

**Rochester Board of Education
Finance Committee
July 16, 2009**

MINUTES

Attendance: Commissioner Powell (Chair) and Commissioners Elliott (left meeting at 8:15PM) and White (arrived 5:50PM); Parent Representative: Felix Jacobs; District Staff: John Scanlan, Joyce Martelli, Vern Connors, Jim Fenton, Gary Smith, Tim Cliby; Board Staff: D. Flanagan

Commissioner Powell convened the meeting at 5:44 p.m.

I. Presentation regarding Food Services Resolution and Selection of Food Services Management Company

Jim Fenton described three primary and interrelated objectives for Food Services: 1) improve the product; 2) invest and develop staff; 3) build the technology base. He provided a handout regarding the merits and risks of each option considered for Food Service operations: a fully self-operational system compared with contracting with one of three Food Service Management Companies (FSMC) that responded to the RFP issued by the District in June. The primary advantage of self-operation is to enable the District to have complete control over all aspects of the operation and to monitor food quality and nutrition. The main disadvantage was identified as risk involved in the District handling purchasing, ordering, and managing inventory. The consequences of inadequate management of any aspect of these processes could lead to insufficient meals for students and/or lack of compliance with legal requirements under the federal school meal programs. As a result, this option was not considered feasible at this time because of the unacceptable risk involved.

Of the three bidders, Aramark was selected because of low cost, specific plans to control nutritional quality, and engagement of stakeholders (e.g. parents, teachers, and students). Due to the low cost per meal, contracting with Aramark would also enable the District to supplement and enhance the Food Service program.

Mr. Fenton stated that accountability would be enhanced under this contract because the FSMC is to pay up to \$40K for the District to hire an independent company to monitor performance, as this involves industry-specific expertise. He stated that the strong response to the RFP was encouraging, particularly as compared with past experience in having only received one bid for the Food Services in 2005.

Mr. Fenton explained that there is a very short timeframe for review and approval of this contract because New York State did not release bid requirements until late April, over two months later than anticipated. This led to a delay in the entire bid process.

Commissioner Elliott expressed concern regarding the quality of food and nutrition with Aramark, asserting that the ultimate criterion was whether staff would allow their

children to eat the food. She noted the unsanitary conditions of the Central Kitchen and inquired as to deployment of Food Services staff, noting that 250 FTE are reported but she did not observe that many staff members working in the Central Kitchen. Mr. Fenton replied that Food Service employees are either deployed to the high schools for on-site food preparation, or to the Central Kitchen (approximately 40-50 FTE) to prepare the meals for the elementary school students.

Commissioner Elliott contended that Food Services has been a critical issue in the District because Board members were not able to obtain requested information, so the media was involved to notify the community and to promote improvement for the health of students. She inquired as to the individual in charge of cleanliness of the Central Kitchen and whether an evaluation process is in place to provide accountability. Mr. Fenton responded that the Monroe County Health Department regularly evaluates the condition of the facility, reporting and following up on any noted violations. He stated that directors and program managers have this responsibility at the department level. Commissioner Elliott inquired whether these responsibilities are included in performance evaluations for individuals in these positions.

Finance Committee Chair Powell ordered a recess at 6:10 p.m.

Meeting resumed at 6:20 p.m.

Mr. Fenton insisted that all are accountable for Food Services because all are working toward the goal of improving the Central Kitchen facility. He described touring the facility one year ago, being appalled at the conditions and the staff not recognizing the impact of their work on students. He emphasized efforts made over the last year to focus on operational management, identifying specific needs and implementing improvements that must be continued to meet goals. Mr. Fenton stated that \$1m was included in the budget early in the process to address the most crucial facility needs of the Central Kitchen, such as air conditioning and upgrading and replacing obsolete equipment.

