

**MEETING MINUTES
COMMITTEE OF THE BOARD MEETING
October 5, 2010**

PRESENT: Board of Education: John Brodrick, Elona Street-Stewart, Anne Carroll, Kazoua Kong-Thao, Vallay Varro, Jean O'Connell

Director Hardy joined the meeting at 5:10 p.m.

Staff: Superintendent Silva, Suzanne Kelly, Denise Quinlan, Michelle Walker, Howie Padilla, Barbara DeMaster, Joe Munnich, Sara Guyette, Marie Schrul, Michael Baumann, Jaber Alsiddiqui, Kate Wilcox-Harris, Matt Mohs, Sharon Freeman, Mary Kelly, Jeff Lalla, Brad Miller, Jackie Turner, Kathy Brown

Other: Doug Belden, Bob Heise, Phil Rianes, Harry Mullander, Jerry Steele

I. CALL TO ORDER

The COB Chair, Mr. Brodrick, called the meeting to order at 4:34 p.m. Introductions were made around the room.

II. AGENDA

A. Fiscal Update on Final Budget Revision (FY 2009-2010)

The Chief Budget Analyst indicated this was a report on the last quarterly budget adjustments for FY 2009-10. The changes are routine budget adjustments to the fully financed funds to reflect changes in grant amounts. There were no changes to any other funds. The changes in the fully financed funds were a reduction of \$4,647,499 to the general fully financed fund and a reduction of \$1,756,632 to the community service fully financed fund. These reductions resulted in a year-end final budget total of \$645,782,510.

Similar reductions occurred on the expenditure side (a reduction of \$4,647,499 to the general fully financed fund and a reduction of \$1,756,632 to the community service fully financed fund) resulting in a year-end final expenditure budget of \$657,128,257.

The general fund fully-financed changes resulted from corrections to the estimated amounts of ARRA Title I funds and the change to the community service fully-financed fund resulted from correction on estimated budget for the 21st Century and Early Reading First grants.

MOTION: Ms. Carroll moved the Committee of the Board recommend the Board of Education approve the final revisions to the 2009-10 Budget as presented. Motion seconded by Ms. Kong-Thao.

Motion passed unanimously (Mr. Hardy was absent)

B. Other Post Employment Benefits (OPEB) Assessment/Update

The Controller provided an update on OPEB for the Board members. She stated OPEB are benefits provided to employees and consist mainly of health care-related benefits promised to retirees in labor negotiations. Accounting for OPEB is now required under Governmental

Accounting Standards Board Statement 45 (GASB 45). The liability must be recognized on the financial statements.

On August 18, 2009, the Board of Education approved the recommendation to establish an OPEB Trust Fund during FY 2010. An actuarial valuation as of January 1, 2009 was prepared to estimate an annual OPEB cost and a net OPEB obligation. This valuation used 1/1/09 data from plans, premiums, claims and census information. Due to changes in long-term investment returns, a revised actuarial valuation was prepared on September 22, 2010. The discount rate reduced from 4.2% to 2.5% (a reduction of 1.70%). (The lower the discount rate, the higher the liability.) This change resulted in a \$1,748,241 increase in annual OPEB cost and an increase of \$96,646,164 in the actuarial accrued liability (this increase was due to more factors than just the reduction in discount rate).

Steps to mitigate or offset the liability include:

- Changes made in the SPPS labor agreements to post employment benefit eligibility
- Investment in an OPEB Trust

Requests for Information (RFIs) were sent out for financial institutions to respond to and meet SPPS requirements for an OPEB Trust. Three responses were received and reviewed. Administration recommended selection of Wells Fargo (most competitive and most experienced in this area) with an initial investment to the OPEB Trust of an estimated \$1 million. It was noted no changes to the current Board Investment Policy are required.

