

**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, October 12, 2017, 5:30 p.m. at the Alum Rock Union School
District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127
Meeting #07-17/18**

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 5:30 p.m. followed by Roll Call.

Board Members Present:

Esau Ruiz Herrera	President
Andrés Quintero	Vice-President (<i>arrived late at 6:55 p.m.</i>)
Dolores Marquez-Frausto	Clerk
Karen Martinez	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, Business Services
Marie Sanchez	Sr. Executive Assistant, Superintendent's Office
Angel Rodriguez	Executive Assistant/Communications Support
April Ramirez	Executive Assistant, Human Resources

1. OPEN SESSION (continued)

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

Public Comment:

- 1) Ray Mueller – Community member that is requesting the Board Meeting Closed Session be held the night prior to the scheduled Board Meeting so that the public does not have to wait for long periods of time for the Board to reconvene back to Open Session.

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

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

The Board recessed to Closed Session at 5:31 p.m. President Esau Ruiz Herrera announced that the Board would reconvene to Open Session at approximately 6:30 p.m.

3. RECONVENE TO OPEN SESSION

3.01 Call to Order / Pledge of Allegiance

The Board reconvened to Open Session at 6:46 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 the Board took action by a vote of 4 in favor, 1 absent (Vice-President Andrés Quintero); no opposition, and no abstention, to approve a settlement agreement. A summary of the agreement is as follows:

Through the end of summer 2020, the District will reimburse the parent for the student's private school tuition as well as for mental health therapy, academic tutoring social skills groups and reading programs. The maximum amount of reimbursements include the following:

- \$21,900 for the 2017-28 school year
- \$22,900 for the 2018-19 school year
- \$22,900 for the 2019-20 school year

3. RECONVENE TO OPEN SESSION *(continued)*

3.02 Report of Action Taken in Closed Session

The District shall have no further assessment obligations to the student and the parent. Lastly, subject to customary proof, the District will pay Tollner Law Office \$9,500 for attorney fees and costs.

President Esau Ruiz Herrera reported that there was no other action to report at this time.

3.03 Agenda Review and Adoption

Vice-President Andrés Quintero asked to move the following Agenda Items to follow Agenda Item 6 Comments and Communication.

- **9.02 Adopt the First Reading of Amended Board Policy 5145.3
Nondiscrimination/Harassment - Students**
- **9.03 Adopt the First Reading of Amended Administrative Regulation 5145.3
Nondiscrimination/Harassment- Students**
- **9.04 Adopt the First Reading of New Board Policy 5146 Married/Pregnant/
Parenting Students**

The Board was in consensus to accept the amended agenda as presented.

4. SPECIAL PRESENTATION

4.01 Presentation: Code to the Future (CTTF)

Superintendent Hilaria Bauer introduced Mr. Jason Sorich, Educational Technology Administrator, Ms. Kristin Burt, LUCHA Principal; and Ms. Lyssa Perry, San Antonio Principal. Mr. Jason Sorich introduced Ms. Kristin Burt and Ms. Lyssa Perry who gave a presentation on Code to the Future.

21st Century Initiatives in ARUSD

PROGRAMS	SCHOOLS
Verizon Innovative Learning Schools	Fischer, Ocala, and Sheppard
New Tech Network Schools	Fischer and Sheppard
STEAM Academies	Ocala and Ryan
Code to the Future Schools	Year 1: Chavez and Mathson Year 2: LUCHA and San Antonio
Latino Youth Cinema School	Hubbard
iDream Schools	LUCHA and San Antonio

4. SPECIAL PRESENTATION *(continued)*

4.01 Presentation: Code to the Future (CTTF)

Code to the Future Mission

- Build a pipeline within the K-12 level to help fill the 1,000,000+ computer science jobs that will be available in 2020
- Address underrepresentation of girls and students of color in computer science fields
- Listen to teachers and be intentional about curriculum design and student application

Phases

Scratch Phase	Lego Robotics Phase	Minecraft Phase
-Teacher PD: August, cycle is 9-12 weeks beginning of the year and ending in November/December	-Teacher PD: November/December, cycle is 8 weeks beginning in January and ending in March	-Teacher PD: March, cycle is 10 weeks beginning in March and ending in May