Commissioner Elliott pointed out that the focus appears to be on large items, but should be on basic aspects of sanitation and cleanliness which are not costly to improve. She emphasized that a lack of attention to these basic conditions indicates that students have not been a priority. She inquired as to the total amount of funds needed to complete the upgrades to the Central Kitchen. Commissioner Elliott also raised a question as to the possibility of moving to a system in which meals are prepared in the schools to ensure freshness, quality and appeal to students.

Mr. Fenton stated that there have been considerable improvements in sanitation conditions in the Central Kitchen. He estimated that a total of \$4-5m would be required to complete the upgrades to this facility. Mr. Fenton stated that meal preparation in each of the elementary schools would be extremely costly, particularly in terms of labor. He described new technology (e.g. freeze-blasting) that has been developed in recent years that would allow food to be prepared with greater preservation of quality, appearing more like homemade and more appealing to students.

Commissioner Elliott also expressed concern regarding nutrition, noting that many students in the District depend on school meals for most of their nutritional intake and this also has a significant impact on academic performance. She also pointed out that all of the other District facilities at Hudson Avenue had been renovated except for the Central Kitchen, which also reflects a lack of attention to students' needs.

Felix Jacobs, parent representative to the Finance Committee, inquired whether the food would be pre-cooked by Aramark and re-heated when served to students. Mr. Fenton stated that he would have to discuss this with the new management team from Aramark, noting that pre-packaged meals would be a necessity to some extent but that more options may be available (e.g. bulk satellite preparation).

Mr. Jacobs asked whether the District plans to hire a nutritionist to evaluate and monitor the quality and nutrition of food prepared by Aramark. Mr. Fenton replied that Aramark has a registered dietician and a full-time quality assurance staff member to monitor compliance with quality standards.

Mr. Jacobs pointed out that the current contract contains a \$330K guarantee on billing with Chartwells, which has led to a loss of funds because this could not be effectively recouped at the point of sale. He questioned whether this same arrangement would be used under the contract with Aramark. Mr. Fenton replied that \$350K would be set aside for chargeback fees; the chargebacks would be used for specific and tangible items, such as garbage disposal, to prevent forfeiture of reimbursements.

Commissioner White questioned reliance on a registered dietician as an Aramark employee because there would be an inherent conflict of interest in terms of quality and nutrition. Mr. Fenton stated that correct management under a contract would provide access to many resources that would be too costly under self-operation, citing a registered dietician as an example. He stated that if the Aramark dietician is not meeting the needs of RCSD students, Aramark can bring in a different dietician to work with the District. Mr. Fenton reported that references have indicated that Aramark has readily made staffing changes in the past under similar contracts.

Commissioner White contended that an independent dietician is necessary to ensure objectivity in quality assurance and performance, particularly since the FSMC is primarily concerned with maximizing profits. An RCSD employee would be subject to routine performance evaluations and directives of the Superintendent.

Given the importance of the issues involved, Commissioner White urged allowing more time to consider the ramifications of selecting an FSMC and to ensure proper vetting in this process. He also stated that the option of self-operation is appealing because this would generate jobs; he questioned the analysis of this option, contending that self-operation would also have many of the strengths attributed to the bidders. Mr. Fenton acknowledged that self-operation was his first choice, but after further consideration, he became concerned about the risks involved in terms of purchasing, ordering, and managing inventory in-house. He stated that this option can certainly be considered as a long-term goal.

Commissioner White asserted that the Board passed an amendment to the Responsible Bidder policy to require checks on vendors to ensure that there are no pending or established determinations against them for discriminatory practices by the EEOC or Human Rights Division. He noted that he has not yet received a response to his queries regarding protocols being established for conducting these background checks on prospective contractors. Commissioner White asked whether these checks have been made of Aramark as part of the selection process. Mr. Gary Smith replied that the Board policy applies to public works projects and not to competitive bids, which are required by NYS law to be awarded to the “lowest responsible bidder”. He reported that a consultant identified the three respondents as qualified in terms of complying with the bid criteria.

