

Rochester Board of Education
Finance Committee
March 17, 2011
5:30PM

MINUTES

Attendance: Commissioner Powell (Chair) and Commissioner Cruz. Commissioner White absent. Parent Representative: Betsy Rice. District Staff: Jim Fenton, Joyce Martelli, Gary Smith, Annmarie Lehner, and Jerome Underwood. Board Staff: Debra Flanagan

Commissioner Powell convened the meeting at 6:55 p.m.

I. Review and Approve Minutes of February 10, 2011 Finance Committee Meeting

Motion by Commissioner Cruz to approve the minutes of the February 10, 2011 Finance Committee meeting. **Adopted 2-0, with concurrence of parent representative.**

II. February 2011 Financial Report

Commissioner Powell noted that the NYS Assembly and the Senate have each presented a budget bill, and asked whether any further news has been provided regarding the NYS budget. Joyce Martelli replied that there is no further news at this point because the legislature is still in the negotiating phase. She reported that mandate relief has been requested from Albany, and the Assembly has asked for restoration of some funding to school districts but this is quite uncertain in light of the size of the deficit at the State level.

Ms. Martelli stated that the District is currently analyzing the budget based on information from the Governor and from State Aid runs, which yield an estimated deficit of \$80m for 2011-12 for the District. She reported that the majority of the deficit is due to increased costs (\$51m) rather than reduced revenue (\$29m). Revenue losses have been mitigated to some extent for 2011-12 due to receipt of reimbursement for previous years' expenses (particularly transportation and Special Education), with the assistance of State Aid specialists. These specialists have also helped the District improve its reporting to maximize reimbursement for expenses in the future.

Ms. Martelli noted that the loss of revenue due to using \$24m of the Fund Balance in 2010-11 to help cover the deficit has also exacerbated the deficit for 2011-12.

Ms. Martelli explained that the largest portion of cost increases is due to the rising cost of employee benefits (\$26m), which results from higher than expected rate increases for health insurance, increases in retirement contributions to teachers and employees, and payment for the retirement incentive offered last year. The retirement incentive will cost the District \$6m each year for the next five years. Ms. Martelli stated that \$11m in costs are due to contractual salary increases for 2011-12. She noted that reports are being retrieved through the upgraded HCM system to identify staffing reductions that will be necessary to balance the budget.

Ms. Betsy Rice inquired as to the measures being taken to reduce health insurance costs. Ms. Martelli replied that the District changed health insurance plans and moved to an experience-rated base last year to reduce these costs, but federal health care reform has led to greater than expected increases. The actions taken by RCSD in 2010 would have held the rate of increase in health insurance costs to approximately 9.7% per year, but federal reforms have increased this rate to 11.7% per year.

Ms. Rice asked about actions being taken currently to control these costs. Ms. Martelli explained that other options would be subject to contract negotiations and therefore not able to be implemented right now.

Commissioner Powell pointed out that the situation is quite problematic in that even when a union contract expires, the law stipulates that the terms of the last contract still apply. For this reason, there is little incentive for bargaining units to grant concessions.

Commissioner Cruz noted that there seems to be a great deal of confusion among parents regarding the equitable student funding formula and the impact on their child's school. He emphasized the importance of improving communication with parents, particularly those that do not have a financial background, to explain the basis for the budget figures. Ms. Martelli responded that this is being addressed and meetings have been held with the district-wide Parent Advisory Council and other groups to clarify key information:

- 15% reduction in expenditures across the board from schools and 15-20% reduction from Central Office
- Disparities in funding allocations between schools are due to the fact that some schools have received a disproportionate share in the past, while other schools have been quite under-funded. Ms. Martelli explained that the equitable student funding formula is designed to address these inequities. She noted that elementary schools will generally receive increases in allocations, while secondary schools will have decreases.
- Declines in enrollment lead to reduced allocations for a school because the equitable student funding formula is based on student needs rather than outdated staffing formulas that had been used in the past.

Ms. Martelli emphasized that reductions in funding allocations to schools are the result of the budget deficit; the equitable student funding (ESF) formula is simply reducing funding disparities between schools.