Scratch Phase EPIC Builds	Lego Robotics Phase EPIC Builds	Minecraft Phase EPIC Builds
San Antonio November 9, 2017	San Antonio January 30, 2018	San Antonio April 24, 2018
LUCHA December 6 & 13, 2017	LUCHA March 21 & 28, 2018	LUCHA May 23 & 30, 2018
Chavez December 11, 2017	Chavez March 5, 2018	Chavez May 28, 2018
Mathson EPIC Builds January 24 and May 30, 2018		

Public Comments: Hilaria Bauer, Jason Sorich, Kristin Burt, Lyssa Perry, Ray Mueller, and Jeff Markham.

Board Comments: Karen Martinez, Khanh Tran, Esau Ruiz Herrera, and Andrés Quintero.

5. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD

5.01 Requests to Address the Board

Public Comments:

- 1) Ray Mueller – COC Chair that commented the Bond, Facilities, and Finance Committee was not able to meet this month and for the second scheduled meeting,

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

5.01 Requests to Address the Board

the committee members did not even attend the meeting; therefore, the meeting needs to be rescheduled to a more convenient time for community members to attend

- 2) Randi McMasters – Parent and community member for the past 19 years stated she will be putting her letter of intent for the Bond, Facility, and Finance Committee. She hand-carried her letter to Superintendent Hilaria Bauer
- 3) Maria Martinez – Mathson and SOMOS Mayfair parent speaking on behalf of the LCFF and LCAP
- 4) Tereasa Rodriguez – Renaissance parent representing herself and other Spanish speaking parents wanting to understand the Education Code document
- 5) Jeff Markham – Community member that wants to reiterate Ray Mueller's request and also Agenda Item 8.15 from the last previous agenda

6. COMMENTS AND COMMUNICATION

6.01 Teamsters

There were no representatives from Teamsters at this time.

6.02 CSEA

There were no representatives from CSEA at this time.

6.03 Alum Rock Administrator's Association (ARAA)

Dr. Sandra Sarmiento, Cassell Principal and AREA President, spoke about some of the monthly activities.

6.04 Alum Rock Educator's Association (AREA)

There were no representatives from AREA at this time.

6.05 Superintendent

Superintendent Hilaria Bauer announced the upcoming STEM Innovation Award of the Year event sponsored by the Silicon Valley Education Foundation scheduled for November 8, 2017, 5:30 p.m. Ms. Lisa Carrell is the STEM Teacher of the Year. She reported that she had recently been invited to participate as a member of the ACSA Planning Steering Committee – she considered this to be a great honor.

6. COMMENTS AND COMMUNICATION *(continued)*

6.06 Board of Trustees

Clerk Dolores Marquez-Frausto stated that she wanted to clarify for the record, that she was not one of the members to vote to lease Pala, her children attended Pala and she had a great connection. In fact, she was the only NO vote! She commented that she would be speaking on ***Agenda Item 7.10 Board Created Standing Committees*** at this time so that many of the people in attendance could listen to her comments. She explained the committee meeting scheduled for September 21, 2017 was not posted correctly by the Superintendent's Office and therefore, the meeting had to be cancelled. After the meeting was rescheduled, her committee members did not get called to see if they were available to attend this rescheduled meeting. This caused confusion and therefore, the Special Committee Meeting scheduled for September 28, 2017 did not have a quorum of committee members.

Member Karen Martinez gave special thanks to the folks in attendance for participating in the board meetings. She offered her services to review and translate any documents for those parents requesting assistance.

Member Khanh Tran stated that he hopes his colleagues will support and stand along with him on ***Agenda Item 7.03 Discuss and Approve the \$250,000 set aside as Restricted Funds for use later as Legal Funds to Initiate and Defend Lawsuits against Federal Immigration Assessments and Raids.*** Member Khanh Tran stated that as a District, we want to set an example and put aside funds to protect our students.

Vice-President Andrés Quintero commented that he recently attended the NALEO Conference and it was a great learning experience. He appreciated the opportunity to be present with a lot of the decision makers.

President Esau Ruiz Herrera commented that he is excited about seeing our students coding at our schools. He reminded folks that the Annual Latino/Latina Role Model Conference will be held the weekend of October 14, 2017 at William Overfelt High School beginning at 8:30 a.m. Lastly, the March Madness Planning Committee will be meeting soon. More information forthcoming in the next few weeks.