Commissioner White emphasized that there are many prominent companies which provide quality products, but this does not ensure that they are not discriminating against their employees. He cited the recent lawsuit against Kodak by African American employees as an example. He then questioned whether the Board could legitimately ask these questions of a prospective vendor if NYS law stipulates that the contract must be awarded to the lowest bidder. Mr. Smith stated that these questions were asked of Aramark, which was recognized by a number of national organizations as one of the top forty companies nationally in terms of diversity.

Commissioner White replied that the fact that a company subcontracts with minority vendors, employs minorities, and has received a number of awards does not guarantee that there are no discriminatory practices. He emphasized the importance of conducting these background checks and of implementing the Board policy with respect to responsible bidders.

Commissioner Powell asked whether District staff have checked with State or Federal human/civil rights agencies regarding pending or established determinations against Aramark. Mr. Smith replied that this could be investigated immediately.

Action Item: Mr. Smith will check with the EEOC and Human Rights Division to determine whether there are any pending or established determinations against Aramark for discrimination. He will report these findings to the Board.

Commissioner Elliott questioned the applicability of Board responsible bidder policy if NYS law requires contracts to be awarded to the lowest bidder. She also asked about the legal perspective in terms of the consequences of making contract awards and discovering that the alleged discrimination does not actually exist. Commissioner Powell explained that this was the rationale for the specific language contained in the Board policy, by referring to a “determination” rather than an allegation.

Mr. John Scanlan stated that his understanding from Law Department staff and the M/WBE Coordinator is that Board policy is implemented by having a form signed by the vendor affirming that there is no pending discrimination, which is incorporated into the contract and is also a requirement of the NYS Education Department.

Commissioner White stated that he will be reviewing the contract for this language. He also questioned whether the Board is legally authorized to establish a policy with regard

to responsible bidders, since NYS law dictates the contract award to the lowest responsible bidder.

Action Item: Law Department staff will review current Board policy regarding responsible bidders and report on legality in view of NYS law requiring contract award to the lowest responsible bidder.

Mr. Gary Smith stated that the law requires the District to check the NYS Excluded Parties List to determine whether a prospective contractor has been debarred, suspended or disqualified. Commissioner Powell stated that the Board currently does not have information regarding the criteria used by NYS to disqualify a bidder. She questioned whether the State uses EEOC or Human Rights Division findings as a basis for making these decisions, as required under current Board policy.

Action Item: Law Department staff will investigate the specific criteria used by New York State to determine whether a bidder is debarred, suspended, or disqualified.

Mr. Fenton stated that the District requires as much time as possible to begin working with the FSMC management team to prepare for Food Service operations on September 1st.

Commissioner Powell countered that if the information presented to the Board is accurate and thorough and anticipates concerns, a maximum amount of time would be available to work with the FSMC. She contended that many of the questions raised could have been anticipated and addressed at this point, noting that the presentation at this meeting has not been objective in clearly stating the specific selection criteria and ratings of each bidder on these criteria. She suggested beginning by contacting all stakeholders (i.e. the Board, Superintendent, operations staff) to obtain their input in establishing criteria, then demonstrating the way in which each bidder met each established objective. She asserted that time could be saved by providing more objective, thorough documentation as the basis for enabling the Board to make a truly informed decision.

Action Item: Mr. Scanlan will provide more detailed information to the Board regarding each bidder's performance in meeting the specified criteria in the RFP.

Commissioner Elliott emphasized that this contract has a substantial impact on students and the Board cannot make assumptions regarding the performance of any selected vendor, particularly when there is pressure to make a decision in a short timeframe. She expressed concern regarding the ability to provide food quality and nutrition with the low per meal cost proposed by Aramark.

Mr. Fenton reported that the average per meal cost in New York State is \$2.00, which includes labor. When labor costs are added to the material costs cited by Aramark, the per meal cost approximately equals the average for the State. Commissioner Elliott continued to question the quality of food that can be provided at this cost. Mr. Fenton stated that the program can be supplemented and enhanced by the District with additional provision of fresh fruits and vegetables.