Commissioner Powell stated that she would like to examine the impact of ESF on high schools because she had thought that costs were greater at the secondary level, yet these allocations are being reduced. Ms. Martelli reported that districts that have used ESF have incorporated a variety of factors in determining funding allocations. She stated that the RCSD Task Force decided to implement a simple, yet meaningful approach in terms of the factors reflecting cost differentials and allocations. She explained that this is the first year for implementing ESF and that it may be revised and refined with experience.

Ms. Rice inquired about data linking increases in per pupil spending to higher levels of academic achievement. Ms. Martelli replied that it is not clear that there is a direct one-to-one relationship between funding and student achievement because academic achievement is also highly dependent upon the quality of teaching. Ms. Rice asked why the ESF formula does not include academic achievement as a factor in funding allocations for schools. Commissioner Powell responded that some schools have received a disproportionate share of the District's resources in the past and yet did not produce improved student achievement. She explained that ESF is a systematic way to equalize resources among schools and measure performance for improved accountability. Ms. Rice insisted that academic performance be included in ESF as one factor to reward schools that are efficiently utilizing resources. She also emphasized the need for better communication with parents and the community to aid their understanding of the basis for school allocations and budgeted figures. Commissioner Cruz noted that part of the communication problem stems from the fact that the usual channels (e.g. the media) are not interested in more detailed explanations or addressing the complexity involved.

Commissioner Powell referred to the February Financial Report, noting that expenditures and available funds are at levels typical for this time of year.

Motion by Commissioner Cruz to approve the February 2011 Financial Report. **Adopted 2-0, with concurrence of parent representative.**

III. Presentation regarding Support for PeopleSoft Applications: Annmarie Lehner

C. INFORMATION MANAGEMENT & TECHNOLOGY

1. Rimini Street, Inc. – annual maintenance for all District-owned PeopleSoft Enterprise Applications – Resolution No. 2010-11: 645

Annmarie Lehner explained that the cost for annual maintenance for Oracle and PeopleSoft has risen substantially in recent years, so the District has explored the option of contracting with a third party to provide this support. From 2006 to 2010, the cost for annual maintenance of these applications has increased by \$300K per year. She noted that contracting with a third party is now a viable option because the District has completed its upgrade of four major PeopleSoft applications: HCM, EPM, PeopleSoft portal, and Financials.

Ms. Lehner described the Request for Proposal (RFP) process:

- Sixteen vendors downloaded the RFP
- Three vendors participated in a Question & Answer conference call on November 16, 2010
- Only one response was received to the RFP by the December 2, 2010 deadline: from Rimini Street, Inc.

She stated that Rimini Street, Inc. is the largest third party support contractor for PeopleSoft applications, and reference checks with other organizations (school district in Texas, Bausch & Lomb) showed that this firm was more highly rated than Oracle in terms of service and response times. Ms. Lehner noted that the "Consumer Reports" of the IT industry ("Gartner Reports") also highly rated Rimini Street, Inc.

Ms. Lehner explained that there were three options: 1) Continue obtaining support from Oracle, which would be quite costly to the District; 2) obtain support from Oracle only for the portion of the system subject to the most change (HR). However, the contracts with Oracle would increase the cost for annual maintenance of only one of the applications to the point where it would be equivalent to the total current cost for all of the applications. Option 3) contract with Rimini Street, Inc. for annual maintenance for all PeopleSoft applications. Given the District's current fiscal condition, the substantial costs for annual maintenance with Oracle, the completion of the system upgrades, and the high recommendations for Rimini Street, Inc., the Selection Committee unanimously chose to contract with Rimini Street, Inc. for annual maintenance of all PeopleSoft applications.

Ms. Lehner reported that the cost for annual maintenance with Oracle would total \$10.7m over 10 years, and would exceed this amount due to higher costs for maintenance with upgrades. In contrast, the cost for annual maintenance over 10 years with Rimini Street, Inc. would total \$3.7m. Moreover, additional costs would be avoided through not having to undertake "forced" upgrades required by Oracle as a condition of continuing to provide annual maintenance.

Since the District has purchased PeopleSoft application licenses, all upgraded software through Oracle that has been issued up to June 30, 2011 (when the current contract expires) will continue to be available. Upgrades issued after that date would have to be purchased by the District, but should be affordable with the costs avoided in annual maintenance fees. Ms. Lehner clarified that the District typically upgrades systems every 4-5 years for an estimated cost of \$1m. At the time of purchase, the District would have to pay 20% to Oracle for annual maintenance of the upgraded applications (i.e. \$200K). Nevertheless, this is substantially less than the current \$900K currently paid by the District to Oracle for annual maintenance of PeopleSoft applications.