Unknown factors, which may impact OPEB in future, include:

- Changes as a result of the National Health Insurance Initiative
- Changes in Minnesota legislation
- Return on Investment (ROI) from the OPEB Trust Fund
- The economic recovery

QUESTIONS/DISCUSSION:

- What impacts would come from National Health Insurance (NHI)? Response: The liability could be reduced if NHI picks up some items.
- The actuarial accrued liability, does it change? Response: The actuarial liability changes each time a valuation is done.
- The ROI will also change depending on how the economy behaves? Response: What is hurting the country and SPPS investments are the ROI, which are very bad. The view, which must be taken, is long-term. SPPS is making its annual requirement and it is not at risk there. As the District does its budget planning it needs to make sure it accounts for the requirements and plans for OPEB over the long-term. If the economy turns around the ROI will go up as well. The long view is very important.
- The impact of the annual OPEB costs – SPPS makes a commitment on an annual basis, how does that affect the annual investment? Response: SPPS is required to fund for \$30 million; it is already paying a part of that (\$13 million) to the retirees. The difference is what needs to be funded. As SPPS establishes a trust fund and pays money in to it, that will generate funds. Having the Trust Fund will reduce the liability. As things turn around, the gap will close as well. Once a Trust is established and the return can be evaluated, that will provide options/strategies and give the District flexibility it does not have today.
- The annual OPEB cost is the perceived liability, how does \$13 million become \$30 million? Response: When the actuarial studies are done, it looks at current retirees and projecting future retirees for 30 years. If that is brought to current value that is the \$400 million, however the District does not pay that. Each year there is the actual money paid and a portion of employees are provided a service and GASB 45 requires money be set aside to address that service/liability. The other piece is every two years SPPS must do an actuarial valuation because conditions change. Therefore, to account for that the

standard has been a two-year update. Everything is a staff accounting estimate using various factors, which will have variations over time.

- When we look at the budget, the District is budgeting the \$13-14 million in the budget it is not budgeting \$30. The \$30 million reflects the worst-case scenario or an annual cost out? Response: What SPPS budgets is money for this year with a reserve fund balance for the following year or, two years. SPPS is always ahead in terms of meeting its cash obligations. In an accrual basis of accounting, the District must put all liability on the books. This is simply an accounting treatment of a liability using the accrual basis of accounting.
- Is there any impact on the SPPS annual budget as a result of these periodic valuations that may go one way or the other? Response: Looking at the whole actuarial valuation each iteration and strategizing there may be some direct budget impact (i.e., application of the OPEB levy). Generally speaking, however, the valuation has no direct impact on the budget.
- If the Trust were awarded to either of the other two respondents, would there need to be any changes to the investment policy? Response: No
- There were three respondents to the RFI and Wells Fargo was recommended because they had the most experience with this kind of trust fund and worked with a number of school districts, correct? Response: Yes

MOTION: Ms. Street-Stewart moved the Committee of the Board recommend the Board of Education accept the OPEB actuarial valuation report and approve the establishment of the OPEB Trust with Wells Fargo. The motion was seconded by Ms. Carroll.

Motion passed (Mr. Hardy was absent)

Thanks were extended to staff for providing the information on a very complex issue and providing a level of comfort for the Board.

C. Standing Item: Operation Planning Update

No report.

D. Standing Item: Policy Update

The Chief of Accountability, Planning and Policy and the Administrator of Policy, Planning and Inter-Governmental Relations provided a brief update on the status of the policy and procedure development process. This is an important time as the District is moving toward making changes to the district and policy is important in providing direction. Procedures are vital to carrying out policy and are needed to define process and functions. Some of the current practices are adult focused not student focused so need to be brought into alignment with the vision. This will assist in the change to the culture.

They reviewed what had been stated at the last meeting and indicated they would be revising some policies and introducing other new ones, particularly in light of the work currently under way. They indicated they would bring forward policies around curriculum and instruction and accountability at the November 9 COB meeting. Procedures to support these policies will be brought forward as well by the January meeting along with a schedule of procedure development.

