SPECIAL MEETING OF THE LAKEWOOD BOARD OF EDUCATION, HELD ON MONDAY, SEPTEMBER 23, 2019, AT 7:30 P.M., 855 SOMERSET AVENUE, LAKEWOOD, NEW JERSEY 08701

I. PLEDGE OF ALLEGIANCE: Moshe Bender, President

Kevin Campbell, Assistant Business Administrator/Board Secretary called the meeting to order at 7:48 p.m. Mr. Campbell read the following:

SUNSHINE LAW

Pursuant to the provisions of Chapter 231, of the Laws of 1976 (THE OPEN PUBLIC MEETINGS ACT), Mr. Campbell notified the public that notice of the date, time, location and agenda of this meeting, to the extent known, was provided at least forty-eight (48) hours prior to the commencement of this meeting in the following manner:

1. By posting such notice on the public announcement board of the Lakewood Board of Education Offices, and the Lakewood Township Municipal Building.
2. By e-mailing such notice to the office of the Asbury Park Press.
3. By filing such notice with the Board Secretary.
4. By mailing such notice to all individuals who requested and paid for a copy of same.

II. ROLL CALL

Board Members Present:
Mr. Moshe Bender
Mr. Chanina Nakdimen
Mr. Shlomie Stern
Mr. Bentzion Treisser
Mr. Isaac Zlatkin

Board Members Absent:
Mrs. Ada Gonzalez
Mr. Heriberto Rodriguez
Mr. Moshe Newhouse
Mrs. Thea Jackson-Byers

Also Attending:
Mrs. Laura A. Winters, Superintendent
Mr. Kevin Campbell, Assistant Business Administrator/Board Secretary
Mr. David Shafter, State Monitor
Mr. Michael I. Inzelbuch, Esq., Board Attorney

III. **RECOGNITION OF THE PUBLIC**

1. Andrew Meehan
2. K. Ortega
3. Enrique Hernandez
4. Alejandra Morales
5. Rafael Trujillo
6. Zenaida Martinez

STATEMENT BY BOARD PRESIDENT

Pursuant to Board Policy 0164, Roberts' Rules of Order shall govern the Board of Education in its deliberations and in the conduct of its meetings. As such, all comments from the public and from other members of the Board should be directed to the Board President who is responsible for presiding over the meeting.

Anyone who desires to speak must sign-in and provide their proper name and address. The Sign-In sheet will be available from 7:00 p.m. to 7:30 p.m. or 30 minutes before a meeting is to start until the opening of the Public Session.

The President shall direct all inquiries or comments to the appropriate Administrator or Board member for response, as appropriate. The law requires a period of public comment at our meetings, not a question or answer session or debate. The board president at his discretion may or may not feel it is appropriate to answer questions raised during the public comment period. The board and administration do take all public comments seriously and consider them when conducting business.

The President may interrupt, warn, or terminate a participant's statement when the statement is too lengthy, abusive or obscene. In addition, Security Personnel may direct any individual to leave the meeting when that person does not observe reasonable decorum, whether the person is at the microphone or at any other place in the meeting room. New Jersey law makes it a crime for any person to intentionally disrupt a public meeting. Law enforcement will be contacted if a person disrupts the meeting and fails to desist after being directed to do so.

Finally, we ask that you silence all electronic devices.

IV. **WHEREAS**, the Lakewood Board of Education is committed to making policy and financial decisions that enable the school district to provide quality educational programs and services to ALL school-age children of our community in accord with the law while being responsible to the taxpayers of the Township; and

WHEREAS, the Lakewood School District Board of Education supports a system of quality education and this is one of the essential foundations to make a meaningful difference in today's and tomorrow's world; and

WHEREAS, the Lakewood School District Board of Education believes that ALL children

have the right to be safely transported to and from school *in accordance with the law, and, without adversely affecting the right of public school students to receive a "Thorough and Efficient" ("T and E") education;* and

WHEREAS, the New Jersey Governor's Appropriation Handbook (April 2019), included $15 million dollars in Transitional Aide, $9 million dollars in Special Education Aide; and *$6 million dollars in Nonpublic Transportation Aide*; and

WHEREAS, the New Jersey Department of Education's, State Aide Notice, which was provided to the District 48 hours after the Governor's Address, stated, that the District would be provided with a **$30 million-dollar GRANT**. (The Grant amount was only determined by the NJDOE after extensive review of the District's finances and after numerous cost saving measures were effectuated by the District); and

WHEREAS, on **March 12, 2019**, the Interim Business Administrator presented the "Introduced Budget" during the public portion of the Board of Education meeting and same was immediately transmitted to the New Jersey Department of Education (NJDOE); and