9. INSTRUCTIONAL SERVICES

9.02 Adopt the First Reading of Amended Board Policy 5145.3(a) Nondiscrimination/Harrassment -- Students

MOTION #07-01 by Clerk Dolores Marquez-Frausto to accept and adopt the First Reading of Amended Board Policy 5145.3(a) Nondiscrimination/Harrassment—Students as submitted. MOTION #07-01 was seconded by Vice-President Andrés Quintero.

MOTION #07-01 carried with a vote of 5-0-0-0.

9. INSTRUCTIONAL SERVICES *(continued)*

9.03 Adopt the First Reading of Amended Administrative Regulation 5145.3(a) Nondiscrimination/Harrassment—Students

MOTION #07-02 by Clerk Dolores Marquez-Frausto to accept and adopt the First Reading of Amended Administrative Regulation 5145.3(a) Nondiscrimination/Harrassment—Students as submitted. MOTION #07-02 was seconded by Vice-President Andrés Quintero.

MOTION #07-02 carried with a vote of 5-0-0-0.

9.04 Adopt the First Reading of New Board Policy 5146(a) Married/Pregnant/Parenting Students

MOTION #07-03 by Member Karen Martinez to accept and adopt the First Reading of New Board Policy 5146(a) Married/Pregnant/Parenting Students

MOTION #07-03 carried with a vote of 5-0-0-0.

7. SUPERINTENDENT / BOARD BUSINESS

7.01 FCMAT Update

Assistant Superintendent Kolvira Chheng read a memo that staff had prepared for the Board. He reported that at the Special Board Meeting held on July 27, 2017, the Board authorized a formal written response to the FCMAT Extraordinary Audit. Consistent with the response and 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. The exhibits refer to the attachments included with the memo.

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 Agreement (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)

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.01 FCMAT Update

Assistant Superintendent Kolvira Chheng reported that Del Terra has failed to provide a number of different documents. Del Terra has provided the District with a spreadsheet which appears to show the certification status of 113 separate projects and at least 33 projects remain uncertified. He reported that Del Terra said they reserve the right to charge the District for these documents

Member Karen Martinez asked about our relationship with Del Terra. Assistant Superintendent Kolvira Chheng replied that they have a professional relationship.

Clerk Dolores Marquez-Frausto stated she was surprised that we are asking for full documents and what is the role of our bond director because it seems that our bond director should have these documents. Assistant Superintendent Kolvira Chheng stated that in 2013, the District did not have a bond director and there was change in CBO's so it was very important to procure a program manager to control these documents. A bond director was finally hired in February, 2016; therefore, records from February, 2016 are now with the business department.

Member Khanh Tran commented that since he has learned of the issue with Del Terra, we have said the Business Office should not pay Del Terra until the documents have been provided so that they are in compliance with their contract. Assistant Superintendent Kolvira Chheng reported that in terms of complying with the contract, it all depends—there are several contracts:

- Measure I: We do not have those documents yet and we are working with Del Terra
- Measure J: We have been working to obtain these documents and we still do not have a complete set

Member Khanh Tran stated that he would like to see some kind of executive summary showing the bottom line.

Vice-President Andrés Quintero stated that just because Assistant Superintendent Kolvira Chheng and Luis Rojas are being professional, it does not mean we are owed—regardless of who the CBO is, there should be documents available.

President Esau Ruiz Herrera stated the Board had recently received project information indicating the projects were on budget and on time; perhaps some of the projects were even under budgeted.

Assistant Superintendent Kolvira Chheng stated as specified in his memo, some of the documents have been provided and others have not. The contract requires we be provided full sets of documents when the job is closed out regardless and there is supposed to be a full set of documents with the program manager.

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.01 FCMAT Update

Public Comments:

- 1) Ray Mueller – COC Chair, reported that the COC had requested to the Board President, Superintendent, and Assistant Superintendent Chheng, certain budget information, final amount and budget change orders, and has not yet received the information
- 2) Jeff Markham – Community representative stated that as a taxpayer in this community, he was outraged that this Board is not understanding the contracts with Del Terra and he wants to terminate Del Terra now!