As appropriate, if changes are necessary to either policy or procedures relative to the work with Teamworks, they will be brought forward as they are identified.

QUESTIONS/DISCUSSION:

- The two areas curriculum/instruction and accountability – what about diversity? Response: When the policies were reviewed, the diversity policy already exists in an appropriate format. The procedures around diversity are lacking.

- The next subcommittee meeting will be 10/25 where the drafts will be reviewed; Board members were invited to participate. These drafts will be provided in the 10/29 Board packet and will be placed on the agenda for the November 9 COB meeting with a first reading anticipated at the November Board meeting.
- The Board Chair commented that in looking ahead relative to the Board governance responsibilities of Board review of policy. She suggested a cycle be identified and attached to particular Board members. Staff was instructed to think about having their work match the cycles of policy review and terms of service. Staff was asked to assist in creating a standardize process of policy review for the Board.
- A request was made that in conjunction with the adoption of policies at the annual meeting the Board do a brief report on policies updated in 2010 and what it is looking at in terms of cycle for 2011. This is to show policy is a living document that is attended to regularly in order to appropriately reflect and provide guidance on directions in which the Board is moving.
- For the future as there are new Board members the annual meeting a good way to recap policy changes.

E. Standing Item: School & Program Changes

No report.

F. Work Session

1. **Project Labor Agreements (PLAs) & Procurement/Minority-Owned Businesses**

The Interim Director of Facilities provided an overview of the history behind SPPS use of PLAs and the current process in response to a Request for Information from a Board member.

A PLA is a hiring agreement that establishes wages, uniform work schedules and rules for dispute resolution to manage construction projects that generally require, among other things, payment of union dues or fees to a labor organization or membership in or affiliation to a labor organization.

All SPPS projects use industry standard AIA contract documents establishing owner and contractor responsibilities and rights. All SPPS construction projects utilize the Minnesota Department Labor & Industry Prevailing Wage Law requirements unless it is determined that a PLA is to be used. The Prevailing Wage Law establishes each wage rate on the actual wage rates paid to the largest number of workers within each labor classification.

A PLA utilizes union only labor-protecting construction projects against contractor lockout, strike, slow-down, interruption, disruption or interference. A PLA is a written agreement between SPPS and the St. Paul Building and Construction Trades Council, acknowledged by the lowest responsible bidder.

Prior to February 2005, the use of a PLA involved evaluation by administration and PLAs were typically used on large construction projects (over \$6 million); projects with critical time periods for the work or projects that had the potential for work stoppage. If recommending a PLA, Administration would send it to the St. Paul Buildings and Trades Council for a PLA recommendation. If a recommendation was made the PLA would then be brought to the Board for consideration/authorization.

The current process was established in February 2005 when the Board directed administration to evaluate all future construction projects whose cost estimate exceeded \$250,000 for the appropriateness of a PLA. Projects of lesser value could also be considered at the discretion of administration. Projects performed on an emergency basis are exempt from the PLA process.

Evaluation of a project is conducted in accordance with procedures and criteria that were developed by administration and reviewed by the PLA Task Force in 2005. A *Notice & Request for Recommendation on the Use of a PLA* is sent to interested parties including, but not limited to the Associated Builders and Contractors, Associated General Contractors, National Association of Minority Contractors Upper Midwest and the St. Paul Building and Construction Trades Council. Law requires that a 30-day notice of potential PLA authorization by the Board of Education be published in the St. Paul Legal Ledger. Administration reports the results of the evaluation to the Board who authorizes the use of a PLA and directs administration to draft and execute such an agreement, if appropriate.

A report on the performance and effects of the implementation of this process was to be made to the Board on 2006; however, this was not done.

