

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

**MINUTES OF A SPECIAL MEETING OF THE BOARD OF TRUSTEES
of the Alum Rock Union School District
Held on Friday, October 27, 2017, 7:30 p.m. at the Alum Rock Union School
District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127
Meeting #08-17/18**

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 7:34 p.m. followed by Roll Call.

Board Members Present:

Esau Ruiz Herrera	President
Andrés Quintero	Vice-President
Dolores Marquez-Frausto	Clerk
Khanh Tran	Member
Karen Martinez	Member (<i>arrived late at 7:39 p.m.</i>)

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

2. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD

The Board was in consensus to consider opening the public comments during each individual agenda item rather than during the general public comment session.

3. SUPERINTENDENT / BOARD BUSINESS

3.02 Review and Respond to the Conditional Approval of the 2017-18 Adopted Budget from the Santa Clara County Office of Education

Assistant Superintendent Kolvira Chheng read some of the highlights of the letter from Mr. Jon Gundry, County Superintendent of Schools. He reported that by October 8, 2017, the Alum Rock Union Elementary School Board must take the following actions or provide whether the budget, with any revisions, should be approved or disapproved:

- 1) Report quarterly the current status of planned action(s) for each recommendation of the FCMAT audit dated June 9, 2017
- 2) Clearance of the budget assumptions that appear to be understood
- 3) Preparation of the monthly cash reconciliation by each monthly due date
- 4) Preparation of a cash flow report for the current fiscal year that utilizes the ending cash balance from the June 30th monthly cash reconciliation as verified by a third party auditor retained by the District and approved by the County Office of Education
- 5) Preparation of the debt service plan for non-voter approved debt that presents the source of funds for the full repayment period

Assistant Superintendent Kolvira Chheng encouraged the Board to approve all the actions listed on the letter and stated that the SCCOE is committed to working closely with the District to support the efforts to maintain a sound financial status.

President Esau Ruiz Herrera recommends directing administration to respond to the 5 items listed above.

Member Khanh Tran stated that it is up to the Board to take action on the FCMAT items and not up to the County Office to enforce it!

Clerk Dolores Marquez-Frausto spoke about the Report on AB1200 and our negotiated settlements with our unions. She felt the Superintendent and Assistant Superintendent of Business Services did not follow up with this and the settlements were approved anyway. She stated that she holds the Superintendent accountable for this error! In addition, she stated that at the October 12 Regular Board Meeting, the Assistant Superintendent of Business Services listed the agenda item (Agenda Item 11.01) "Conditional Approval Letter from Santa Clara County Office of Education" as an Informational Item and not an Action Item; therefore, the Board did not discuss or take any action to approve a response to the County Superintendent. She also commented that the Board violated EC 42127(d)(3) in failing to respond to the recommendations of the County Superintendent at a Regular Meeting of the Board of Education. Unfortunately, the County Superintendent by October 22, 2017, was constrained to report to the State Superintendent that the District's budget might not be disapproved. Therefore, now the Board is trying to fix the mistake made!

3. SUPERINTENDENT / BOARD BUSINESS *(continued)*

3.02 Review and Respond to the Conditional Approval of the 2017-18 Adopted Budget from the Santa Clara County Office of Education

Vice-President Andrés Quintero stated that we are not here for AB1200 but we are here now because of the ‘sweetheart deals’ that Clerk Dolores Marquez-Frausto has given to her ‘friends’.

Member Khanh Tran commented that the mistake is done -- let’s just move forward – the Superintendent needs the Board’s support so she can do her job. In the event Del Terra did something wrong, I myself will vote them out – now our budgets are in trouble and the SCCOE is taking it out on the District!

President Esau Ruiz Herrera stated that the Board is only here for one reason, to take care of the 5 items listed on page 4 of the letter dated September 15, 2017, from the Santa Clara County Superintendent of Schools.

Superintendent Hilaria Bauer reminded the Board that during the summer, they selected dates for the completion of certain tasks with deadlines and benchmarks and these items had not yet been fulfilled.