7.02 Legal Services Update

Assistant Superintendent Kolvira Chheng read a memo that staff had prepared for the Board. He reported that on September 15, 2017, the District was notified by the SCCOE that the District's 2017-18 Budget and Local Control Accountability Plan (LCAP) was "Conditionally Approved". Education Code provides that the County Superintendent of Schools shall either conditionally approve or disapprove a budget that does not provide adequate assurance that the school district will meet its current and future obligations. The Education Code also provides that, in connection with the review of the District's budget, the County Superintendent is also to consider additional factors such as reports containing evidence that the District is showing fiscal distress or displays a number of common predictors that a school district needs intervention. Mr. Kolvira Chheng reported that the County Superintendent has notified the District that, based on the SCCOE's review, the District's adopted budget does not meet the requirements of Education Code 42127 and is therefore "conditionally" approved.

Assistant Superintendent Kolvira Chheng also reported that although the SCCOE's letter noted that the District will meet its minimum reserve requirement in all three years, it expressed concerns and requested the following actions and additional information in the following areas:

1. Budgetary items. (a) Clearance of CalPERS or CalSTRS rates and Capital Outlay Expenditures; (b) Outstanding Cash Reconciliation; (c) Debt Service Plan for Non-Voter Approved Debt; and, (d) Preparation of Monthly Cash Reconciliations by each monthly due date
2. FCMAT Report items: (a) Weakness in Control Environment; (b) Issues with Governance, including, but not limited to Micro-Management of staff and decision making; and an Erosion of public confidence in the Board's ability to make sound, ethical decisions, especially in the management of the Bond Program; and (c) Quarterly update of the status of planned action(s) for each recommendation in the June 9 FCMAT Audit Report

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.02 Legal Services Update

Assistant Superintendent Kolvira Chheng reported the District was in the process of seeking RFP/Q for legal services with the goal of having the Board make a final decision at its December Board Meeting. The scope of services would include, but not limited to the following items:

Human Resources	General Education Law
Facilities Services	Special Education
Business and Procurement Services, Contract Support	Governmental Relations

Assistant Superintendent Kolvira Chheng reported the schedule with the dates in the RFP/Q process and would be limited to include to give a general idea of the proposed selection timeframe:

EVENT	DATE
RFP/Q Issued	Friday, October 20, 2017
Deadline for Submitting Questions	Friday, November 3, 2017
Proposal Due Date	Wednesday, November 8, 2017
Board Meeting	December 14, 2017

Member Khanh Tran commented that he would like to see 3 law firms to bid for this and go with the lowest. He asked Assistant Superintendent Kolvira Chheng if there was a reason the District could not handle an in-house attorney on salary so the District could save a lot of money. Member Khanh Tran commented that if we do have to go with an RFQ, we need to put a cap on that. He would like to get an in-house attorney ASAP.

President Esau Ruiz Herrera commented this was a good question and his suggestion would be that this administration may want to cost this out.

Vice-President Andrés Quintero stated he was very interested in seeing staff provide us with the pros and cons in bringing someone in-house.

Clerk Dolores Marquez-Frausto asked the question if we put a cap, then what happens if we are in the middle or at the end of finding a new attorney?

President Esau Ruiz Herrera stated that there has not been any action by this Board—we are only asking for an RFQ at this time.

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.02 Legal Services Update

Public Comments:

- 1) Andrea Flores Shelton – Community member that commented if there was going to be a ‘not to exceed amount’ – she would like more details about this entire contract period process
- 2) Randy McMasters – Community member that stated she had a concern about hiring an in-house attorney—this was a specialized area and the District could not expect one person to know everything and then the District would still have to go outside

7.03 Discuss and Approve \$250,000 Set Aside as Restricted Funds for use later as legal funds to initiate and defend lawsuits against Federal Immigration

MOTION #07-04 by Member Khanh Tran to accept and approve \$250,000 Set Aside for use later as legal funds to initiate and defend lawsuits against federal immigration assessments and raids impacting a sanctuary district like Alum Rock. MOTION #07-04 was seconded by Vice-President Andrés Quintero.

The Board had dialogue on this agenda item.

Board Comments: Khanh Tran, Karen Martinez, Andrés Quintero, Dolores Marquez-Frausto, and Esau Ruiz Herrera.