Many public entities, including Minnesota State Colleges and Universities (MnSCU) use Prevailing Wage requirements as a way to be supportive of union and non-union workers. Many school districts (Robbinsdale, Elk River, Minnetonka) do not use a PLA as a routine practice, but use them when the situation calls for them (imminent threat of strike from one of the trades or on larger projects). Minneapolis Public Schools uses PLAs on 98% of their projects, regardless of size. Duluth Public Schools uses them on all construction projects, regardless of size. PLAs are typically used by large organizations on large projects that have strong internal unions. Large cities also will use PLAs for large public projects.

QUESTIONS/DISCUSSION

- A PLA requires a non-union contractor to pay union fees for all employees on the job? Response: The General Council stated the Owner enters into contract with umbrella organizations and crafts and that agreement becomes part of contract specifications and requires the contractors and sub-contractors to be governed by the collective bargaining unit's union agreement governing those crafts while on a project. Employees need to become members of the appropriate union and pay dues to those unions while on the PLA job. This applied only to jobs covered by PLA.
- Clarification was requested on what constitutes an emergency project. Response: This is usually an event involving making adjustments within building – one that is not planned for, repair, they are time sensitive and need to be addressed immediately.
- Was there a history found in other districts/municipalities where having PLAs caused negative financial impact to organizations? Has SPPS had that problem? Response: That questions was not asked in the survey. For SPPS there has been no such impact. It was noted the PLA Task Force used what Ramsey County did as a model.
- A Request for Information was made that information be provided about PLAs going out to minority owned businesses – has that increased minority participation? Response: PLAs are not intended to be a minority-purchasing program -- a PLA allows owners to require union labor for reasons of protecting the interests of the public owner (i.e., delays). The primary reason for use of PLAs is to avoid delays or work stoppage or lockouts.
- The review in 2006 was not completed – is there any indication in project completion rate that introducing the 30 day delay in doing the RFP process has lead to time/completion time delay on projects – has there been more of a delay using PLAs vs. not? Response: No analysis has been done but anything over \$250,000 is automatically pushed into fast mode to move the project through the process. Frequently when the PLA is submitted to the Board the specs are already out for response and if the Board opts to use a PLA an addendum might have to be issued and this process may cause some slight delay.

- The timeline is integral to the policy on PLAs the Board adopted. The Board has asked for and received significant information on the PLAs submitted for their consideration.
- Procurement – has the District taken a look at how its policies around PLAs and procurement hold up compared to other government entities? Response: The Board was clear about doing PLAs in specific situations, whether other agencies use them is irrelevant. SPPS has not done a direct study on procurement – procedures vary but no study has been done.
- It was noted that care must be taken in making comparisons, as the work SPPS does is not comparable to other governmental entities except other school districts. It is necessary, if an analysis is done, that it is done apples to apples.
- The process is soft when it gets to the Board there does not seem to be a great deal of rigor behind the process – if there is a risk of work stoppage and other criteria to be considered in with PLAs. There is no clear evidence that using or not using PLAs is better or worse. What was hoped for over time was a move to a thoughtful but not time-consuming process that looked objectively at where the process makes sense and where it does not. What makes sense that would best protect assets, financial assets and student learning process. Response: At least 75% of time there will be a difference of opinion from the parties providing input.
- There should be more information on the basis of risk of work stoppage and would it affect student learning. This is not being provided except in a very generalized sense. Response: Avoidance of work stoppage is one reason for PLAs another reason is coordination of work among multiple crafts.
- A series of criteria for assessment applied to each project would be beneficial for the Board. Always yes or no does not provide adequate nuance.
- How does SPPS hold up compared to other like school districts and if we don't know, we don't know whether we are being prudent with resources, is there objective criteria to measure projects against? Response: How would you measure it? Was the completion date met or not was the project within budget? It will cost more money if a bid is done both ways (with and without a PLA). There must be a requirement re: prevailing wage which is generally union scale.
- Cannot make well-informed decision if there is no basis established to base it on.
- Are there times when administration whether does not want to have a PLA and labor groups want one? What is the rationale for making a good, well-informed decision? Response: There is a form which is an integral part of the process – the form provides opportunity for the parties who respond to provide information on appropriateness of the use of a PLA.
- There is also an issue on how information gets to the Board – there needs to be a methodology so when information comes to the Board a more uniform and concrete basis for using or not using a PLA is provided. A sense of scale, the risks involved, etc. need to be communicated.
- Confusion comes when there are conflicting recommendations from the trades groups. Staff is then put on the spot to make a recommendation. Divergent opinions between trades and staff making recommendations should come with the reasons for the differences and possible recommended resolution.
- Is there a major cost to contractors to bid any job if the process is changed by bidding the process with a PLA and without a PLA. What would be the downside of changing the process? Bidding with and without a PLA and making the decision after the bids are received. How much additional work would that be for the contractors/staff. Response: This would be bidding with an alternate.
- Would it be beneficial to do an examination of the actual process of other school districts? Does anyone do the alternative bid process?
- A request was made to hear from the trades groups who were in attendance regarding the notion of an alternate bidding process. Has it been experienced/done.

