

**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, February 8, 2018, 5:30 p.m. at the Alum Rock Union School
District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127
Meeting #15-17/18**

1. OPEN SESSION

1.01 Call to Order / Roll Call

President Andrés Quintero welcomed everyone in the audience and called the Board Meeting to order at 5:33 p.m. followed by Roll Call.

Board Members Present:

Andrés Quintero	President
Karen Martinez	Vice-President
Esau Ruiz Herrera	Clerk
Dolores Marquez-Frausto	Member
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
Jess Serna	Interim Assistant Superintendent, Human Resources
Marie Sanchez	Sr. Executive Assistant, Superintendent's Office
Angel Rodriguez	Executive Assistant/Communications Support
Jackie Guevara	Executive Assistant, Superintendent's Office

President Andrés Quintero stated that he wanted to give Member Khanh Tran credit where credit was due for setting aside some money, earlier this year, for immigration issues. He gave special thanks to Member Khanh Tran.

President Andrés Quintero announced that there was consensus from the Board to move up ***Agenda Item 9.12 Board President, Nomination and Election*** to follow ***Agenda Item 1.01 Call to Order/Roll Call***.

9. SUPERINTENDENT / BOARD BUSINESS

9.12 Board President, Nomination and Election

Member Dolores Marquez-Frausto nominated Clerk Esau Ruiz Herrera for President. Clerk Esau Ruiz Herrera accepted the nomination.

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

Vice-President Karen Martinez nominated President Andrés Quintero for President. President Andrés Quintero accepted the nomination.

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

The new Board President now is Esau Ruiz Herrera.

1. OPEN SESSION (continued)

1.02 Public Members Who Wish to Address the Board

Public Comments:

- 1) Natalie Balm – Community member, spoke on behalf of Mr. Ray Mueller, COC Chair, and read a short memo asking the Board to reconsider approving the proposed legal contract to Maribel Medina. The public is very uncomfortable with this contract; however, if the Board approves such a contract, please consider having the terms terminate by December 1, 2018, and to make sure there was a clause for buying out the contract.
- 2) Alison Cingolani – COC representative, read a paragraph from the contract indicating that the firm does not specialize in construction, procurement, and school finance, which are areas that we do in fact need.
- 3) Jocelyn Merz – AREA president, asked the Board to reconsider taking action on this contract with Leal & Trejo. She stated that the District is under investigation by the District Attorney's Office and also the SEC—why would we contract with a legal services firm who has crafted favorable contracts with Del Terra? She commented that there are other local legal firms that do not bring with them all this unwanted questionable baggage and perceived favoritism for this firm causes concern!

1. OPEN SESSION *(continued)*

1.03 Legal Services Contract

Board Comments:

Member Khanh Tran commented that he has heard the public state, “this firm is this, and this firm is that.” In his book, the firm is credentialed by the California Bar Association. Leal & Trejo has worked for the Santa Clara County Office of Education. Member Khanh Tran stated that if the books are out of order or we are missing money, we need to get to the bottom of this. He commented that we can’t build our buildings at Fischer—it was supposed to cost \$8M and now it is costing us \$12M. He stated that he supports Maribel Medina and her law firm.

Member Andrés Quintero stated that he wanted to reiterate his position. When he read out information from the papers of record from Southern California laying out significant concerns about the work of Del Terra, all this was not his personal issue or his own opinion—it was for advocating for the people of East San Jose! Our taxpayers deserve the best. He commented that he was stepping up and affirming his discontent with Leal & Trejo.

Member Dolores Marquez-Frausto reported that she will be supporting this contract because when they first started receiving letters from the Santa Clara County Office of Education (SCCOE), the Board was going in an area of having no knowledge of a FCMAT report; inconsistent financial services leadership; and administration’s lack of records. Member Dolores Marquez-Frausto commented that we need someone who knows what the county office is all about – this is the kind of person she wants to come and help the District. The SCCOE has no authority to tell us what legal counsel or Superintendent to hire—they do not dictate who to hire or what process should be used. She commented that she welcomes Maribel Medina and her legal firm Leal & Trejo.

Member Khanh Tran stated that he dittos Member Dolores Marquez-Frausto’s comments above. He asked Member Andrés Quintero if he was alleging that some of the Board had been bought by some firm just because they were not in agreement with him—this is very disrespectful. He stated that he could not be bought because only his company could afford him!

There were additional comments made by the Board.

MOTION #15-01 by Member Dolores Marquez-Frausto to accept and adopt the Legal Services Contract with Leal & Trejo, as presented. MOTION #15-01 was seconded by Member Khanh Tran.

MOTION #15-01 carried with a vote of 3 in favor (Members Khanh Tran, Dolores Marquez-Frausto, and President Esau Ruiz Herrera); 2 in opposition (Vice-President Karen Martinez and Member Andrés Quintero); no absent; and no abstention.

1. OPEN SESSION *(continued)*

1.03 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 Comment:

- 1) Jeff Markham – Community member that encouraged the District to proceed with ***Agenda Items 2.02 Conference with Labor Negotiators, Employee Organization: AREA and 2.03 Conference with Labor Negotiators, Employee Organization: CSEA*** and to enter into negotiations with a good heart and get this done quickly since we have enough turmoil in the District.