Public Comments:

- 1) Jeff Markham – Community member stated that all of the Alum Rock community is concerned with ICE, but what does the set-aside money really do for us? What has the District done to help?
- 2) Andrea Flores Shelton – Community member stated that there is no space that is sacred anymore so if this money can be used to support a principal that is willing to get in front of ICE, then we need to protect our families and schools.
- 3) Ray Mueller – Community member stated according to the county report, the District is \$10 million short and our students still do not have what they need...we are in the education business...not law!
- 4) Frank Chavez – Community member stated he admires the noble efforts, but we need to think about the legal ramifications if we file a Federal lawsuit...it will certainly take more than \$250k.

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.03 Discuss and Approve \$250,000 Set Aside as Restricted Funds for use later as legal funds to initiate and defend lawsuits against Federal Immigration

The Board was in consensus to amend the initial motion with a friendly amendment as follows:

A Friendly Amendment made by Vice-President Andrés Quintero to approve accounts to set-aside for legal actions to support any staff members preventing and/or protecting families against Federal Immigration assessments and raids impacting ARUSD as a sanctuary school district.

MOTION #07-04 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.

7.04 Adopt the First Reading of the Amended Board Policy 2121, Superintendent's Contract, Administration

MOTION #07-05 by Vice-President Andrés Quintero to accept and adopt the First Reading of the Amended Board Policy 2121, Superintendent's Contract, Administration, as presented. MOTION #07-05 was seconded by Member Karen Martinez.

Superintendent Hilaria Bauer stated that this has nothing at all to do with her contract, but rather with the Bylaws.

President Esau Ruiz Herrera commented that the primary change is located on page 3 of the Bylaws referring to the 18 months buyout. He was suggesting to lower the amount of the buyout to 12 months.

The Board had some dialogue on this agenda item.

MOTION #07-05 carried with a vote of 4 in favor; 1 opposition (President Esau Ruiz Herrera); no absent; and no abstention.

7.05 Board Audit Committee

Vice-President Andrés Quintero asked the Board for their support with this agenda item. He wants to start exploring this and maybe follow the model of the East Side Union High School District.

President Esau Ruiz Herrera commented that this will not replace the Citizen's Oversight Committee – this committee would be different, but there could be some overlap and it was a good idea to look into this and bring this agenda item back to the next meeting.

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.05 Board Audit Committee

Member Khanh Tran commented that he does support an audit committee, but with ‘teeth’. This committee should be able to request and have the power to force administration to comply.

Public Comments:

- 1) Ray Mueller – Chair, COC, commented that if this committee is going to be meeting during the day like the Bonds, Facilities, and Finance Committee, it will certainly be an issue
- 2) Hillory Clinton – Community representative that stated that this District does not currently have an auditor and the Districts that have audit committees have auditors

7.06 Task Force Committee

Vice-President Andrés Quintero asked the Board to support him in starting a conversation on this item. He wants to strengthen the relationship between the teachers and students. He stated that he would be interested in developing some teacher housing-he knows that Santa Clara Unified has a model in place.

Member Khanh Tran commented that he would rather use the land to build schools rather than teacher housing.

Member Karen Martinez commented that this was a very good idea and we should look into this – Evergreen School District is developing. However, she would like to have the templates of other districts before we decide.

Clerk Dolores Marquez-Frausto commented that she would be interested, but not sure if the District can afford this right now.

President Esau Ruiz Herrera commented that this was a good idea, but should have administration look into this.

Public Comments:

- 1) Natalie (no last name given) – Community member commented to the Board that they need to think outside the box and look at long-term. She does not think the teachers will like this
- 2) Danielle Letts – Hubbard teacher commented that she is not sure if housing is the answer but it is a good start. We need the teachers to stay and we need to support them

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.06 Task Force Committee

MOTION #07-06 by Vice-President Andrés Quintero that the District conduct a survey of other Districts in the area that have teacher housing plans and report the results and analysis back to the Board for consideration of this Task Force Committee not to exceed 3 months. MOTION #07-06 was seconded by Member Khanh Tran.

MOTION #07-06 carried with a vote 5 in favor; no opposition; no absent; and no abstention.