MOTION #08-01 by Vice-President Andrés Quintero to adopt and approve the following 5 items as presented:

- 1) Report quarterly the current status of planned action(s) for each recommendation of the FCMAT audit dated June 9, 2017
- 2) Clearance of the budget assumptions that appear to be understood
- 3) Preparation of the monthly cash reconciliation by each monthly due date
- 4) Preparation of a cash flow report for the current fiscal year that utilizes the ending cash balance from the June 30th monthly cash reconciliation as verified by a third party auditor retained by the District and approved by the County Office of Education
- 5) Preparation of the debt service plan for non-voter approved debt that present the source of funds for the full repayment period

MOTION #08-01 was seconded by Member Karen Martinez.

Superintendent Hilaria Bauer recommended to the Board that they take the SCCOE request seriously and accept all items in totality!

MOTION #08-01 carried with a vote of 3 in favor (President Esau Ruiz Herrera, Vice-President Andrés Quintero, and Member Karen Martinez); no opposition; no absent; and 2 abstentions (Member Khanh Tran and Clerk Dolores Marquez-Frausto).

3. SUPERINTENDENT / BOARD BUSINESS *(continued)*

3.01 Re-Negotiation of Construction Management (CM) and Program Management (PM) Agreements with Del Terra

MOTION #08-02 by Vice-President Andrés Quintero to direct Administration to re-negotiate the Construction Management and Program Management Agreements with Del Terra and report back to the Board. MOTION #08-02 was seconded by Member Karen Martinez.

Attorney Luis Saenz reported that Agenda Item 3.01 relates to the Board authorizing and directing the renegotiation of the Construction Management and/or Program Management Agreements with Del Terra. The Board approved the response to the FCMAT Report on July 28, 2017, and administration has been in communications with Del Terra in an effort to resolve several issues including missing program and project documents, contract language issues, and the missing billing/invoice documentation for Construction Management work approximately \$329,000 in connection with preconstruction services for the Fischer and George Middle Schools Multi-Purpose Buildings; and heating, ventilation and air-conditioning HVAC at Dorsa and LUCHA Schools.

Attorney Luis Saenz reported that it was his understanding that as of this date, that while Del Terra has provided some program and project documentation, and has agreed to some changes in its invoicing and billing documentation practices, not all FCMAT issues and recommendations have been addressed or implemented.

Attorney Luis Saenz reported that in light of these several open and unresolved issues, both he and Attorney Rogelio Ruiz are in agreement that staff should be transparent in the presentation of tonight's agenda item so that it is very clear that although administration is requesting authorization to renegotiate the Program Management and Construction Management Agreements, not all the issues have been fully addressed and resolved with Del Terra. He continued to report that staff continues to work on those unresolved issues, that any renegotiated contracts should be conditioned upon all other issues being resolved. Attorneys Luis Saenz and Rogelio Ruiz recommend that the presentation include the following information:

- Consistent with the Board's approved response to the FCMAT Report, that administration and staff continue in their efforts to address the issues and implement the recommendations highlighted in the FCMAT report and the Board's response. It is important to ensure that work is completed. Administration should recommend that the Board approve the renegotiation of the District's Construction Management and Program Management Agreements with Del Terra on the condition that all remaining issues in the Board-approved response are resolved with Del terra in accordance with the Board's July 28 response.

3. SUPERINTENDENT / BOARD BUSINESS (continued)

3.01 Re-Negotiation of Construction Management (CM) and Program Management (PM) Agreements with Del Terra

Attorney Luis Saenz stated that once those issues are resolved and the contracts renegotiated, administration will present them to the Board in an open session meeting for approval.

President Esau Ruiz Herrera commented that given that report, he believes this item is superfluous. He felt there was a political issue.

Member Khanh Tran commented that he does not want to spend \$100K on renegotiating the contracts. The District should work with Del Terra and if there is an issue, they can bring it back to the Board.

Member Karen Martinez commented that we need to move forward – we need these talks to take place so we can focus on our students and their education.


MOTION #08-02 carried with a vote of 3 in favor (President Esau Ruiz Herrera, Vice-President Andrés Quintero, and Member Karen Martinez); no opposition; no absent; and 2 abstentions (Member Khanh Tran and Clerk Dolores Marquez-Frausto).

4. ADJOURNMENT

4.01 President Adjourns the Meeting

Board President Esau Ruiz Herrera adjourned the meeting at 8:44 p.m.

Respectfully submitted,



Andrés Quintero (in lieu of Dolores Marquez-Frausto, Board Clerk)
Board President

HB/mcs