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

The Board recessed to Closed Session at 6:03 p.m. President Esau Ruiz Herrera announced that the Board would reconvene to Open Session at approximately 6:45 p.m.

3. RECONVENE TO OPEN SESSION

3.01 Call to Order / Pledge of Allegiance

The Board reconvened to Open Session at 6:50 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 asked Attorney Maribel Medina to report the action taken in Closed Session.

Attorney Maribel Medina reported out on the following:

2.01 The Board voted to waive the attorney-client privilege pursuant to Search Warrant No. 51590 with a vote of 4 in favor and 1 opposition (Member Dolores Marquez-Frausto); no absent; and no abstention.

2.07 The Board voted unanimously to accept the resignation of one certificated teacher.

Attorney Maribel Medina stated that there was no other action to report at this time.

3. RECONVENE TO OPEN SESSION *(continued)*

3.03 Agenda Review and Adoption

Superintendent Hilaria Bauer asked to combine and move *Agenda Item 10.03 Approval for a Lease Agreement between the City of San Jose, Presley Center Bridge Branch Library at Chavez* and *Agenda Item 7.01 Presentation for San Jose Public Library Agreement* before *Agenda Item 6 Public Hearing*.

Member Andrés Quintero asked to move the following agenda items to follow after *Agenda Item 7.01 Presentation for San Jose Public Library Agreement* and *10.03 Approval for a Lease Agreement between the City of San Jose, Presley Center Bridge Branch Library at Chavez*:

- *9.06 Public Advocates will provide the Board with a brief presentation*
- *9.10 Board-Created Standing Committees (sunshining)*
- *9.11 Board-Created Standing Committees (reports)*

Vice-President Karen Martinez asked to move *Agenda Item 10.02 FCMAT Update* to follow the other items.

4. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD

4.01 Requests to Address the Board

Public Comments:

- 1) Alison Cingolani – COC representative, read a quote from the National School Board Handbook about the role of the Board of Trustees. She commented that the school board represents the community's voice and what the community wants—the board is answerable to the community. She also commented that on our school board's website, the contact information for Member Dolores Marquez-Frausto, the phone number listed goes straight to the district. She reported that she has never received a response from her—it is important that you respond back to your phone messages and update your contact information.
- 2) Ernesto Bejarano – Sheppard community member, reported that he was offended by comments made from certain members of the board—and he is not easily offended. When comments are made that degrade or question his community—he takes offense. When you see the same faces in this crowd—we hope that you know that we are representative of the political and social community when we attend these meetings, we are not speaking on our own personal behalf—these faces represent a larger community, and I feel that we deserve respect as individuals.
- 3) Ray Mueller – COC Chair, addressed the issue of board members not using the ARUSD domain for their email addresses, but rather their own personal addresses.

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)

Vince Iwasaki – Past President, reported that Dr. Sandra Sarmiento was absent due to illness. He reported that over the past month, in conjunction with AREA, a Professional Development day was negotiated. Certificated staff would be onsite working, but students would not be present. He reported that the Instructional Leadership team had recently met at the SCCOE and was working on school plans for the remainder of the year which is a huge testament to the teachers. Lastly, he reported that he was hosting the March Madness event in March.

5.04 Alum Rock Educator's Association (AREA)

Jocelyn Merz – AREA President, addressed her comment to President Esau Ruiz Herrera, extending her sincere sympathies for the recent passing of his brother J.R. Herrera. She commented that sometimes we must perform tasks that are not pleasant. She reported that AREA had endorsed and supported candidates for the Board because, at the time, they believed that they derived their trust; however, things have now changed. She stated that on behalf of the AREA Executive Board and AREA, for the sake of the district, they were asking for the immediate resignation from Trustees Esau Ruiz Herrera, Khanh Tran, and Dolores Marquez-Frausto for their lack of judgment and disrespect of our community. She stated that AREA was asking that the Board make the right decision by removing themselves from the Alum Rock School Board so that the District could refocus on the work of educating the children.

5.05 Superintendent

Superintendent Hilaria Bauer reported that two of our students were competing in the county-wide spelling bee and placed 6th and 9th – a big congratulations! She also reported that she wanted to highlight the item coming up with the partnership with San Jose Public Library – this was such an amazing accomplishment from all the teams.

5. COMMENTS AND COMMUNICATION *(continued)*

5.06 Board of Trustees

Member Andrés Quintero reported that last month he attended an event for SOMOS Mayfair held at Evergreen College. He also asked the Board for support in adjourning this meeting in memory of Mr. Carlos Fernandez, a long-time city employee and a Vietnam War Veteran who had recently passed away.

Member Dolores Marquez-Frausto stated that she was very disappointed about what she had just heard from AREA's comments—to take this meeting and make it political. She stated that she understood the people in the room were not her constituents. She then gave a brief history of her campaign and reported that she really did not even need to campaign her first time around and did not even spend a penny. She did not have the money to campaign at the time except to pay her \$1,800 to place her statement with the Registrar of Voters in order to run. She stated that the second time around, the AREA union found her and gave her support and she came in with the highest amount of votes. The third time around, AREA did not want to endorse her and ran a young man against her, and he did not even come close to her votes. She came in with over 12K votes because the community that knows her voted her in. Member Dolores Marquez-Frausto gave thanks to the people out in TV land for putting her in 'this chair' and for taking care of this community and letting her help run the District.