Commissioner Powell inquired whether the current version of HCM enables personnel files to be accessed online. Ms. Lehner replied that a project is currently under way with Image Now, a document management system, to store and provide access to files online. Currently the District is working on financial files and storage of invoices, which will be linked to the voucher and searchable. She stated that personnel files could also be stored and accessed in the same way, as well as employee performance evaluations. She noted that this system can be used to link teacher performance to student achievement by connecting student assessment data to each teacher.

Motion by Commissioner Cruz to approve above resolution to contract with Rimini Street, Inc. for annual maintenance of all RCSD PeopleSoft applications. **Adopted 2-0, with concurrence of parent representative.**

IV. Review of Remaining Resolutions for March 24, 2011 Board Business Meeting

A. PROCUREMENT & SUPPLY

- 1. Lightspeed Technologies, Inc.; Oticon, Inc.; Phonak, LLC; Tequipment, Inc. – contract extension for Audiology supplies and equipment – Resolution No. 2010-11: 629**

2. **Conolly Printing – contract extension for printing the 2011-12 District calendar – Resolution No. 2010-11: 630 – ~~withdrawn~~**
3. **L.D.L. Pools – contract extension for swimming pool chemicals and tests – Resolution No. 2010-11: 631**

Motion by Commissioner Cruz to address all above procurement resolutions as a group. **Adopted 2-0, with concurrence of parent representative.**

Motion by Commissioner Cruz to approve all above procurement resolutions. **Adopted 2-0, with concurrence of parent representative.**

B. FACILITIES

Contracts:

1. **Battle Construction Co., Inc. – general construction; Monroe Piping & Sheet Metal, LLC – HVAC work; Leo J. Roth Corporation – plumbing; and Concord Electric Corporation – electrical work: renovations to School No. 20 – Resolution No. 2010-11: 632**
2. **Steve General Contractor, Inc. – general construction; T. Bell Construction Corporation – HVAC work; O’Connell Electric Company, Inc. – electrical work: renovations to School No. 29 – Resolution No. 2010-11: 633**
3. **Elmer W. Davis, Inc. – roofing work; Steve General Contractor, Inc. – general construction work; Leo J. Roth Corporation – HVAC work; Monroe Piping & Sheet Metal, LLC – plumbing work; Hewitt Young Electric, LLC – electrical work: renovations to School No. 35 – Resolution No. 2010-11: 634**
4. **Steve General Contractor, Inc. – general construction; Lozier Environmental Consulting, Inc. – air monitoring work; Nairy Mechanical LLC – plumbing work; Leo J. Roth Corporation – mechanical work; Connors-Haas, Inc. – electrical work: renovations to East High School – Resolution No. 2010-11: 635**
5. **Steve General Contractor, Inc. – general construction; Leo J. Roth Corporation – mechanical work; Eastcoast Electric, LLC – electrical work: renovations to the School of the Arts – Resolution No. 2010-11: 636**

Ms. Martelli noted that all of the above resolutions for contracts are conditional upon bonding by the City. Commissioner Powell remarked that without the City’s approval to issue bonds to finance RCSD capital improvements, all District projects will be halted for this year and capital planning will also be impeded for next year. She stated that resolutions can still be reviewed and approved so that contracts will be ready to commence as soon as bond issuance is provided.

Commissioner Cruz expressed concern regarding the resolution to contract with Elmer W. Davis, Inc. due to a lawsuit last year with the Equal Employment Opportunity Commission (EEOC) because of discriminatory practices. Gary Smith replied that Elmer W. Davis, Inc. was the lowest bidder on this contract (\$542K) and the next lowest bidding firm was for an additional \$50K to perform this work. Mr. Smith explained that as the District's Purchasing Officer, he is to make a determination as to whether this firm is considered a "responsible bidder" under the Board's Responsible Bidder policy (6725). He emphasized the difficulty in making this decision because of the severity of the allegations. Mr. Smith stated that Elmer W. Davis, Inc. settled with the EEOC in September 2010 for \$1m due to a class action race discrimination lawsuit, and the firm is under a consent decree with the EEOC for the next five years to address alleged issues of discrimination. He noted that Elmer W. Davis, Inc. has not acknowledged any liability in the settlement and the EEOC has not officially determined that the firm engaged in unlawful conduct.