WHEREAS, *General Counsel* on **March 12, 2019** stated, in public, at the Board meeting that, in part, based on consultations with the Board, Administration, State Monitor, and the NJDOE that the District would be compelled to defer all Loans and Audits repayments for the 2019-20 school year in the amount **$5,982,972.00** even should the District receive a $30 Million-dollar Grant; and

WHEREAS, on **May 7, 2019**, the Interim Business Administrator presented the "Adopted Budget" during the Public portion of the Board of Education meeting, which included a NJDOE loan request of **$12.7** million dollars in addition to the then promised $30 Million-dollar Grant; and

WHEREAS, a letter was received on **July 22, 2019**, from the New Jersey Department of Education, stating that the Budget language regarding the one-year extension of the LSTA had suddenly been deleted; and

WHEREAS, the Lakewood School District received approval on **July 25, 2019**, from the Division of Community Affairs (DCA) to utilize Competitive Contracting for the procurement of a New Jersey Company to provide management services as to the provision of Transportation services to nonpublic students; and

WHEREAS, the Interim Business Administrator submitted Board approved Budgets and/or Budget Resolutions to the Ocean County Superintendent, Ocean County Business Administrator, New Jersey State Monitor and New Jersey Department of Education Officials that were created after extensive consultation with the State Monitor and NJDOE on: **March 12, 2019, May 7, 2019, June 24, 2019, July 10, 2019**

and September 25, 2019; and

WHEREAS, the Township of Lakewood, committed to extend for the **2019-2020** school year, the Hazardous Busing Agreement with the Lakewood School District (Between $1.3 and $1.8 million dollars), provided **ALL** students receive Hazardous busing (Public/Nonpublic); and

WHEREAS, the Township of Lakewood remains primarily responsible to provide traffic and safety infrastructure that would allow ALL students to safely attend schools, and, has made great strides towards this goal ; and

WHEREAS, the District transports students in accord with Board Policies and ***has not paid for any courtesy non-mandated busing since 2015***; and

WHEREAS, the Lakewood Police Department exclusively determines those roadways within the Township that are deemed hazardous and the Board has adopted a Policy, in accord with law, as to same; and

WHEREAS, the Lakewood Board of Education's Line Account "500", is overstated by approximately $6 million dollars due to inadequate funding provided by the State which has been presented and known to all stakeholders via numerous Budget Presentations, Budget software system, emails, spreadsheets, phone calls to and meetings with Township, County and NJDOE Officials; and

WHEREAS, the Lakewood Board of Education's current Transportation shortfall is approximated at no less than $4.5 million dollars subject to DRTRS Reporting in October 2019, and, the completion of Nonpublic Reimbursement documentation as to transportation that is known to all stakeholders; and

WHEREAS, the Lakewood Board of Education's Transportation shortfall, after the anticipated completion of the DRTRS, in October of 2019, will be approximately no less than $4.5 million dollars should the NJDOE not allow for the District to seek reimbursement for mandated students at the true cost of $1000.00 per student (the Differential between $710 and $1000 - $290.00 X 23,000 students = $6,670,000) *minus* anticipated Nonpublic Transportation Reimbursement in June 2020; and

WHEREAS, the students of the Lakewood *Public* Schools *must* and *will* continue to receive a "Thorough and Efficient" (T&E) Education, as funding for public and nonpublic hazardous busing can and will NOT affect educational programs, teacher salaries, etc. per the legal opinion of General Counsel and the law; and

WHEREAS, the Board has already approved the continuation of after school PUBLIC clubs/activities/sports (grades K-12) utilizing additional Extraordinary Aide received, despite the NJDOE stating that said clubs/activities are not required, and , wherein

approximately 900 elementary school public students are enrolled in after school clubs, which begin as early as September 23, 2019. (Clubs range from English Language Arts and Mathematics tutoring to Chess, Art, Music, and Drama, etc.); and

WHEREAS, the cost for after-school clubs for the 2019-2020 school year to the District is estimated to cost **$1,094,467.76**, and, while, the Township of Lakewood paid for the after-school clubs the past two years, however, has stated that due to Budgetary constrictions the Township cannot continue to do so going forward; and

WHEREAS, General Counsel Michael I. Inzelbuch, Esquire, submitted an OPRA request to the New Jersey Department of Education in September of 2018, and, *for the first time ever*, the Lakewood school district was made aware solely due to said OPRA request that the Department of Treasury and the NJDOE had clearly stated that the Lakewood School District required and still requires Loans in order to provide Public School students with a "Thorough and Efficient Education", as the District does not have an expenditure issue but a "revenue problem" as had been stated by former Monitor Michael Azzara, in part, to wit, as follows:

- Letter Dated **May 4, 2015**, from Commissioner David Hespe to the Department of the Treasury for a State Aid Advance of $4,000,000- "Advance State Aid payment is necessary to ensure the provision of a thorough and efficient education."