Member Khanh Tran reported that in 2014, AREA endorsed him and gave him some money to be used for his campaign. He stated that last year he fought for 600 teachers and their contract. He even walked alongside the teachers in the picket line fighting for salary increases. He commented that we are giving raises to AREA and our books are not even balanced and they are saying that everything is fine! During his tenure here, the Board has approved raises to all employees. He asked the AREA President, "Why don't you teach and go back into the classroom?" He commented that if he did not care about the District, why would he have set aside funds for those most vulnerable? Member Khanh Tran commented that the rest of the Board acts on emotion and not on logic. He also commented that Del Terra is delivering—they are on time and on budget and he is still waiting for proof that they have done something wrong.

Vice-President Karen Martinez reported that initially she was not going to make any comments; however, she is now going to make at least 4. She commented that it is unfortunate that some Board members choose to use public time for their political agendas. She stated that at some time, when she speaks, that she indicates that her comments are on behalf of just one Trustee, and not on behalf of the entire Board. She wanted to ask her colleagues to do the same. She stated that she will continue to show you who she is by how she votes. She stated that in regards to campaign endorsements, regardless of any endorsements, no one owns her and she only reports to her husband and her children—she does not owe anything to anyone.

5. COMMENTS AND COMMUNICATION *(continued)*

5.06 Board of Trustees

Vice-President Karen Martinez briefly spoke about the I9 audits that have been occurring in the community and how they are impacting the children, parents, teachers, and the entire community. She gave thanks to Superintendent Hilaria Bauer and staff for coming together to ensure that the socio-emotional impact on the students would be managed. Lastly, she gave thanks to all the folks that attend these board meetings because their voices do matter! She commented that she was once on the other side sitting in their seat.

President Esau Ruiz Herrera reported that he was a proud graduate of Alum Rock schools and a proud parent of two teachers. He stated he will continue to support our teachers in our schools and in our community regardless of political opinion. He commented he is very much appreciative of the people that attend the board meetings. Clerk Esau Ruiz Herrera reported that City Year was present and thanked them for what they did every day at our schools—this speaks highly of City Year! Lastly, he reported that the 4th Annual March Madness family event was quickly approaching, March 1-3, 2018, at William C. Overfelt High School.

7. SPECIAL PRESENTATION AND/OR RECOGNITION

7.01 San Jose Public Library Agreement

Superintendent Hilaria Bauer reported that she has been working diligently with San Jose Public Library to utilize the Presley Center that will serve our students at Chavez and Mathson Schools. She reported that one emphasis would be in youth resources in a program that was coming through a grant from the library sought for on our behalf. She commented that this was a 3-year pilot program. She said that every family would have access to it, but because of proximity, Chavez and Mathson would benefit the most.

10.03 Approval for a Lease Agreement between the City of San Jose, Presley Center Bridge Branch Library at Chavez

MOTION #15-02 by Member Andrés Quintero to accept and approve the Lease Agreement between the City of San Jose, Presley Center Bridge Branch Library at Chavez as presented. MOTION #15-02 was seconded by Member Dolores Marquez-Frausto.

7. **SPECIAL PRESENTATION AND/OR RECOGNITION** *(continued)*

10.03 Approval for a Lease Agreement between the City of San Jose, Presley Center Bridge Branch Library at Chavez

Public Comments:

- 1) Saul (no last name given) – SOMOS representative that read from a memo presented to the Board.
- 2) Jasselia Rizo – Community parent that stated that about a year ago, Superintendent Hilaria Bauer and Mr. Rene Sanchez along with personnel from the public library, went to see that open space—with a vision of a library that could contain books of our culture and identity, in addition to having dialogue about having computers accessible to parents and the middle schools. She commented that this could be like a tricycle mobile library.
- 3) Dr. Julio Villalobos – Chavez principal, stated that this would have a huge impact at Chavez for the teachers and students—this is a key component to having access to a library that is close to the schools and could provide a place for homework and research.
- 4) Vince Iwasaki – Mathson principal, commented he is excited for this opportunity—the worlds that it opens to students! He encouraged the Board to support this effort.
- 5) Ernesto Bejarano – Sheppard parent, shared with the audience that he was privileged to be a public servant with social services. He stated that this community is near and dear to him. He encouraged the Board to support this project and commented that any opportunity to support access to resources, especially when we can leverage partnerships, especially in this neighborhood, is a very good thing.

Board Comments:

Vice-President Karen Martinez gave thanks to SOMOS Mayfair for their support and partnership in working with parents to ensure we bring the services that our community deserves.

Member Andrés Quintero commented that he was very excited about this partnership and its becoming a reality—these things don't just happen. They require a lot of work and good teachers. He shared that every once in a while, people from the community will say good things about programs at Alum Rock, despite all the things being said by the media.

President Esau Ruiz Herrera commented that developing and strengthening literacy is one of the good things happening in Alum Rock; however, check to see if this makes the news. You probably won't see or hear about it. He commented that access to books is critical!

MOTION #15-02 carried with a vote of 4 in favor; no opposition; 1 temporarily absent (Member Dolores Marquez-Frausto); and no abstention.

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.06 Public Advocates

Superintendent Hilaria Bauer reported that a written report had been given to the Board on the services that Public Advocates has provided to the District since 2014.