7.07 Program and Construction Management Agreement for Measures I and J. Terminate Contract between Alum Rock Elementary School District and Del Terra Real Estate Services

Vice-President Andrés Quintero stated that Board President Esau Ruiz Herrera put this agenda item as Information/Discussion rather than Action like he had requested. He commented that he wants to move forward to terminate this contract.

Member Khanh Tran stated that if he was still Board President, this item would be on the agenda for Action. However, in terms of Del Terra, there is still no proof that there is any fraud – let's not invite a lawsuit! He also commented that if everything was normal, then yes we could go ahead and terminate Del Terra; however, our own CBO accused Del Terra and caused them tremendous damage.

President Esau Ruiz Herrera stated he believes this agenda item has been on at least once for Action and certainly more than once for Discussion—and all we all have heard are unsupported allegations regarding Del Terra, and until we have all the factual base, we are only simply speculating.

Member Karen Martinez stated that for the record, Assistant Superintendent Kolvira Chheng, from her observation, has been one of the best CBO's we have had, and he is not the CBO that slandered Del Terra without any real proof.

Clerk Dolores Marquez-Frausto stated that she would like to go on record and say that since late September, the Board was told about a DA investigation; a week later, the FCMAT investigation; and then another investigation; and nothing has come to the Board by these agencies. She commented that she agrees with Member Khanh Tran that there is still no proof that there was any fraud committed.

Public Comments:

- 1) Ray Mueller – Chair, COC, commented he was tired of the Board not taking a stand and asked that we get off this subject and take action!

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.07 Program and Construction Management Agreement for Measures I and J. Terminate Contract between Alum Rock Elementary School District and Del Terra Real Estate Services

- 2) Jeff Markham – Community member that stated that FCMAT said the fox (program manager) is guarding the henhouse (construction manager). Del Terra has not provided the necessary documentation and they are in violation of the contract
- 3) Andrea Flores Shelton – Community member stated there is quite a bit of ‘passion’ around this issue – there are 3 investigations that have not been dropped. She stated that she thinks the standards on how the Board considers this item is flawed. Del Terra is in breach of the contract – it is all twisted and convoluted!

MOTION #07-07 by Vice-President Andrés Quintero to extend the Board Meeting until 11:30 p.m. to finish Board Business. MOTION #07-07 was seconded by Member Karen Martinez.

MOTION #07-07 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.

7.08 Approve Legal Services Contract regarding Securities and Exchange Commission (SEC) Investigation

Attorney Luis Saenz reported that the Superintendent had recently received a subpoena from the Securities and Exchange Commission (SEC) and had given the District until October 25, 2017 to comply with the subpoena. Currently, the District has a contract with a Bond Counsel but this contract does not include the specialized field needed. He commented that this specialized field is so specialized that the rates are 2-3 times higher than Education Law rates. Attorney Luis Saenz did some homework and found six firms capable of this work. However, he reported that of the six firms, one firm opted out and one firm was too busy. In his opinion, the remaining four firms are very capable of this specialized field.

Vice-President Andrés Quintero stated that the Stradding Agency is the agency who helped us issue the Bonds and he would not be interested in them representing us in this action. Another firm that Attorney Luis Saenz is recommending happens to be in the same building as Del Terra and he is not interested in them.

Member Khanh Tran commented that regardless of the firm, the Securities and Exchange Commission (SEC) is investigating the Bonds Committee ranging back from 2010. Regarding the firm located in the City of Industry (same building as Del Terra), this is not an issue. We should give SEC whatever they want.

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

7.08 Approve Legal Services Contract regarding Securities and Exchange Commission (SEC) Investigation

President Esau Ruiz Herrera commented that he agrees with Member Khanh Tran because the District has not done anything wrong. He suggested that the Board consider counsel because we need to protect the interests of the District and our ability to issue bonds; we need counsel to ensure that the rules are properly followed.

Vice-President Andrés Quintero stated that he would not be supporting the expenditure of one cent of student dollars. Give SEC whatever they want.

Member Karen Martinez stated that she has taught her children to do what's right, and the truth will set you free. She understands that sometimes you need legal counsel to guide you in your actions, but she thinks we should give SEC what they are asking for and we do not need legal counsel.