Commissioner Elliott pointed out that the food quality in the District has been so poor that many students are throwing out the food rather than eating it, which wastes funds and presents additional costs in terms of compromising students' ability to learn. She expressed concern that this waste would continue with the prospective contractor. She suggested that the Student Leadership Congress be included in meal and menu planning to respond to students' preferences.

Mr. Fenton stated that one of the issues has been the District's tendency to be too insular and not include input from external organizations with nutrition and health expertise (e.g. Finger Lakes Health Systems Agency, Greater Rochester Health Foundation, University of Rochester, Foodlink). He emphasized the importance of continuing to maintain partnerships with these organizations.

Commissioner White asked about the primary driving factor in the selection process, noting that price seems to be the main consideration. Mr. Fenton replied that other critical factors were that Aramark has a better management team, operations approach, and proposed package in terms of meeting all 13 of the nutritional criteria.

Commissioner Elliott requested data from Aramark regarding the impact of their food on students' academic performance, contending that this should be included as a criterion in the selection process. Mr. Scanlan replied that there is no correlation between a particular meal and academic achievement. Commissioner Elliott requested data regarding the overall impact of Aramark's nutritional standards on achievement. Mr. Scanlan reported that this was considered in the selection process in determining that Aramark exceeded the other bidders by meeting all 13 nutrition criteria.

Commissioner White requested a number of items to assure improvement in nutrition and food quality: documentation from the community organizations that were involved in reviewing and evaluating the bids; hiring of a registered dietician by the District; and a sampling of the food served to students. He pointed out that the Superintendent had sampled RCSD food early in his administration to check the quality, underscoring the need for substantial improvement.

Action Item: Mr. Scanlan will provide documentation to the Board from community organizations' (e.g. Finger Lakes Health Systems Agency, University of Rochester, Greater Rochester Health Foundation) evaluation of bids.

Action Item: Mr. Scanlan will arrange for Board members to have a sampling of the food Aramark is to serve to students.

Mr. Scanlan asked for guidance as to specific information and assurances Board members require to trust that RCSD staff are managing their responsibilities adequately.

Commissioner Elliott suggested having a retreat with the Board and Cabinet to resolve differences and improve collaboration. She emphasized the need to have a system of

checks and balances, which involves providing complete information to the Board to meet their needs in decision-making.

Commissioner White underscored the fact that Board members also have to exercise due diligence in performance of their duties, requiring documentation and verification rather than simple reliance on District staff reports. He pointed out that the Board has every right and responsibility to evaluate and suggest a different approach than the administration, particularly for a multimillion dollar contract for which a decision is to be rendered in one week.

Commissioner Powell described a rigorous military decision-making process in which all relevant information would be forthcoming and unambiguous: the stakeholders providing input into the process, specific criteria involved, and the stakeholders' evaluations of each of the bidders. In terms of obtaining Board input in establishing evaluation criteria, she noted that Board policy reflects their concerns and priorities. She suggested that presentations aligned with this model would be "bulletproof" in terms of addressing potential concerns of Board members.

Motion by Commissioner White to advance Food Services resolution to the Board without recommendation. **Adopted 3-0**, with concurrence of parent representative.

II. Review and Approval of Finance Committee Minutes from June 18th, 2009

Motion by Commissioner White to approve the minutes of the June 18, 2009 Finance Committee meeting. Seconded by Commissioner Elliott. **Adopted 3-0**, with concurrence of parent representative.

At 8:15PM, Commissioner Elliott left the meeting.

III. Review and Approval of June 2009 Financial Reports

Commissioner Powell explained that the figures contained in the June 2009 Financial Report are not final because year-end closing has not been completed. She noted that the figures generally align with expectations.

Motion made by Commissioner White to approve June 2009 Financial Reports. **Adopted 2-0**, with concurrence of parent representative.