9.10 Board-Created Standing Committees. The Board will discuss the merits of these committees.

Public Comments:

- 1) Ray Mueller – COC Chair, asked why are these committees still active if some of these committees are not active? He stated that he questioned the validity of these committees. He also stated that per the Board's own bylaws, the Board is suppose to be the one that sets meeting times and the committees should reflect a diversity of the community.
- 2) Ernesto Bejarano – Sheppard parent, reported that he listened to the Bond Committee Meeting online and encouraged the Board to look into the practice of asking those people entering a public meeting who they are and who they represent.
- 3) Jeff Markham – Community member, stated he had two issues with the Bond Committee Meeting that he recently attended. First, the second Board Member was unable to attend; and second, he asked that these committees be held at a reasonable time when community members can attend.
- 4) Maria D. Martinez – Community member, stated that as a mom, she would like to know more about these committees, especially the parent engagement committee.
- 5) Cureton parent (*no name given*) – Parent spoke about wanting safer schools and requested from the Board the purchase of cameras for security purposes (this issue was out-of-order but allowed by President Esau Ruiz Herrera).
- 6) Pilar Navarrette – Parent also spoke on the issue of student safety at the schools. She stated that she appreciates the Board's support, but was worried about the students and their safety. She encouraged the Board to focus more on the security for the students and said we need safe schools with the support of cameras.

Board Comments:

Member Dolores Marquez-Frausto briefly explained how the committees were formed and gave a little history of how her committee came to meet at the noon hour. She used the following example: Damien Trujillo has come to the Bond Committee Meeting several times during his lunch hour to advocate and he is a really busy man....if he was able to make this meeting during his lunch hour a priority, so could everyone else!

Vice-President Karen Martinez stated that if the Board had had a Board Retreat, they could now work together and be more engaged. She reported that the Board did not vote on who was going to do what in December 2017, and if the Board followed their committee bylaws, the last meeting would be void because it happened after December and they had not yet

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.10 Board-Created Standing Committees. The Board will discuss the merits of these committees

voted on anything. She asked the Board to vote on who is going to be on what committee and move forward.

Member Khanh Tran agreed with Vice-President Karen Martinez since the committees were not sunset in December 2017, at this point, we just need to be stabilized because we have folks that are not accountable.

Member Dolores Marquez-Frausto commented that she was not in agreement with this and refused to restart and reconstitute committees because her committee members work well with her and it was inappropriate to not think about her committee members.

MOTION #15-03 by Member Dolores Marquez-Frausto to continue with the existing committees. There was no second made to MOTION #15-03.

President Esau Ruiz Herrera stated that the Board is not directed or obligated to take any action on board standing committees...it is an opportunity to do so...but we are not required to do. The meetings that have occurred are as valid as any committee meetings we have had. It is also true that Board has taken on constituting or re-constituting our committees. The ad hoc committees will have their schedules set by the Board...the standing committees may set their own meeting times.

The Board had additional dialogue on this agenda item.

Attorney Maribel Medina reported that in reviewing Board Bylaw 9130, we have three different types of committees. There is no end date to a subcommittee unless the jurisdiction you have assigned to has been completed. Standing committees can go on from year to year and the ad hoc committees seem to be valid.

MOTION #15-04 by Member Khanh Tran to keep all existing committees as is for 2018. MOTION #15-04 was seconded by Member Dolores Marquez-Frausto.

MOTION #15-04 failed with a vote of 2 in favor (Members Khanh Tran and Dolores Marquez-Frausto); 2 in opposition (Vice-President Karen Martinez and Member Andrés Quintero); no absent; and 1 abstention (President Esau Ruiz Herrera).

President Esau Ruiz Herrera stated that he would be bringing this agenda item back for the March meeting.

9. SUPERINTENDENT / BOARD BUSINESS *(continued)*

9.11 Board-Created Standing Committees. The Board will report on committees

There were no reports from the Board Members at this time.

Public Comment:

- 1) Ray Mueller – COC Chair, asked, “What’s the purpose of holding these meetings if you never report back?”

10. BUSINESS

10.02 FCMAT Update

Assistant Superintendent Kolvira Chheng reported that on July 27, 2017, the Board authorized a formal written response to the FCMAT Extraordinary Audit. 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) Documents and Records pursuant to Program and Construction Management Agreement for Measure I, dated November 10, 2016, Exhibit B
- 3) Documents and Records pursuant to Program Management Agreement for Measure J, dated November 10, 2016, Exhibit C
- 4) Documents and Records pursuant to Construction Management Agreement for Measure J, dated November 10, 2016, Exhibit D
- 5) Documents and Records pursuant to Program Management Agreement for Measure J, dated May 9, 2013, Exhibit E
- 6) Documents and Records pursuant to Construction Management Agreement for Measure J, dated October 1, 2013, Exhibit F

Assistant Superintendent Kolvira Chheng gave a brief executive summary regarding DSA close-out certification services from the October 12, November 9, December 14, 2017 and February 8, 2018 Board Meetings.

Assistant Superintendent Kolvira Chheng provided a written report to the Board with more detailed information. He stated that the District is continuing to review the documents; however, it has been a challenge for the District staff to reconcile documents from the hard drive to the matrix.