- Letter Dated **June 10, 2015**, from Commissioner David Hespe to the Department of the Treasury for a State Aid Advance of $4,500,000 - "Advance State Aid payment is necessary to ensure the provision of a thorough and efficient education."

- Letter Dated **June 23, 2016**, from Commissioner David Hespe to the Department of the Treasury for a State Aid Advance of $5,640,183 - "Advance State Aid payment is necessary to ensure the provision of a thorough and efficient education."

- Letter Dated **November 9, 2017**, from Commissioner Kim Harrington to the Department of the Treasury for a State Aid Advance of $8,522,678 - "Advance State Aid payment is necessary to ensure the provision of a thorough and efficient education."

- Letter Dated November 2, 2018 , from Commissioner Lamont Repollett to the Department of Treasury for a State Aid Advance of $28,182,090 – "Advance Stare Aid payment is necessary to ensure the provision of a thorough and efficient education"

WHEREAS, the Lakewood School District did not have an approved Budget as of **June 26, 2019**, nor adequate funds to provide a "T and E" education and busing to public and nonpublic students as known to all stakeholders Emergent Relief was authorized and filed by General Counsel; and

WHEREAS, due to the Emergent Relief filing, the New Jersey Department of Education provided the Lakewood School District with a Letter dated **July 1, 2019**, to Commissioner Lamont Repollet from the Department of the Treasury that ***for the first time made known a State Aid Advance of $36,033,862 required to provide a "T and E" education;*** and

WHEREAS, the Board authorized General Counsel to file a federal lawsuit that is currently pending in United Sates District Court; and

WHEREAS, as to the above – referenced federal lawsuit the parties are in the process of attempting to amicably resolving same; and

WHEREAS, the Lakewood School District was previously assured that they would receive a $30 million-dollar LOAN, and, whereas, the Board of Education communicated with the NJDOE prior to **July 1, 2019** that the Board would not accept same as same was insufficient and a Grant is the only viable option; and

WHEREAS, communication by the Superintendent of Schools has been made to the Commissioner of Education seeking assistance, however, to date, have gone unanswered. Specifically, including, but not limited to:

- **March 13, 2019** –Request to Defer Audit Loan Repayment for the 2019-2020 SY
- **June 23, 2019** – Request for LSTA Assistance
- **June 30, 2019** – Request for Assistance; and

WHEREAS, the Lakewood School District will, *again*, immediately submit a letter of request to the New Jersey Department of Education to have all Audit and/or loans deferred and/or forgiven. **Audit and loan amounts for 2019-20 are approximately $5.9 million dollars.** (The basis for said request is, in part, cited above, and, as a result of the preliminary results of an on-going review by General Counsel as to why Audits were not reviewed and appealed in the years 2013-2017); and

WHEREAS, according to the 2018-2019 DRTRS Report, the Lakewood School District transported **21,125** Nonpublic Mandated students, and **2,295** Public School Mandated Students during the 2018-19 school year, and, wherein there were **2,663** non-mandated Public students and **13, 500** Nonmandated Non-Public students bussed in the **2018-19** schoolyear at **no** cost to the district; and

WHEREAS, the 2019-20 routes for non-public students were Bid by the LSTA prior to the 2019-20 school year and, in part, in reliance on assurances from the State that the LSTA pilot program would be continued; and

WHEREAS, the district assumed the aforementioned LSTA Bids on **July 10, 2019,** on the premise that the State would allow the District to render payment of $1000 per student as had been assured by the State, and, to re-bid at said time, and now, would **not** be cost effective, and, as the routes per Township and State prior requests were most efficient and cost effective, as they contained both mandated and non-mandated students; and

WHEREAS, the district utilizes a 3 Tier system of transportation wherein the same buses are utilized for public and non-public students per State efficiency standards, and, as a result if the current routing would be interrupted a substantial adverse effect would occur to public and non-public students; and

WHEREAS, the school district has been notified on Friday, September 20, 2019 to continue busing and not to take nor initiate any legal action as to transportation as adequate funds as described above are available:

THEREFORE, BE IT RESOLVED, that the continued commitment to the safe transport of ALL students is required; and

THEREFORE, BE IT FURTHER RESOLVED, pursuant to State Law, the LSTA, which was awarded the contract for Transportation Management Services on **August 28, 2019** after such services were advertised for proposal on **August 1, 2019** in the Asbury Park Press, Newark Star-Ledger, Lakewood Scoop, and District website (27 Firms were also solicited), **shall be paid in ten (10) equal payments, with their first check payable on September 24, 2019 in the amount of $2,104, 080.00**; and

