are ready to proceed with bidding the project
- The scope of the retrofit includes replacing 44 of the existing window AC units with 16 multi-zone split-system heat pump units and saving the school \$6,834 each year

## 12. BUSINESS *(continued)*

### 12.06 Approval of Escuela Popular Proposition 39 Project

- They plan to proceed with the bid process as soon as it is feasible and have a tentative install window of Spring or Summer 2018

Mr. Ray Ruiz gave special thanks to Assistant Superintendent Kolvira Chheng, Director Daniel Flores, and Superintendent Bauer, for working with collaborative and open communication on both sides.

Member Andrés Quintero reported that the letter of intent that was promised the following day had taken approximately a year to receive after requesting it. He commented that trust needed to develop amongst both parties.

**MOTION #18-02 by Vice-President Karen Martinez to accept and adopt Escuela Popular's Proposition 39 Project as presented. MOTION #18-02 was seconded by President Esau Ruiz Herrera.**

Public Comment:

1. Flor DeLeon – Parent and community member, stated that she has a friend that had a bad experience with Escuela Popular. She commented that this Board needs to focus more on our own students and our own air conditioning problems.

***MOTION #18-02 carried with a vote of 5 in favor; 0 opposition; no absent; and no abstention.***

## 8. BOND / FACILITIES

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

Assistant Superintendent Kolvira Chheng reported that there was nothing to report at this time because the report from Del Terra was not available.

### 8.02 The Board will receive a written update from the Citizen's Bond Oversight Committee (CBOC)

President Esau Ruiz Herrera reported that the CBOC's report was available in the Superintendent's Office. President Esau Ruiz Herrera did not allow Mr. Ray Mueller, CBOC Chair, to speak and report on the CBOC at this time. Mr. Ray Mueller was upset because of this action taken by the Board President and wrote his report on the chalkboard as the meeting continued.

## **8. BOND / FACILITIES *(continued)***

### **8.02 The Board will receive a written update from the Citizen's Bond Oversight Committee (CBOC)**

Mr. Ray Mueller's report stated that the CBOC had to cancel their March meeting due to the lack of audits. He reported that the committee was short two committee members and by the code that establishes this mandate for the body, this committee was out of compliance. He also reported that the Board has been notified twice of this deficiency.

### **8.03 Award of Contract Hazard Management Services**

President Esau Ruiz Herrera reported that this agenda item had already been deleted from the agenda during *Agenda Item 3.03 Agenda Review and Adoption* at the beginning of the meeting. He announced that this item would be tabled for a future meeting.

### **8.04 Award of Contract National Econ Corporation**

**MOTION #18-03 by Clerk Dolores Marquez-Frausto to accept and adopt the Contract with National Econ Corporation as presented. MOTION #18-03 was seconded by Vice-President Karen Martinez.**

Public Comment: Kolvira Chheng.

Board Comments: Andrés Quintero and Karen Martinez.

***MOTION #18-03 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

### **8.05 Award of Contract Applied Materials & Engineering, Inc.**

**MOTION #18-04 by Vice-President Karen Martinez to accept and approve the Contract with Applied Materials & Engineering as presented. MOTION #18-04 was seconded by Clerk Dolores Marquez-Frausto.**

Member Andrés Quintero asked the question of why was there a different address listed on the contract showing 2155 So. Bascom Avenue, Campbell? The address to Mathson is 2050 Kammerer Avenue, San Jose.

***MOTION #18-04 carried with a vote of 4 in favor; no opposition; no absent; and 1 abstention (Member Andrés Quintero).***

Board Comments: Andrés Quintero and Karen Martinez.

Public Comment: Kolvira Chheng.

## **9. CONTRACTS OVER \$100,000**

### **9.01 Approve Contract Increase with Mohawk Commercial Inc.**

Clerk Dolores Marquez-Frausto asked Assistant Superintendent Kolvira to explain the contract because she needed to be more clear with it. Assistant Superintendent Kolvira Chheng gave a brief executive summary of the contract and reported that the increase was to cover potential flooring issues.