What experience, thoughts from contractor and/or owner standpoint. A preference would be “apples to apples” or school district information.

- o AGC – this would be a great idea, the alternate bid process has been done with public entities then can compare apples to apples. It would open the process and provide open shops a platform to bid against the union shops. With PLAs, many open shops do not bid on the projects so they limit competition. It was suggested that if this is done do it over at least 10 varied projects in order to obtain a more comprehensive assessment/comparison.
- o St. Paul Building Trades commented it is reasonable but be cautious as result could be skewed. Site stabilization could be an issue. This would be PLA vs. prevailing wages you must be very, very specific for both parties and for those who are working on the job in order to get an accurate result.
- o National Assn. of Minority Contractors – most projects bid are small projects, the PLA requirement eliminates chance for small contractors to even be part of process. It is difficult for new business to meet the costs of a union contract and maintain the costs involved in maintaining that. It is an issue of membership vs. not. Complexity is not an issue. The idea of alternate bids is good, but the same contractor may not bid both ways.
- o PLA and prevailing wage requirements have no expectations that all contractors be union members – they may have to live under those requirements during the project, but that project only. Public sector PLAs may offer opportunities to smaller contractors to establish a relationship with unions. In using alternate bid process need to assess risk and cost in looking at both.
- Clarification was provided that the question was raised as a consideration not as a proposal to change the process, it was a discussion point. Concern was expressed that there are organizations that are not bidding jobs.
- Input, analysis and recommendations from staff were requested. It was asked that staff does analysis of project and Board get input on what issues are out there, concerns, information to assist the Board in making decision. Want to see input on environment, time, place, labor environment, time sensitivity for students. What is staffs' conclusion under the circumstances with basis for recommendation to use PLA or not. Board wants more from everyone than yes or no.
- Do PLAs help bring in more minority-owned business or not – seen from perspective of opening diversity of groups; does this keep out minority-owned businesses? Does SPPS have a set aside target?
 - o AGC – Yes, most national minority groups are opposed to PLAs and they represent many contractors in Minnesota; the end result is minority-owned businesses end up being excluded.
 - o St. Paul Building Trades – it may create a paradigm but that is not the intent, public sector PLAs creates opportunities for minority-owned business.
 - o NAMC – there is a process which makes it difficult for minorities to break into these projects.
- There seem to be several issues: (1) The size of the contract is an issue to be addressed along with a need for more rigor in the process and the fact the bar is set so low it precludes certain groups for bidding. (2) SPPS has no target (10-15% minority or woman set aside). At some future date continue this conversation and include discussion of target in contracts and dollar issues addressed for more than work stoppage, criticality, etc.
- The General Counsel provided a history on set aside along with various studies made regarding discrimination and set-asides.
- The Board needs to ask what it needs to know: (1) The opportunity to have a more formal response on several topics raised tonight. (2) Need for the Board to have basic background information on set aside information provided; this would be as a governance issue. The Board needs to develop more formal requests for information for staff to address these issues.