THEREFORE, BE IT FURTHER RESOLVED, that the above shall be reviewed upon completion and approval of the **2019-2020** DRTRS Report estimated to be completed by mid-November 2019; and

THEREFORE, BE IT FURTHER RESOLVED, that the district will complete the Nonpublic Transportation Reimbursement forms and the District Report of Transportation Students in accord with law and fact, to wit, for the actual annual route cost charge by the vendor. The annual route cost does not include administrative or management fees. The district shall refer to the "Manual for Completion of 2019-2020 District Report of Transportation Resident Students (DRTRS) District Instructions" when completing the DRTRS both public and non-public students.

MOTION TO APPROVE THE TRANSPORTATION RESOLUTION (passed)
Motion: Mr. Bender **Second:** Mr. Nakdimen
5 Ayes: Mr. Zlatkin, Mr. Nakdimen, Mr. Stern, Mr. Treisser, Mr. Bender
0 Nays:
0 Abstained:
4 Absent: Mrs. Gonzalez, Mr. Newhouse, Mr. Rodriguez, Mrs. Jackson-Byers

Mr. David Shafter, State Monitor told the Board he would take the approval of this Resolution under advisement. Mr. Shafter's statement is attached.

V. ADJOURNMENT

Motion to Adjourn:
Motion: Mr. Treisser **Second:** Mr. Bender

Meeting was adjourned at 8:46 p.m.

I, Kevin Campbell, Assistant Business Administrator/Board Secretary, of the Lakewood Board of Education, hereby certify this to be a true copy of the Minutes from a public meeting held on September 23, 2019.

October 30, 2019
Kevin Campbell, Assistant Business Administrator/Board Secretary

State of New Jersey
Department of Education
Office of State Monitor
Lakewood Public Schools
200 Ramsey Avenue
Lakewood, NJ 08701
Phone: 732-364-2400 Ext. 7443
Email: dshafter@lakewoodpiners.org

October 2, 2019

Moshe Bender, President
Lakewood Township Board of Education
200 Ramsey Avenue
Lakewood, NJ 08701

RE: Partial Override of LSTA Resolution Approved September 23, 2019

Dear President Bender:

The Board of Education at its September 23, 2019 approved the following resolution:

"THEREFORE, BE IT RESOLVED, that the continued commitment to the safe transport of ALL students is required; and

THEREFORE, BE IT FURTHER RESOLVED, pursuant to State Law, the LSTA, which was awarded the bid for Transportation Management Services on August 28, 2109 after such services were advertised for proposal on August 1, 2019 in the Asbury Park Press, Newark Star-Ledger, Lakewood Scoop, and District website (27 Firms were also solicited), shall be paid in ten (10) equal payments, with their first check payable on September 24, 2019 in the amount of $2,104,080.00; and

THEREFORE, BE IT FURTHER RESOLVED, that the above shall be reviewed upon completion and approval of the 2019-2020 DRTRS Report estimated to be completed by mid November 2019

THEREFORE, BE IT FURTHER RESOLVED, that the district will complete the Nonpublic Transportation Reimbursement forms in accord with law and fact, to wit, the actual cost of each student as determined by both the LSTA bid costs and the cot of managing said routes."

By my authority as State Monitor under Title 18A:7A-55 I am issuing a partial override of the above resolution.

In the second THEREFORE paragraph line one, I am substituting the word contract for the word bid. The contract was not a result of a bid.

In the final THEREFORE paragraph, I am deleting all language after the word forms and substituting the following language:

...and the District Report of Transported Students in accord with law and fact, to wit, for the actual annual route cost charge by the vendor. The annual route cost does not include administrative or management fees. The district shall refer to the "Manual for Completion of 2019-2020 District Report of Transported Resident Students (DRTRS) District Instructions" when completing the DRTRS both public and non public students.

I also direct the district's acting board secretary to file this letter of with the agenda in addition to the formal minutes of the meeting.

If you have any questions or require additional information do not hesitate to contact me.

Sincerely,

David Shafter
State Monitor

c. Members of the Board of Education
Laura Winters, Superintendent
Kevin Campbell, Assistant School Business Administrator-Assistant Board Secretary
Keven Ahearn, Executive County Superintendent
Charles Muller, Executive County School Business Administrator
Glenn Forney, Office of State Monitors
Michael Inzelbuch, Board Attorney
Jo-Ann Zsamba, Executive Secretary
Steve Secare, Attorney for LSTA LLC
Avraham Krawiec,