**MOTION #18-05 by Member Andrés Quintero to accept and adopt the Contract increase with Mohawk Commercial as presented. MOTION #18-05 was seconded by Vice-President Karen Martinez.**

***MOTION #18-05 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

## **10. SUPERINTENDENT / BOARD BUSINESS**

### **10.02 The Board will have discussion around School Safety**

**MOTION #18-06 by Vice-President Karen Martinez to table this agenda item until the next board meeting due to lack of time. MOTION #18-06 was seconded by Member Khanh Tran.**

***MOTION #18-06 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

### **10.03 CSBA Sample of Board Policy 5112.5, Students, Closed Campus**

Superintendent Hilaria Bauer stated that she was asking the Board for direction on the sample board policy that was provided by CSBA. She reported that our current policy is ambiguous because it states closed/open policy.

Vice-President Karen Martinez stated that she felt all visitors needed to sign in at the front office. She also felt that the schools should remain closed while the students were in session. Weekends and afterhours were a different story and she was uncertain what direction should be taken.

President Esau Ruiz Herrera commented that if we are ambiguous in our board policy, we needed to clean and refine this. He suggested that the last sentence on the sample policy should read something like, "Students who leave school may be classified truant and may be subject to discipline."

## **10. SUPERINTENDENT / BOARD BUSINESS *(continued)***

### **10.03 CSBA Sample of Board Policy 5112.5, Students, Closed Campus**

Member Andrés Quintero commented that we need to have our facilities accessible to the community. He reported that San Jose Unified School District has a good policy in place and we should consider using their policy since they have already done the legwork and put the policy in place.

Public Comment:

- 1) Ernesto Bejarano – Sheppard parent, commented that we should consider to look at the data regarding vandalisms and make decisions based on that. He also commented that an opportunity should be given to interested parents that want to be part of an Advisory Committee to develop such a board policy regarding closed or open campus.

Vice-President Karen Martinez requested to table the following agenda items until the next meeting but to agendize them at the beginning of the next agenda and not at the end:

#### ***10.04 Discussion around Next Steps pertaining to the George and Fischer Multi-Purpose Room***

#### ***10.05 Discussion around George Multi-Purpose Community Room that will exclude the George campus pertaining to the Earthquake Fault line***

#### ***10.06 Mathson Community Center Update (former MACSA center)***

There was consensus from the Board to accept the request from Vice-President Karen Martinez.

### **10.08 Adopt the 2<sup>nd</sup> Reading of the Amended Board Policy 2121, Superintendent's Contract, Administration**

President Esau Ruiz Herrera clarified that this reading only relates generically to a Superintendent's contract and not specifically to our Superintendent's contract.

Member Khanh Tran suggested that this was a conflict of interest by the Superintendent.

**MOTION #18-07 by Member Khanh Tran to table this item for a future meeting. MOTION #18-07 was seconded by Clerk Dolores Marquez-Frausto.**

Unfortunately, there was confusion with **MOTION #18-07** because Clerk Dolores Marquez-Frausto delayed making her second.

## **10. SUPERINTENDENT / BOARD BUSINESS *(continued)***

### **10.08 Adopt the 2<sup>nd</sup> Reading of the Amended Board Policy 2121, Superintendent's Contract, Administration**

Public Comment:

- 1) Alison Cingolani – Community member, commented that this will be the 3rd time that this agenda item has been brought forward and still no action has been taken.

***MOTION #18-07 failed with a vote of 2 in favor (Khanh Tran and Dolores Marquez-Frausto); 3 in opposition (Esau Ruiz Herrera, Andrés Quintero, and Karen Martinez); no absent; and no abstention.***

**MOTION #18-08 by Member Andrés Quintero to accept and adopt the 2<sup>nd</sup> Reading of the Amended Board Policy 2121, Superintendent's Contract, Administration as presented. MOTION #18-08 was seconded by Vice-President Karen Martinez.**

Superintendent Hilaria Bauer reported that this reading was not about her own employment contract.

***MOTION #18-08 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

### **10.09 Board-Created Standing Committees**

There was no discussion or action taken on this agenda item.