6. PUBLIC HEARING

President Esau Ruiz Herrera announced that he would be combining the two Public Hearings listed below:

6.01 District's Initial Bargaining Proposal to Open Negotiations with Alum Rock Educator's Association (AREA) for the period of July 1, 2018-June 30, 2021

6.02 The Alum Rock Educator's Association (AREA) Initial Bargaining Proposal to Open Negotiations with the Alum Rock Union Elementary School District for the period of July 1, 2018-June 30, 2021

President Esau Ruiz Herrera opened the two Public Hearings at 9:15 p.m.

7. SPECIAL PRESENTATION AND/OR RECOGNITION

7.02 Immigration Information for Families

Norma Flores, Director for Student Services, gave a presentation on Immigration. She reported that Community Liaisons had been trained on updated resources and practices and that agencies had provided information to the families on "Know Your Rights". She also reported that Superintendent Hilaria Bauer had met with stakeholders around the growing concerns and had sent out information on the steps to take and what to do. In addition, a district-wide flow chart had also been created for possible parent deportation.

Public Comments:

- 1) Jeff Markham – Community member, reported that Vice-Mayor Magdalena Carrasco was conducting a rapid response training in the community.
- 2) Maria D. Martinez – Parent, stated she would like information for the parents to see; wants the schools to prepare a drill for immigration in the building; provide training for the parents on how to prepare; and some kind of code sent out.

8. BOND / FACILITIES

8.01 Presentation and/or Update on the Bond/Facilities

Assistant Superintendent Kolvira Chheng stated that Mr. Luis Rojas, CEO, Del Terra, was not present at this meeting.

Assistant Superintendent Kolvira Chheng distributed, to the Board, a written report with Bond Program updates.

8. BOND / FACILITIES *(continued)*

8.01 Presentation and/or Update on the Bond/Facilities

Member Andrés Quintero asked about the status of the bonds in line with the law. He commented that Del Terra is the fiduciary and asked, "What is the status of the change order and what are we doing to make sure we are not going against the law?" He also asked how we could make sure that we obtain the requested documents mentioned earlier in the meeting.

Member Khanh Tran commented that he had heard that the CBO had been involved in the change order process and that he was not playing the 'blame game' any longer and requested that legal counsel review the process along with the roles and responsibilities so that all the "I's" were dotted!

Member Dolores Marquez-Frausto asked Assistant Superintendent Kolvira Chheng for clarification if he was involved and aware of the work orders and that they had gone over and above the allowed legal limit.

President Esau Ruiz Herrera suggested that this conversation should be focused toward the Superintendent and administration as some of this dealt with personnel issues in Closed Session.

Member Andrés Quintero commented that *we need to stop blaming the staff* while the others are getting bond money due to the fact that Del Terra is the fiduciary, they should be overseeing this raised concern.

Public Comments:

- 1) Ray Mueller – COC Chair, reported that Del Terra had not attended the Citizen's Oversight Committee Meeting and that the man admitted that he had not attended because he had not been paid.
- 2) Jeff Markham – Community member, read something from a document from the Santa Clara County Office of Education.

8.02 Citizen's Bond Oversight Committee (CBOC)

Superintendent Hilaria Bauer reported that Mr. Ray Mueller, COC Chair, had requested that this item be placed on the agendas as a regular agenda item.

Ray Mueller reported that elections were held at the last CBOC meeting and the outcome was as follows:

- President: Ray Mueller
- Vice-President: Alison Cingolani
- Secretary: Frank Chavez

8. BOND / FACILITIES *(continued)*

8.02 Citizen's Bond Oversight Committee (CBOC)

Ray Mueller reported that two committees had been established. One of the committees will be visiting school sites to see what is going on. Many times they do not see what is going on until the end of the project or event and then come the audits. The 2nd committee is a sub-committee. Ray Mueller asked staff when the audits would be completed.

8.03 Citizen's Bond Oversight Committee (CBOC) Appointment

Ray Mueller reported that the CBOC Committee currently has two vacant positions and one application had been submitted for one of the two positions. He reported that Monica Francine Brissey has recently moved into the area, works at East Side Union High School District, and has a student that will eventually attend a school in Alum Rock. Ray Mueller reported that Ms. Brissey will fill the vacancy of Community-at-Large.

MOTION #15-05 by Vice-President Karen Martinez to accept and approve the appointment of Monica Francine Brissey to the Citizen's Bond Oversight Committee as presented. MOTION #15-05 was seconded by Member Khanh Tran.

Vice-President Karen Martinez asked staff to explain the process for this individual to participate in the CBOC and asked how would they know if committee members attend these meetings.

Assistant Superintendent Kolvira Chheng briefly explained the process and reported that the CBOC Chair would take note and report committee members' attendance in the minutes.

MOTION #15-05 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.

9. SUPERINTENDENT/BOARD BUSINESS

9.01 Public Employee Performance Evaluation for the Superintendent

The Board had discussion on this agenda item. Vice-President Karen Martinez requested to hold a Special Board Meeting with only this agenda item. She commented that Superintendent Hilaria Bauer had indicated that she was willing to waive her evaluation to be discussed during a public session vs. in closed session for the sake of transparency.

Member Dolores Marquez-Frausto stated that even though it was her right to request a public meeting, what was the Board's legal right? She commented that she did not know of any District that evaluates a Superintendent in public and requested that she would like legal counsel to look into this and inform them of what this means to them as a District.