Clerk Dolores Marquez-Frausto stated that she wanted to hear what staff thought and felt we should have an attorney to represent the District.

President Esau Ruiz Herrera clarified the SEC would be getting the information from administration and that would be taking a lot of staff and counsel time to collect and turn over the requested documents. He felt that bringing counsel on board would be to streamline the process, narrow the scope, and protect the interests of the District.

Attorney Luis Saenz commented that he wished that it was as easy as "turn over everything". Each of the six firms said that subpoenas they send will be far-reaching and each attorney said they would work with the SEC to narrow the scope of the subpoena and what they are really looking for.

Public Comment:

- 1) Ray Mueller – Chair, COC asked the Board if bond funds would be used to pay for this.

MOTION #07-08 by Member Khanh Tran to approve Legal Services Contract regarding Securities and Exchange Commission (SEC) Investigation. MOTION #07-08 was seconded by Clerk Dolores Marquez-Frausto.

MOTION #07-08 failed with a vote of 2 in favor (President Esau Ruiz Herrera and Clerk Dolores Marquez-Frausto); 3 in opposition (Vice-President Andrés Quintero, Member Khanh Tran, and Member Karen Martinez); no absent; and no abstention.

7. SUPERINTENDENT / BOARD BUSINESS *(continued)*

7.09 Candidates for the Santa Clara County Committee on School District Organization

No action was taken on this agenda item.

7.10 Board Created Standing Committees

No action was taken on this agenda item.

8. BOND / FACILITIES

8.01 Presentation/Update on Bond/Facilities

Luis Rojas, President and CEO of Del Terra, gave an executive summary on the Bond Projects. Projects include the following:

Current Projects

Hubbard K-8 Expansion Project – Completed

The project is now completed. New classrooms were available for occupancy prior to the start of school.

New HVAC Projects: Dorsa and LUCHA – Completed

The project is now completed. Construction was on time prior to the start of school.

Mathson Restroom Modernization (Upgrade/ADA Accessibility) Project – Completed

The project included 9 restrooms for both staff and students. The project is now completed. Construction was on time prior to the start of school.

Fischer Multi-Purpose Community Center

Luis Rojas reported that the District has issued the Notice of Award and the contractor has executed the agreement. Once the contract is signed, the construction timeline will commence.

8. BOND / FACILITIES *(continued)*

8.01 Presentation/Update on Bond/Facilities

George Multi-Purpose Community Center

Luis Rojas gave a brief Power Point presentation and some of the highlights were as follows:

- Board approves George Multi-Purpose Community Center on March 12, 2015 along with Fischer. Target estimated cost was \$13.2M
- Design is ready to go to DSA, fee is estimated at \$80-90,000
- Geotechnical reports an earthquake fault on this site with the fault line traveling through the community center through the tracks

Luis Rojas reported that based on the existence of unknown earthquake faults, the District would need to decide on the following:

- Engineers to perform the \$75,000 of additional excavation and testing as required
- If the testing results in additional engineering and structural reinforcement requirements, is the District willing to move forward with the project?
- Does the District want to not continue with the project from this point further?

Member Karen Martinez commented that she would rather see our base facilities upgraded rather than seeing the money spent on these new projects, especially with the limited bond money we currently have.

Vice-President Andrés Quintero agreed with Member Karen Martinez and asked that the needs be reassessed.

Member Khanh Tran commented that the District has already invested a half million dollars in this project so; therefore, we should move forward.

Clerk Dolores Marquez-Frausto commented that she would like to move forward as well.

President Esau Ruiz Herrera reminded the Board that is agenda item is only for information and not for action and due to the lack of time, they needed to quickly move forward.

8. BOND / FACILITIES *(continued)*

8.01 Presentation/Update on Bond/Facilities

Public Comments:

- 1) Ray Mueller – Chair, COC asked if we can move this project to another school site because it does not make sense to build the Fischer and George projects between two faults
- 2) Alison Cingolani – Member of the COC reported that at the last Bonds Committee Meeting, Luis Rojas had reported that we would probably have enough money to handle the multi-purpose buildings at George and Fischer and also the HVAC upgrades at the three schools. Lastly, she commented that knowing that we will face cost overruns and basic unmet needs, perhaps we should “take a step back”
- 3) Jeff Markham – Community representative asked the Board if CGS prepared a probability report?