## **11. INSTRUCTIONAL SERVICES**

### **11.01 Local Control Accountability Plan (LCAP)-Initial Findings Presentation**

Superintendent Hilaria Bauer introduced Ms. Sandra Garcia, Director of State and Federal Programs, who gave a PowerPoint presentation. Some of her highlights included the following:

Objectives

- Share additional stakeholder input—trends and findings
- Share survey information
- Share expected annual measureable outcomes (metrics collected to this point)
- Share next steps in the LCAP adoption process



## 11. INSTRUCTIONAL SERVICES *(continued)*

### 11.01 Local Control Accountability Plan (LCAP)-Initial Findings Presentation

#### LCAP Update and Stakeholder Engagement

<b>October</b>	<b>January / February</b>	<b>March</b>
-LCFF/LCAP Parent Informational Mtg. (10/24)	-DELAC LCAP review -DAC LCAP review -Community forums Management Team input session -Employee organizational input	-School input sessions -Online parent surveys -Online student/staff surveys -Board update and stakeholder input
<b>April</b>	<b>May</b>	<b>June</b>
-Board update and initial findings -Stakeholder feedback	-LCAP draft presented to Board -Public hearing LCAP/Budget	-Board adopts LCAP -Submit LCAP to SCCOE for approval

#### Stakeholder Input

- Parents and community
- ARUSD staff
- Students
- Community forums
- School input sessions (community/staff)
- Surveys (parents/staff/students)

#### Trends/Findings

- Goal #1: Rigorous Instruction
- Goal #2: Proficiency in English
- Goal #3: Safe, Welcoming Environment
- Goal #4: Stakeholder Engagement

#### Next Steps

- Draft annual update of plan
- Share draft with all stakeholders
- Present draft to the Board
- LCAP Plan Hearing and Adoption
- Submit LCAP to SCCOE for approval

## **11. INSTRUCTIONAL SERVICES *(continued)***

### **11.01 Local Control Accountability Plan (LCAP)-Initial Findings Presentation**

#### **Public Comments:**

- 1) Dilza Gonzales – Community member, stated that the February 13 community forum had a packed audience
- 2) Female speaker (no name given) – Community member, asked about foster youth and how was the outreach
- 3) Flor DeLeon – District Advisory Committee (DAC) representative, stated that the LCAP was very important and should not be placed at the end of the agenda and was very upset about this. We are talking about \$20M. She addressed the Board and stated that you ask for community input, but you don't offer feedback. The community wants to see numbers.

President Esau Ruiz Herrera reported that the Board would be taking a 5 minute recess due to the disruption and the fact that the speaker was not giving up the microphone and her time had over-expired.

#### **The Board adjourned from Open Session at 9:59 p.m.**

The DAC representative continues to speak while the Board takes the few minutes recess. Vice-President Karen Martinez speaks with the DAC representative and strikes a compromise. Vice-President Karen Martinez promised to put the LCAP at an earlier time on the May agenda so that the community could be heard.

President Esau Ruiz Herrera commented that he would not tolerate a violation of the law to disrupt a public meeting.

#### **The Board reconvened to Open Session at 10:01 p.m.**

## **12. BUSINESS**

### **12.01 Fiscal Expert Update**

Assistant Superintendent Kolvira Chheng gave a brief executive summary.

Clerk Dolores Marquez-Frausto requested that the Fiscal Expert be present at the next board meeting so that he could give the update himself.

## 12. BUSINESS (continued)

### 12.02 FCMAT Update

Assistant Superintendent Kolvira Chheng read the FCMAT Update-Request for Documents memo dated April 12, 2018, provided the document to the Board, and was made available to the audience.

Assistant Superintendent Kolvira Chheng reported that at a Special Board Meeting held on July 27, 2017, the Board authorized a formal written response to the FCMAT Extraordinary Audit. Consistent with the response, actions, and timelines approved by the Board, the District sent Del Terra six separate letters on August 4, 2017, requesting deliverables, documents and records under the agreements between Del Terra and the District as follows:

- 1) Agreement for additional services: DSA Close-Out Certification Services (Exhibit A)
- 2) Request for Deliverables, Documents, and Records pursuant to Program and Construction Management agreement (Measure I) dated November 10, 2016 (Exhibit B)
- 3) Request for Deliverables, Documents, and Records pursuant to Program Management Agreement (Measure J) dated November 10, 2016 (Exhibit C)
- 4) Request for Deliverables, Documents, and Records pursuant to Construction Management Agreement (Measure J) dated November 10, 2016 (Exhibit D)
- 5) Request for Deliverables, Documents, and Records pursuant to Program Management (Measure J) dated May 9, 2013 (Exhibit E)
- 6) Request for Deliverables, Documents, and Records pursuant to Construction Management Agreement (Measure J) dated October 1, 2013 (Exhibit F)

Assistant Superintendent Kolvira Chheng reported that the following board meetings had updates regarding DSA Close-Out Certification Services and updates from the 2013 and 2016 Measure J and Measure I Program Management and Construction Management Agreements. He gave a brief summary:

October 12, 2017	November 9, 2017	December 14, 2017
February 8, 2018	March 8, 2018	April 12, 2018

Member Andrés Quintero commented that this was the proof that things are not completed while the Board was told they were done and it has taken all these audits to get to this report. It appears we are still missing a lot of stuff and the taxpayers are not getting what they are paying for.

Member Khanh Tran addressed the question to Assistant Superintendent Kolvira Chheng asking who authorized the change orders and if we had money to build one multipurpose room. Assistant Superintendent Kolvira Chheng replied that we had no funds to build any of the two multipurpose rooms at this time.

**12. BUSINESS (continued)**

**12.03 Approval of Easement Agreement between Alum Rock Union Elementary School District (Grantor) and the City of San Jose (Grantee) to allow Grantee permission to install an underground public sanitary sewer line and related underground sanitary sewer activities at Cureton School**

Assistant Superintendent Kolvira Chheng briefly explained what the agreement was about.

**MOTION #18-09 by Vice-President Karen Martinez to accept and approve the Easement Agreement between ARUSD and the City of San Jose as presented. MOTION #18-09 was seconded by Member Khanh Tran.**

Member Andrés Quintero asked about the liability involved.

President Esau Ruiz Herrera gave an explanation and Assistant Superintendent Kolvira Chheng validated the explanation.

***MOTION #18-09 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

**MOTION #18-10 by Vice-President Karen Martinez to extend the meeting until 10:45 p.m. in order to finish their Open Session board business. MOTION #18-10 was seconded by Member Khanh Tran.**

***MOTION #18-10 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

**12.04 Approve the 2016-17 Annual Performance Audit Report**

Assistant Superintendent Kolvira Chheng introduced Mr. Matthew Nethaway, CPA, Partner, Crowe Horwath, LLP, who provided information on the 2016-17 Annual Performance Audit report.

Mr. Matthew Nethaway reported that adjustments needed to be made to some of the accounts and the unaudited actuals were not sufficient so these adjustments and corrections required more time.

Assistant Superintendent Kolvira Chheng reported that this report would be posted on the website and available for the public.

The Board had discussion on this agenda item.

**12. BUSINESS (continued)**

**12.04 Approve the 2016-17 Annual Performance Audit Report**

**MOTION #18-11 by Member Andrés Quintero to accept and approve the 2016-17 Annual Performance Audit Report as presented. MOTION #18-11 was seconded by Member Khanh Tran.**

Public Comment:

- 1) Jocelyn Merz – AREA President, asked Assistant Superintendent Kolvira Chheng if this report would be available to the public and posted on the website?
- 2) Ray Mueller – COC Chair, asked if the auditor could be present at the next COC meeting. He reported that their report would not be on time because they were short on committee members.

Assistant Superintendent Kolvira Chheng replied that this audit report would be posted on the website for the public to view.

**13. HUMAN RESOURCES**

**13.01 Information Regarding Resignations**

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

**13.02 Accept CSEA Chapter 305 Initial Bargaining Proposal to Open Negotiations for the period of July 1, 2018-June 30, 2019 with the Alum Rock Union Elementary School District (ARUSD).**

**MOTION #18-12 by Clerk Dolores Marquez-Frausto to accept and approve CSEA Initial Bargaining Proposal to Open Negotiations for the period indicated with ARUSD. MOTION #18-12 was seconded by Vice-President Karen Martinez.**

**President Esau Ruiz Herrera closed the Public Hearing at 10:37 p.m.** There were no speakers from the audience to address this agenda item.