9. **SUPERINTENDENT/BOARD BUSINESS** *(continued)*

9.01 Public Employee Performance Evaluation for the Superintendent

President Esau Ruiz Herrera also asked about our legal obligations—is it unilateral or bilateral?

Member Khanh Tran commented that he agrees and supports Vice-President Karen Martinez with the idea of holding a special board meeting just for this one agenda item and the sooner the better. He suggested Thursday, February 15. He stated that, in his opinion, there has never been any evaluation thus far.

There was consensus from Members Andrés Quintero and Khanh Tran and Vice-President Karen Martinez to hold a special board meeting on Tuesday, February 27, 2018, 6 p.m. with only one agenda item—the evaluation of the Superintendent.

9.02 Renewal Contract for Continued Representation of Legal Services for Negotiations with the Law Office of Rehon & Roberts, until April 30, 2018

Superintendent Hilaria Bauer asked the Board for their support on this agenda item.

Member Khanh Tran stated that the District already has a new legal counsel and a second law firm is not needed; he does not see the value of hiring another attorney. He will not be supporting this renewal with the Law Office of Rehon and Roberts.

Member Andrés Quintero stated that we do not want to pay legal counsel some money to pass and hire a second attorney. He stated that he just wants to move forward!

President Esau Ruiz Herrera commented that he was not persuaded that an attorney needed to be in attendance in negotiations. He felt that administration could be the speaker for the Board and then present recommendations to the bargaining agent. He stated that he recognized the value in past knowledge, but as we talk about new days and a new era, let's make it that. He stated that this Board has appointed a new general legal counsel for anything that is needed and the Board has the final say on who works for them.

Member Dolores Marquez-Frausto reported that when she was Board President, she brought in Attorney Rogelio Ruiz to the table when the District had chaos. She commented that she agrees that the budget will be helped by not having an attorney at the bargaining table.

MOTION #15-06 by Member Andrés Quintero to accept and approve the Renewal Contract for Continued Representation of Legal Services for Negotiations with the Law Office of Rehon & Roberts, until April 30, 2018. MOTION #15-06 was seconded by Vice-President Karen Martinez.

9. SUPERINTENDENT/BOARD BUSINESS *(continued)*

9.02 Renewal Contract for Continued Representation of Legal Services for Negotiations with the Law Office of Rehon & Roberts, until April 30, 2018

MOTION #15-06 failed by a vote of 2 in favor (Vice-President Karen Martinez and Member Andrés Quintero); 3 in opposition (President Esau Ruiz Herrera, Members Khanh Tran and Dolores Marquez-Frausto); no absent; and no abstention.

9.03 Adopt the 2nd Reading of the Amended Board Policy 2121, Superintendent's Contract, Administration

MOTION #15-07 by Member Andrés Quintero to accept and adopt the 2nd Reading of the Amended Board Policy 2121, Superintendent's Contract, Administration as presented. MOTION #15-07 was seconded by Vice-President Karen Martinez.

Member Dolores Marquez-Frausto stated that she wanted this agenda item to be moved to the next board meeting because she had not had time to review this item yet with the new laws coming out.

Member Khanh Tran stated that since we had recently hired a new general legal counsel, he would like to request that they provide recommendations to the Board adopting or denying this policy.

Member Andrés Quintero stated that this agenda item has been on the agenda for several months already. He commented that this policy has a positive piece with regards to the buyout clause in the event it was needed.

President Esau Ruiz Herrera stated that this was a second reading and it was a move to adopt the reading.

There was no vote taken on MOTION #15-07.

Public Comment:

- 1) Alison Cingolani – Community member, commented that members of the Board should come prepared to the meetings so that we can move through the agenda more quickly and get back to our families.

Vice-President Karen Martinez stated that when the Trustees are calling legal counsel, she assumes that we are being charged. She asked for clarification on the protocol on how this works because costs seem to be building up.

9. SUPERINTENDENT/BOARD BUSINESS (continued)

**9.03 Adopt the 2nd Reading of the Amended Board Policy 2121,
Superintendent's Contract, Administration**

MOTION #15-08 by Member Dolores Marquez-Frausto to Table this agenda item until the next meeting. MOTION #15-08 was seconded by Member Khanh Tran.

MOTION #15-08 carried with a vote of 4 in favor; 1 in opposition; no absent; and no abstention.

9.04 The Cost of Special Board Meetings

Superintendent Hilaria Bauer reported that a member from the public had requested the costs of holding special board meetings and a handout was distributed.

Public Comments:

- 1) Ray Mueller – COC Chair, reported that the cost for a special board meeting was \$1,600 for a three-hour meeting and so far the District had held at least 5-8 and we are not even close to the end of the school year!
- 2) Diltza Gonzales – Parent that stated that she was amazed the we were wasting \$1,600 on these meetings when there were parents contributing donations for field trips because they could not afford the cost for a bus. She asked the Board to please reconsider when scheduling the special board meetings.

Member Khanh Tran stated that he wanted to put things in perspective and said that he felt the January special board meeting was not a legal meeting and should have never been called. He said the 3rd Trustee had not communicated to the entire Board that she would be able to join the meeting.

Vice-President Karen Martinez stated that she did not recall that this is how the story went but it was late now and she was not going to elaborate on this. She asked Member Khanh Tran to please think about what he says before he says it because it is a reflection of the entire Board. She commented that she is nothing like Member Khanh Tran!