Mr. Smith elaborated that the consent decree requires Elmer W. Davis, Inc. to:

- Adopt anti-discrimination policies and procedures
- Hire an EEO Coordinator
- Provide notices to employees
- Provide diversity training to all employees
- Monitor race discrimination complaints and report to the EEOC regarding hiring, promotion, and layoff practices

Mr. Smith noted that Elmer W. Davis, Inc. is the largest roofing contractor in New York State and the 40th largest in the U.S. In reviewing the record of projects done for the District in the past, he pointed out that this firm's work has been excellent and within budget and deadlines for completion. Mr. Smith stated that Elmer W. Davis, Inc. is also the roofing contractor for Monroe County and in the process of completing a \$410K contract with the City for roofing of an Operations Center on Mt. Read Boulevard. He reported that the firm is currently engaged in projects with the Hilton and Greece school districts, and has done business with every school district in the county.

Mr. Smith stated that the District has done business in the past with many other firms that have had settlements with the EEOC.

He described visiting Elmer W. Davis, Inc. unannounced and meeting with the company president, who reported having taken the following actions under the EEOC settlement:

- All employees have the business card with the contact information for the EEO Coordinator
- Diversity training was recently provided
- The EEO Coordinator confirmed that Elmer W. Davis, Inc. is complying with the EEOC consent decree

For all of these reasons, Mr. Smith stated that he deems Elmer W. Davis, Inc. a responsible bidder for this project.

Commissioner Cruz asked about having an arbitrator make this determination. Mr. Smith replied that there are three options: 1) declare that Elmer W. Davis, Inc. is the lowest responsible bidder; 2) Request arbitration and conduct a hearing; 3) Declare that Elmer W. Davis, Inc. is not a responsible bidder. He described the considerations made in the determination: first in considering the bidder's work performance, then examining the allegations. In this case, Mr. Smith reported that the allegations have been resolved through the EEOC settlement and the consent decree imposes reforms to address potential discrimination. He noted that the EEOC will monitor this firm for the next five years, and expressed concern that denial of the contract award to this bidder could harm City residents who are employees of the firm. For these reasons, he stated he did not think arbitration was necessary.

Commissioner Powell pointed out that the District has greater leverage over this company because of the consent decree and monitoring of its practices.

Commissioner Cruz asked whether a clause could be included in the contract with Elmer W. Davis, Inc. to require demonstration of compliance with the EEOC consent decree. Mr. Smith replied that he would have to consult with legal counsel on this issue.

Jerome Underwood emphasized the significant level of M/WBE participation proposed by Elmer W. Davis, Inc. for this project and asserted that this indicates their responsiveness to these concerns. He expressed concern regarding the additional \$52K cost if required to contract with another firm.

Commissioner Cruz inquired as to the length of time involved in going through arbitration to make the responsible bidder determination. Mr. Smith replied that the information provided by General Counsel indicated that an arbitrator would have to be selected (1 week), individuals with a claim against the firm would have to be located and interviewed, a hearing would have to be conducted to enable the firm to respond to the claims against them, and the arbitrator would then issue a determination. He estimated that at least one month would be required to conduct this process.

Commissioner Powell expressed concern that Elmer W. Davis, Inc. has not acknowledged any liability in this case, but also that arbitration would amount to "double jeopardy" in that the firm has already gone to court for alleged discrimination.

Commissioner Cruz pointed out the time, effort and consideration involved in developing the Responsible Bidder policy to address these issues. He emphasized the importance of consistency in making responsible bidder determinations to prevent other firms from alleging in the future that the District applied the policy more leniently with Elmer W. Davis, Inc. He cautioned against establishing a precedent that cannot be readily defended and thereby risking future lawsuits against the District.

Ms. Rice asked whether the allegations of discrimination were made against Elmer W. Davis, Inc. while the firm was performing work for the District. She asserted that it would not be consistent to penalize this firm if the District has done business in the past with firms that have had settlements with the EEOC.