***MOTION #18-12 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

**14. CONSENT CALENDAR**

Clerk Dolores Marquez-Frausto asked to pull *Agenda Items 14.02 Contracts for Professional Services* and *14.03 Memorandum of Understanding* for separate discussion.

#### **14. CONSENT CALENDAR *(continued)***

**MOTION #18-13 by Clerk Dolores-Marquez to accept and approve the Consent Calendar as amended. MOTION #18-13 was seconded by Member Andrés Quintero.**

***MOTION #18-13 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

##### **14.02 Contracts for Professional Services**

Clerk Dolores Marquez-Frausto had some concerns about the low bids that then blow up with change orders (tripled from original bid). She commented that she did not understand the practice on this. She commented she understood that there would be small increases; however, these numbers were too high.

Assistant Superintendent Kolvira Chheng explained the purpose of the change orders and the reason for the high increases.

**MOTION #18-14 by Vice-President Karen Martinez to accept and approve Agenda Item 14.02 Contracts for Professional Services as presented. MOTION #18-14 was seconded by President Esau Ruiz Herrera.**

***MOTION #18-14 carried with a vote of 4 in favor; no opposition; no absent; and 1 abstention (Clerk Dolores Marquez-Frausto).***

##### **14.03 Memorandum of Understanding(s)**

Clerk Dolores Marquez-Frausto commented that she had the same concerns for this agenda item as in the previous and she wanted to make sure to bring it to our attention.

**MOTION #18-15 by Vice-President Karen Martinez to accept and approve this agenda item as presented. MOTION #18-15 was seconded by Member Andrés Quintero.**

***MOTION #18-15 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

#### **15. FUTURE BOARD AGENDA REQUESTS**

##### **15.01 Requests from Board of Trustees and/or from the Public**

Vice-President Karen Martinez requested that the LCAP agenda item be placed at the beginning of the next agenda when the majority of the parents were in attendance. She also requested the following agenda items be placed on the next agenda (see next page).

**15. FUTURE BOARD AGENDA REQUESTS** *(continued)*

**15.01 Requests from Board of Trustee and/or from the Public**

**10.04 Discussion around Next Steps pertaining to the George and Fischer Multi-Purpose Rooms**

**10.05 Discussion around George Multi-Purpose Room that will exclude The George campus pertaining to the Earthquake Fault line**

**10.06 Mathson Community Center Update (former MACSA Center)**

**10.07 The Board will have discussion on Beautiful Day**

Vice-President Karen Martinez asked to also include an agenda item regarding cyberbullying and that Ms. Sandra Garcia had reached out to San Jose Police Department and they would be able to present.

Member Andrés Quintero briefly announced that people often mistake “Cinco de Mayo” for a celebration of Mexican Independence and it is not so. Mexico celebrates its independence on September 16.

**1. OPEN SESSION** *(continued)*

**1.03 Adjournment to Closed Session**

The Board adjourned to Closed Session to continue with their Board Business at 10:49 p.m. President Esau Ruiz Herrera stated that Open Session would resume approximately 60 minutes more or less after the start of Closed Session.

**3. RECONVENE TO OPEN SESSION** *(continued)*

**The Board reconvened to Open Session at 12:44 a.m.**

**3.02 Report of Action Taken in Closed Session**

President Esau Ruiz Herrera asked General Counsel Maribel Medina to report action taken in Closed Session.

General Counsel Medina reported that in **Agenda Item 2.03**, in existing litigation, in the matter of Professional Asbestos and Lead Services, vs Everlast Builders, and Alum Rock Union Elementary School District, Case No. 17CV305853, the Board by a unanimous vote, authorized settling the lawsuit of \$275,528.97 and entering into a mutual release.

### **3. RECONVENE TO OPEN SESSION** *(continued)*

#### **3.02 Report of Action Taken in Closed Session**

General Counsel Medina reported that in **Agenda Item 2.04**, in the matter of the Bay Area Asphalt and Cement vs. Alum Rock Union Elementary School District, Case No. 17CV306628, the Board by a unanimous vote, authorized the settlement for \$34,763 and entering in a mutual release.