- A comment was made that separating PLAs and set asides leads to unresolved further issues – minimum contract size, minority-owned vs. small business, etc.
- It was noted the AIA Contracts address some of the concerns about the process without using PLA.
- The Superintendent stated these are difficult topics requiring the District be committed to do what it takes to do the right thing for the community. The topic may need the creation of a subcommittee to look at the questions about where the Board wants to go. She recommended Board members sit down with Legal and Facility Planning to address questions and establish a goal for the conversation.

The Board Chair instructed Board members to contact her if they were interested in working on these items. It was suggested they meet prior to a Board meeting as an option for those interested in providing input but who won't be involved with the other work.

A request was made that an update on the 2005 PLA information be provided.

Thanks were extended to the building trade's representatives for their participation.

2. **Board Listening Sessions** – Discussion points:

- Hold them prior to months where budget meetings would impact sessions. Do earlier in school year: Fall, Winter, Spring.
- Superintendent's concerns: They are totally open about anything someone brings up; don't want to overwhelm community with too much at a time; align listening sessions in relation to different goals of mission and vision; align sessions to connect with district work; don't tire the community with lack of connection – need alignment.
- Clarification was provided on what Listening Sessions are and are not – they are explicitly not a substitute for what the Board expects of staff in regard to public engagement opportunities. Listening Sessions are very open ended – people appreciate having access to the Board members, it is a “drop by.” The Board does not report out on the sessions and if there is specific need for information filling out a specific form is requested.
- Have Listening Sessions quarterly -- do not have in same week there is public engagement scheduled.
- The population attending is not representative of families in the district – what are the purposes – an authentic reflection of the voices in the community or creating a table for people to come to talk. Would not there be a better use of time directing it toward feedback on what needs to be done – engage in conversation in order to get a sampling of parents voices. How is notification provided to encourage participation.
- The purpose needs to be meaningful and authentic and parents need to know about the venues. When the District is in the midst of a public debate about budget they are not beneficial.
- Listening Sessions have been done for two cycles; they are about accessibility and are held at various locations for that accessibility. The Board does need to commit to community engagement but it also needs to have some focus on individuals and the broader community. These are seen as a “fireside chat.”
- In Year 3 it might be appropriate to establish expectations and deliver a package about when it will be done and why. It is not for gathering input but is a conversation. It is about the importance of board members being accessible and providing an opportunity to have a dialogue with board members. It is the “PR” side of board members' job.
- How will the Board measure the success of the listening sessions above and beyond accessibility?
- Locations were suggested: Como, Neighborhood House, **Hancock/Hamline****, Hubbs Center, John A. Johnson, **Sheridan/Ames (old Hazel Park)****, **Gordon**

Parks, Johnson High School, Rondo Library, Linwood/Monroe (upper campus on Randolph [Monroe]), Wellstone (old Washington).

- The locations need to be: central, easily accessible, in elementary schools (more intimate space, feel more “neighborhood”, less intimidating and easier to access/enter) for the most part.
- Time: October/early November, late January/February, April/May.
- Publicizing event: Get previous materials from Communications. Provide copies of promo materials to Board for review/comment. Send to District Councils, Principals, get purpose and expectations out to families. Provide potential dates to Board to verify availability.

3. Standing Item: Upcoming Conferences

A list of upcoming conferences was provided to Board members. It was reviewed and updated and will be provided on an on-going basis at COB meetings.

III. ADJOURNMENT

MOTION:	Ms. Street-Steward moved the meeting adjourn; seconded by Ms. Carroll.
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Motion passed.

The meeting adjourned at 8:12 p.m.

Respectfully submitted,

Marilyn Polsfuss
Assistant Clerk