Motion by Commissioner Cruz to approve all above resolutions for Facilities contracts. **Adopted 2-0, with concurrence of parent representative.**

Final Payments:

1. **Hewitt Young Electric, LLC – renovations to School No. 29 – Resolution No. 2010-11: 637**
2. **Hewitt Young Electric, LLC – renovations to East High School – Resolution No. 2010-11: 638**
3. **Hewitt Young Electric, LLC – renovations to the Franklin Campus – Resolution No. 2010-11: 639**
4. **Kuitems Construction, Inc. – renovations at School No. 34 – Resolution No. 2010-11: 640**
6. **Kuitems Construction, Inc. – renovations at Edison Campus – Resolution No. 2010-11: 641**
7. **Pipitone Enterprises, Inc. – renovations to School Nos. 1, 8, and 45 – Resolution No. 2010-11: 642**
8. **Steve General Contractor, Inc. – renovations to School No. 29 – Resolution No. 2010-11: 643**

Motion by Commissioner Cruz to address all above final payment resolutions for Facilities as a group. **Adopted 2-0, with concurrence of parent representative.**

Motion by Commissioner Cruz to approve all above final payment resolutions for Facilities. **Adopted 2-0, with concurrence of parent representative.**

Other:

1. **Final Building Project Report (FBPR) approving final expenditures on capital projects to be submitted to NYS to receive Building Aid Reimbursement – Resolution No. 2010-11: 644**

Mr. Underwood noted that a total of \$6.9m had been budgeted for capital projects, but only \$6.7m was actually expended so that a savings of \$200K was realized.

Commissioner Powell inquired whether any of these savings could be applied to the Facilities Modernization Project (FMP). Ms. Martelli replied that any savings from capital projects has to be used to pay debt service.

Mr. Underwood pointed out a serious problem in the 45-day limit on awarding contracts to vendors; after this time limit, vendors can withdraw their bid and the District has to conduct the bidding process all over again. He stated that since the City has not authorized issuance of bonds to finance the District's capital projects, the 45-day limit is approaching and delays from withdrawal of bids will lead the District to

incur additional costs. Mr. Underwood read a letter from one of the contractors with the District, which expressed concern that delaying or abandoning RCSD contracts creates substantial financial hardships because these contracts comprise a substantial portion of their business. Apparently the letter also pointed out that the vast majority of RCSD contracts are with local firms and therefore affect subcontractors, employees, and the entire community. Mr. Underwood asserted that he will respond to this letter and contact all lowest bidders to ask for their patience and understanding that the District is making every effort to rectify the situation. He also reported that contingency plans are being developed in the event that the financing does not come through in time.

Mr. Underwood also reported that two conference calls have been held to date between RCSD, the City, and the NYS Department of Education. The primary focus of these calls has been the interpretation of Maintenance of Effort (MOE) law. Ms. Martelli elaborated that the issue has been whether RCSD debt service is to be included in calculating the MOE payment due from the City. She emphasized that RCSD is not requesting a change in the MOE payment, but simply asking that it not be reduced.

Motion by Commissioner Cruz to approve FBPR Report. **Adopted 2-0, with concurrence of parent representative.**

D. OTHER

1. McArdle Ramerman, Inc. – to provide facilitation and development services to assist the District in moving into the execution phase of the Strategic Plan – Resolution No. 2010-11: 646

Jim Fenton explained that the resolution with McArdle Ramerman, Inc. was to include a staff person (Mary Burkhart) in the contract to assist in implementing the Strategic Plan. He stated that Ms. Burkhart joined the firm within the last six months, and has particular expertise and experience as a former RCSD principal, teacher, and content director, as well as in the private sector. Mr. Fenton emphasized the value of her skills in assisting in cascading the Strategic Plan to the school level and aligning resources with strategies.

Motion by Commissioner Cruz to approve above resolution with McArdle Ramerman, Inc. **Adopted 2-0, with concurrence of parent representative.**

2. Non-Resident Tuition and Tutoring Rates for 2010-11

Ms. Martelli noted that non-resident tuition and tutoring rates are established by the State, but still require formal approval by the Board.

Motion by Commissioner Cruz to approve resolution regarding non-resident tuition and tutoring rates for 2010-11. **Adopted 2-0, with concurrence of parent representative.**

Motion by Commissioner Cruz to adjourn. **Adopted 2-0, with concurrence of parent representative.**

Meeting adjourned at 8:09PM.

Next Finance Committee Meeting: April 21, 2011