General Counsel Medina reported that in **Agenda Item 2.01**, motioned by Member Khanh Tran and seconded by Vice-President Karen Martinez, the Board authorized the waiver of the attorney client privilege to disclose the report related to the Harbrough matter to the following agencies: the Fair and Political Practices Commission; the District Attorney, the Securities and Exchange Commission, and the Santa Clara County Office of Education, for the limited purpose of an investigation. The vote was unanimous.

General Counsel Medina reported that in **Agenda Item 2.01**, there was a motion by Member Khanh Tran, seconded by Clerk Dolores Marquez-Frausto, to obtain a forensic audit of the Mathson fire and Harbrough issues; Del Terra issues; and requesting the assistance of the State Controller or another investigative entity. The Board approved this request by unanimous approval.

General Counsel Medina reported that a motion by Member Khanh Tran, seconded by Clerk Dolores Marquez-Frausto, the Board directed Superintendent Bauer to recuse herself from the Mathson and Harbrough matter; the Securities and Exchange Commission investigation; Standard and Poors rating matter; and the Del Terra investigation. The Board approved the matter with Board Members Khanh Tran, Dolores Marquez-Frausto, and Esau Ruiz Herrera voting in favor; and Board Members Andrés Quintero and Karen Martinez voting against the motion.

General Counsel Medina reported that a motion by Member Khanh Tran, seconded by Clerk Dolores Marquez-Frausto, the Board voted to appoint Assistant Superintendent Rene Sanchez as point of contact, assisted by Board President Esau Ruiz Herrera, in the matters related to the Mathson and Harbrough fire matters; Securities and Exchange Commission investigation; Standard and Poors rating matter; and Del Terra investigation. The Board approved the matter with Board Members Khanh Tran, Dolores Marquez-Frausto, Esau Ruiz Herrera, and Karen Martinez voting in favor; and Board Member Andrés Quintero voting against the motion.

General Counsel Medina reported that a motion by Member Khanh Tran, seconded by Clerk Dolores Marquez-Frausto, the Board directed Board President Esau Ruiz Herrera and Superintendent Hilaria Bauer to schedule a meeting with County Superintendent Dewan to discuss the Stay and Rescind powers. The Board approved the matter with Board Members Khanh Tran, Dolores Marquez-Frausto, and Esau Ruiz Herrera voting in favor; and Board Members Andrés Quintero and Karen Martinez voting against the motion.



### **3. RECONVENE TO OPEN SESSION *(continued)***

#### **3.02 Report of Action Taken in Closed Session**

General Counsel Medina reported that a motion by Member Khanh Tran, seconded by Clerk Dolores Marquez-Frausto, the Board authorized resubmitting a reconsideration to the California Department of Education regarding the appeal of the Santa Clara County Office of Education Stay and Rescind action. The Board approved the matter with Board Members Khanh Tran, Dolores Marquez-Frausto, and Esau Ruiz Herrera voting in favor; and Board Members Andrés Quintero and Karen Martinez voting against the motion.

General Counsel Medina reported that a motion by Member Khanh Tran, seconded by Clerk Dolores Marquez-Frausto, the Board authorized that in the event that the Stay and Rescind action is not withdrawn, General Counsel Medina is directed to proceed with a writ of mandate. The Board approved the matter with Board Members Khanh Tran, Dolores Marquez-Frausto, and Esau Ruiz Herrera voting in favor; and Board Members Andrés Quintero and Karen Martinez voting against the motion.

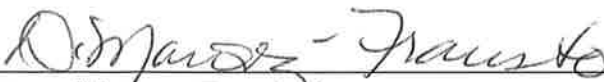
General Counsel Medina reported that there were no further reportable actions to report.

### **16. ADJOURNMENT**

#### **16.01 President Adjourns the Meeting**

President Esau Ruiz Herrera adjourned the meeting at 12:49 a.m.

Respectfully submitted,

  
\_\_\_\_\_  
Dolores Marquez-Frausto  
Board Clerk

HB/mcs