Member Andrés Quintero commented that was not right! He reported that he did have three members that had confirmed their attendance for the special board meeting and he went ahead and moved their directive. He commented that he felt Member Khanh Tran needed to 'man up' and admit what really happened and not try to make it look like he did something wrong. Let's get away from this twilight zone!

President Esau Ruiz Herrera stated that he wants to make sure the special board meetings are purposeful and not just being held for whatever reason. He also stated, if and when a board retreat is scheduled, the Board will set a protocol for holding special board meetings.

9. **SUPERINTENDENT/BOARD BUSINESS** *(continued)*

9.05 Board Bylaw 9250, Remuneration, Reimbursement and Other Benefits

Superintendent Hilaria Bauer reported that this agenda item was requested by a community member.

Public Comments:

- 1) Ray Mueller – COC Chair, asked the Board if they had received a raise?
- 2) Ernesto Bejarano – Sheppard parent, commented that every person feels strongly about a few items. He asked the Board if they could take a step back and draw back from their objectiveness and be more open.

Member Khanh Tran replied, 'Did we get a raise' but then President Esau Ruiz Herrera commented that after tax dollars, they would only see a small increase in their pockets.

9.07 Board Retreat and Training, which may include a session on Board Self-Evaluation

The Board had discussion on this agenda item and went back-and-forth on agreeing on a meeting date.

President Esau Ruiz Herrera reported that he had lots of experience providing these kinds of training sessions; however, Member Andrés Quintero commented that he wanted someone to facilitate this retreat with no connection or history to any of the board members or any of their family members. He wanted someone that would be impartial; otherwise, he would not be participating in the retreat.

President Esau Ruiz Herrera confirmed that the Board would give staff the responsibility of finding a facilitator—somebody that does not know any of the Board.

MOTION #15-09 by Vice-President Karen Martinez to set and conduct a Board Retreat and Training on Saturday, March 10, 2018, 9-3 p.m. MOTION #15-09 was seconded by President Esau Ruiz Herrera.

Public Comment:

- 1) Ray Mueller – COC Chair, requested that if this board retreat does indeed happen, to please post the agenda as early as possible for the sake of notifying the community.

There was no vote taken on MOTION #15-09; however, the Board was in consensus to accept the MOTION as stated.

9. SUPERINTENDENT/BOARD BUSINESS *(continued)*

MOTION #15-10 by Vice-President Karen Martinez to extend the Board Meeting until 11:00 p.m. to finish Board business. **MOTION #15-10** was seconded by Member Andrés Quintero.

***MOTION #15-10** carried with a vote of 5 in favor; no opposition; no absent; and no abstention.*

MOTION #15-11 by Vice-President Karen Martinez to Table and combine the two agenda items listed below for the next board meeting and to put them at the beginning of the agenda. **MOTION #15-11** was seconded by Member Andrés Quintero.

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

9.09 Discussion around George Multi-Purpose Community Room, excluding the George campus pertaining to the Earthquake Fault line

***MOTION #15-11** carried with a vote of 4 in favor; no opposition; no absent; and 1 abstention (Member Khanh Tran).*

10. BUSINESS

10.1 Fiscal Expert Update

Assistant Superintendent Kolvira Chheng reported that at the December 14, 2017, Organizational Board Meeting, the Board accepted and approved a resolution to work cooperatively with the Fiscal Expert appointed by the SCCOE. He reported that staff has been working with the expert reviewing documents and answering questions. He stated that the District was waiting on the audit report because the auditors had requested an extension and we should have it no later than February 28, 2018.

Member Dolores Marquez-Frausto asked Assistant Superintendent Kolvira Chheng if the District was \$8M in the hole – that she remembered hearing this.

Assistant Superintendent Kolvira Chheng replied that he did not know what \$8M she was referring to.

Superintendent Hilaria Bauer clarified that the District needed to reduce the budget by approximately \$8M because of declining enrollment; however, the District was not missing money. It is the plan that the District is moving forward with SCCOE.

11. HUMAN RESOURCES

11.01 Information Regarding Resignations

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

There was consensus from the Board to combine and take action on *Agenda Items 11.02 and 11.03* listed below.

11.02 Adopt the District's Initial Bargaining Proposal to Open Negotiations with Alum Rock Educator's Association (AREA) for the period of July 1, 2018-June 30, 2021

11.03 Accept the Alum Rock Educator's Association (AREA) Initial Bargaining Proposal to Open Negotiations for the period of July 1, 2018-June 30, 2021 with the Alum Rock Union Elementary School District

President Esau Ruiz Herrera closed the two Public Hearings at 10:37 p.m.

MOTION #15-12 by Member Andrés Quintero to accept and adopt both Agenda Items 11.02 and 11.03 as presented and listed above. MOTION #15-12 was seconded by Vice-President Karen Martinez.

Member Khanh Tran commented that if the books are not aligned, how do we know that our numbers are accurate to engage in negotiations?

Superintendent Hilaria Bauer reported that we are currently transferring banks and the SCCOE is working with us and they will get a full report. At this point, they just need sanction of our numbers.

Assistant Superintendent Kolvira Chheng reported that the District is still reviewing 44 items with Bank of America.