IV. Review of Proposed Resolutions for July 23, 2009 Board Business Meeting

A. Procurement

- 1. Action Protective Group, Inc.**
- 2. Early Childhood Learning Material**
- 3. Early Childhood Learning Material (rebid)**
- 4. V.J. Stanley, Inc.**

5. BOCES – Cooperative bidding with Monroe 2 – Orleans BOCES

Motion by Commissioner White to consider all procurement resolutions together. **Adopted 2-0**, with concurrence of parent representative.

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

B. Instructional Technology

- 1. Achieve 3000**
- 2. Compass Learning, Inc.**
- 3. CTB McGraw Hill**
- 4. Lincoln Learning Solutions, LLC**
- 5. Thinkronize, Inc.**

Motion by Commissioner White to consider all instructional technology resolutions as a group. **Adopted 2-0**, with concurrence of parent representative.

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

C. Facilities

Final Payments:

- 1. Battle Construction – renovations to the Franklin Educational Campus**
- 2. Blackmon-Farrell Electric, Inc. – renovations to Nathaniel Rochester Community School No. 3**
- 3. Blackmon-Farrell Electric, Inc. – renovations to School No. 9**
- 4. Envoy Environmental Consultants, Inc. – renovations to School Without Walls Foundation Academy**
- 5. Monroe Piping & Sheet Metal, LLC – renovations to Frederick Douglass Campus**
- 6. Monroe Piping & Sheet Metal, LLC – renovations to Schools No. 35, 36, 43 and 52**

Commissioner Powell noted that rather large change orders associated with the Battle Construction contract for renovations to the Franklin campus because many complaints were received regarding high school students encroaching on space in the Montessori school. She stated that the Board has been briefed regarding these changes.

Motion by Commissioner White to consider all final payment resolutions as a group. **Adopted 2-0**, with concurrence of parent representative.

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

Lease Agreements

- 7. University of Rochester – Memorial Art Gallery – physical education for School of the Arts**
- 8. University of Rochester – Memorial Art Gallery – parking for School of the Arts**
- 9. Visual Studies Workshop – parking for School of the Arts**
- 10. Landsman Development – 30 Hart Street**

Motion by Commissioner White to consider all lease agreements together.
Adopted 2-0, with concurrence of parent representative.

Motion by Commissioner White to approve all above lease agreements.
Adopted 2-0, with concurrence of parent representative.

Contracts

- 11. Alliance to Save Energy**
- 12. Day Automation Systems**
- 13. MAPCO Auto Parks, Ltd.**

Motion by Commissioner White to consider all contract resolutions as a group.
Adopted 2-0, with concurrence of parent representative.

Motion by Commissioner White to approve all above contract resolutions.
Adopted 2-0, with concurrence of parent representative.

Other

- 14. NYS Education (FPFI to approve revenue stream)**

Motion by Commissioner White to approve resolution for NYS Education.
Adopted 2-0, with concurrence of parent representative.

D. Office of Administration
1. Education Resource Strategies

Commissioner White inquired as to the purpose of this resolution to contract with Education Resource Strategies (ERS). Mr. Scanlan explained that this is to assist with classroom analysis of manpower and expenditure of resources; the work would involve use of federal stimulus funds, mapping of work completed by the District, a comparison with other school districts, assessment of manpower in special education, pioneer schools, and assistance with the transition to school-based budgeting.

Commissioner Powell stated that she was not pleased with previous performance of ERS in terms of staff resource recommendations, which led to elimination of 26 music teachers.

Commissioner White stated that he would like further information regarding the previous ERS contract in terms of specific deliverables and data regarding their performance. He noted that this is a rather large contract for \$290K which could be used to hire several teachers, so documentation is needed as to past performance before a decision can be made.

Action Item: Mr. Scanlan will provide information to the Board to document ERS performance under previous contract and specific deliverables provided.

Motion by Commissioner White to advance resolution regarding contract with ERS to the Board without recommendation. **Adopted 2-0**, with concurrence of parent representative.

Adjourn - Motion made by Commissioner White. **Adopted 2-0**

Meeting adjourned at 8:36 PM.

Next Finance Committee Meeting: August 20th at 6:00 PM