8.02 Approve Resolution No. 15-17/18 of the Board of Trustees Approving Amended and Restated Bylaws for the Alum Rock Union Elementary School District Independent Citizens’ Bond Oversight Committee

MOTION #07-09 by Vice-President Andrés Quintero to accept and adopt Resolution No. 15-17/18 as presented. MOTION #07-09 was seconded by Member Karen Martinez.

Public Comments:

- 1) Ray Mueller – Chair, COC, stated that this resolution was supposed to have happened a year ago; now will allow the COC to provide the needed oversight; and without the bylaws, they will not be able to have another meeting
- 2) Luis Saenz – Attorney asked if this resolution had been reviewed by any attorneys?

President Esau Ruiz Herrera commented that, the District should provide inservice training to the COC regarding their obligations, responsibilities, and limitations. He also commented that he believed the bylaws were seriously flawed as written.

Clerk Dolores Marquez-Frausto stated that hopefully these bylaws for this committee were written by professionals looking out for the District to ensure we do not get into any trouble. She will not be supporting this resolution tonight.

Vice-President Andrés Quintero commented that in his opinion, the current bylaws looked like they had been written by a dictator – he liked what he saw in the new bylaws!

Assistant Superintendent Kolvira Chheng reported that the new bylaws had been forwarded and reviewed by the bond counsel.

8. BOND / FACILITIES *(continued)*

8.02 Approve Resolution No. 15-17/18 of the Board of Trustees Approving Amended and Restated Bylaws for the Alum Rock Union Elementary School District Independent Citizens' Bond Oversight Committee

Public Comment:

- 1) Alison Cingolani – COC representative, reported the COC had prepared a presentation for tonight's meeting addressing two primary concerns: (a) Review Bond Program expenditures and report to the public; and (b) Outlining the issues with the bylaws in lack of independence in which the Board can remove COC members and also the committee only being able to meet 4 times per year. She asked the Board to read the Education Code and look at what they are requesting since they were not able to present their presentation

MOTION #07-09 carried with a vote of 3 in favor (Vice-President Andrés Quintero, Member Karen Martinez, and Member Khanh Tran); 2 in opposition (President Esau Ruiz Herrera and Clerk Dolores Marquez-Frausto); no absent; and no abstention.

President Esau Ruiz Herrera reported that due to lack of time, the following occurred to the agenda items listed below:

AGENDA ITEM	ACTION
8.03 Amend Measure I, Phase I Project List to include HVAC Projects at Ryan and Russo/McEntee Schools	No Action Taken
8.04 Approve Restroom and Access Upgrade Project at Mathson School Notice of Completion	No Action Taken
9.01 2017 California Assessment of Student Performance and Progress (CAASPP)	No Action Taken or Needed, only an Informational Item
9.02 Adopt the First Reading of Amended BP 5145.3(a) Nondiscrimination/Harassment, Students	No Action Taken, but bring back as Second Reading for the next meeting
9.03 Adopt the First Reading of Amended Administrative Regulation 5145.3(a) Nondiscrimination/Harassment, Students	No Action Taken, but bring back as Second Reading for the next meeting
9.04 Adopt the First Reading of New BP 5146(a) Married/Pregnant/Parenting Students	No Action Taken, but bring back as Second Reading for the next meeting
10.01 Information Regarding Resignations	No Action Taken or Needed, only an Informational Item
11.01 Information Regarding Conditional Approval Letter from Santa Clara County Office of Education	No Action Taken or Needed, only an Informational Item

12. CONSENT CALENDAR

MOTION #07-10 by Vice-President Andrés Quintero to accept and adopt the Consent Calendar as presented. No amendments were made. MOTION #07-10 was seconded by Member Khanh Tran.

MOTION #07-10 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.

13. FUTURE BOARD AGENDA REQUESTS

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

There were no agenda items at this time.

14. ADJOURNMENT

14.01 President Adjourns the Meeting

President Esau Ruiz Herrera adjourned the meeting at 11:39 p.m.

Respectfully submitted,



Esau Ruiz Herrera *(in lieu of Board Clerk Dolores Marquez-Frausto who is absent)*
Board President
HB/mcs