President Esau Ruiz Herrera commented that all we are doing here is accepting the initial proposal to open negotiations.

MOTION #15-12 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.

12. CONSENT CALENDAR

Member Dolores Marquez-Frausto asked to pull *Agenda Item 12.01 Approval of Minutes for August 10, 2017, January 11, 2018, and January 17, 2018* and *12.03 Approval of Contracts for Professional Services-Firms* to be discussed separately.

MOTION #15-13 by Member Andrés Quintero to accept and approve the Consent Calendar as amended. MOTION #15-13 was seconded by Member Dolores Marquez-Frausto and President Esau Ruiz Herrera.

MOTION #15-13 carried with a vote of 4 in favor; no opposition; 1 temporarily absent (Vice-President Karen Martinez); and no abstention.

12.01 Approval of Minutes for August 10, 2017, January 11, 2018, and January 17, 2018

Member Dolores Marquez-Frausto asked why were the August 10, 2017 minutes barely being approved? She asked what happened to the September, October, and November minutes and why were these minutes left out and not included on this agenda?

President Esau Ruiz Herrera asked the Superintendent for a response in a Friday memo report explaining the reason why.

MOTION #15-14 by Member Dolores Marquez-Frausto to accept and approve the Minutes for August 10, 2017, January 11, 2018, and January 17, 2018 as presented. MOTION #15-14 was seconded by Member Andrés Quintero.

MOTION #15-14 carried with a vote of 4 in favor; no opposition; no absent; and 1 abstention (Vice-President Karen Martinez temporarily stepped out of meeting and could not vote).

12.03 Approve Contracts for Professional Services-Firms

Member Dolores Marquez-Frausto stated that the contract for Atkinson, Andelson, Loya, Ruud & Romo was empty. She stated that she would not be supporting this contract. She asked for the scope of work and for the services this firm would be providing.

Superintendent Hilaria Bauer reported that this contract was before the time that Interim Assistant Superintendent Jess Serna was employed at Alum Rock and the scope of work was around providing services on student use of technology. The Board had brief dialogue on change orders. The Board was in consensus to receive a copy of the original contract originated in 2016 with the scope of work for the contract for Atkinson, Andelson, Loya, Ruud & Romo.

12. CONSENT CALENDAR *(continued)*

12.03 Approve Contracts for Professional Services - Firms

MOTION #15-15 by Vice-President Karen Martinez to accept and adopt Agenda Item 12.03 Contracts for Professional Services-Firms with the exception of the contract for Atkinson, Andelson, Loya, Ruud & Romo as presented. MOTION #15-15 was seconded by Member Andrés Quintero.

MOTION #15-15 carried with a vote of 4 in favor; 1 opposition (Member Dolores Marquez-Frausto); no absent; and no abstention.

The Board had separate discussion on the Contract for Atkinson, Andelson, Loya, Ruud & Romo, Purchase Order / Contract Adjustment

Interim Assistant Superintendent Jess Serna reported that this contract was before his tenure as Interim Assistant Superintendent and that it was just a contract adjustment to the original contract that was board approved on August, 2016 for legal advice and policy review on student use of technology. He reported that this contract adjustment was only for the amount of \$2,300 with a contract total of \$29,700.

MOTION #15-16 by Member Andrés Quintero to accept and approve the contract adjustment with Atkinson, Andelson, Loya, Ruud & Romo in the amount of \$2,300. MOTION #15-16 was seconded by Vice-President Karen Martinez.

MOTION #15-16 carried with a vote of 4 in favor; no opposition; no absent; and 1 abstention (Member Dolores Marquez-Frausto).

13. FUTURE BOARD AGENDA REQUESTS

13.01 Requests from Board of Trustees and/or from the Public

Vice-President Karen Martinez asked to put the following items on the agenda for the March meeting:

- 1) Agenda Item 9.08 Discussion around Next steps pertaining to the George/ Fischer Multi-Purpose Room (was tabled)***
- 2) Agenda Item 9.09 Discussion around George Multi-Purpose Community Room that will exclude the George campus pertaining to the Earthquake Faultline (was tabled)***
- 3) MACSA Youth Center Update and place as an Action Plan***
- 4) Safety at School Sites and the measures taken with Vandalism***
- 5) Beauty-A-Day. Will reach out to this organization to see if they can support us during the day and help with our buildings at no cost***

13. FUTURE BOARD AGENDA REQUESTS

13.01 Requests from Board of Trustees and/or from the Public

Ray Mueller also asked to put the following items on the agenda:

- 1) The MACSA Youth Center Update (is in agreement with Vice-President Karen Martinez)*
- 2) Promoting or having a different school site present on a monthly basis for their successes*

Member Andrés Quintero gave credit to President Esau Ruiz Herrera for running a good meeting.

14. ADJOURNMENT

14.01 President Adjourns the Meeting

Member Andrés Quintero asked if this meeting could be adjourned in memory and honor of Mr. Ricardo Hernandez, a Vietnam Vet from Texas who had passed. In addition, Member Dolores Marquez-Frausto also asked if they could also adjourn in memory of Mr. David Serna, another Vietnam Vet who had recently passed.

President Esau Ruiz Herrera adjourned the meeting at 10:56 p.m.

Respectfully submitted,



Esau Ruiz Herrera (*in lieu of no Board Clerk*)
Board President

HB/mcs