



Board of Education

Minutes of
The Board of Education

A Called School Board Meeting of the Board of Education of Fort Smith Public Schools was held Wednesday, June 21, 2023, beginning at 5:30 PM in the Service Center, Bldg. B, Auditorium, 3205 Jenny Lind, P.O. Box 1948, Fort Smith, AR 72901.

Mr. Person, president, called the meeting to order noting five board members were present in person and one board member was present via Zoom. Other board members present were: Ms. Sandy Dixon, Mr. Matt Blaylock, Ms. Talicia Richardson and Mr. Phil Whiteaker. Mr. Davin Chitwood was in attendance via Zoom. District administrators present included: Dr. Terry Morawski, Superintendent; Mr. Martin Mahan, Deputy Superintendent; Dr. Chris Davis, Assistant Superintendent of Human Resources and Campus Support; Mr. Charles Warren, Chief Financial Officer; Dr. Michael Farrell, Executive Director of Student Services, Mr. Vance Gregory, Director of Technology; Mr. Shawn Shaffer, Executive Director of Facility Operations; Ms. Zena Featherston Marshall, Executive Director Community & Business Partnerships, Ms. Shari Cooper, Director, Communications; and Ms. Leslie Phelps, Office Administrative Assistant to the Superintendent. Mr. Marshall Ney, of Friday, Eldridge, and Clark, District Attorney was also in attendance via Zoom.

CONSIDER ADOPTION OF BOARD GOVERNANCE AND OPERATIONS POLICY CHANGES

This agenda item was a follow up from the Monday, June 19, 2023 board meeting where the board voted to postpone the vote to allow more time to review the proposed changes to the board governance and operations policies.

Ms. Richardson, made a motion, seconded by Mr. Whiteaker, to approve the board policies as presented. The motion passed 6-0.

CONSIDER ADOPTING UPDATES FOR CLASSIFIED PERSONNEL POLICIES

Updates to the classified personnel policies were presented at the Monday, June 19, 2023 meeting. In order to allow the Personnel Policy Committee the required amount of time to review the policies a vote had to be delayed until the called board meeting.

Ms. Richardson made a motion, seconded by Ms. Dixon, to approve the revision to the board policies to be effective July 1, 2023. The motion passed 6-0.

BOARD VACANCY

Dr. Morawski discussed the draft application process that was developed for the online application for the board vacant seat. A frequently asked questions page was added online as well as information related to the position.

Mr. Mahan highlighted what the draft online application and webpage would look like. After his presentation, Mr. Mahan requested the board make any changes, additions, or deletions that would add clarity to the process.

After some discussion changes the board suggested were to: require an applicant to upload a resume, their address must be provided to confirm they live in Zone III, to answer the question why you want to serve as a board member, and answer the question do you understand the requirements of this position.

The board agreed that the application process would close on July 10, 2023. The board requested that when applications and resumes are received that they be forwarded to the board on a daily basis and that a final recap of all applicants be given to the board after the application process closes.

The board also asked administration to schedule a meeting after July 10, 2023 for the board to review the applications that were received.

The board discussed the possibility of setting up interviews for the candidates and how to handle that process. Mr. Ney stated that the board is not required to narrow down the number of applicants to interview nor is the board required to conduct interviews. The board could appoint an applicant dependent on their resume submission.

Ms. Richardson made a motion, seconded by Ms. Dixon, to move forward with the application process with an upload to the website and to designate Mr. Person to work with administration on planning a meeting in July for interviews, if needed. The motion passed 6-0.

PEAK THIRD PARTY REVIEW PROCESS

Mr. Tecmire, Supervisor of Purchasing, gave a presentation over the general Request For Qualifications (RFQ) process and how that works.

The first steps in this process would be to post and advertise the RFQ in order to find the best fit of an individual or firm for this process. The RFQ focuses on qualifications without any consideration of price.

The basic components of an RFQ is to provide clear and concise summary of the purpose of the project, provide a brief overview of the client, describe the work to be completed, a relevant timeline, and the nature of expected deliverables. Other components of the RFQ include qualifications, the submission instructions, a grading rubric, and provide a timeline.

Traditionally, the District has posted request on the District website and ran a legal classified ad in the newspaper. Mr. Tecmire recommends advertising with the traditional posting and run it on the Bonfire Procurement Portal.

Mr. Person asked the Board if the third party review was anything they would be interested in doing.

Ms. Richardson did express a concern regarding the cost of the review and what would be done with the information that was received.

Ms. Richardson also asked Ms. Dixon since the discussion deals with Turn Key if it was appropriate for her to be involved in the conversation as it may conceived as a conflict of interest. Ms. Dixon is the President of Turn Key Construction. Ms. Dixon responded that she is fully supportive of an independent review and that the firm selected should be independent of the administration and outside of the state of Arkansas and a firm that understands construction, design, and the scope of the processes. Ms. Dixon stated she was comfortable being a part of this discussion.

Mr. Mahan stated that administration was also open to a third party audit. Mr. Mahan acknowledged mistakes had been made and would use this process to learn to improve in the future. He also stated if the owner of Turn Key Construction is involved in the discussion then the other owners, Halff Engineering, Corigan Construction, and HPM, should be involved in this process as well.

Mr. Person specified this would be an investigation into all parties involved in this project. Mr. Person also added what is unique is that the owner of the general contractor is participating in the discussion. Mr. Person requested Ms. Dixon's discussion be limited to items where her business interest would not be influenced or compromised. Ms. Dixon stated that was fair.

Mr. Person asked for clarification which incident the insurance claim was related to. Mr. Mahan informed the board the claims dealt with two separate incidences: the parking lot flooding due to the damming of the 42 inch pipe and also the unrepaired downspout that flooded part of the building. Mr. Warren confirmed that the District did receive reimbursement for the incidents and that the insurance company is working on subrogation so that they can recover any of their costs. The March incident is under a separate claim. The claim has been submitted and the District is awaiting payment.

Dr. Morawski stated that the District's insurance company confirmed that they placed Turn Key's insurance carrier on note of a potential subrogation claim. Ms. Dixon commented that she verified that information and it was incorrect.

Mr. Person asked the board to discuss the potential parameters of the third party review and what the RFQ and scope should look like.

Mr. Whiteaker asked if the Board was trying to figure out if there were communication or design errors that occurred during Peak construction. Mr. Whiteaker indicated the Peak Drainage Assessment presentation from the July 19, 2023 meeting indicated the quality of work may have been an issue. Ms. Dixon responded if anyone knows construction, they would know this is not true. Ms. Dixon stated someone in construction only does what is on a set of plans and the real issue was a design issue.

Mr. Whiteaker reiterated what was said earlier if there are multiple issues then there should be multiple entities able to select the third party investigator.

Mr. Mahan clarified what he said earlier that, in his opinion, it is not fair to have one representative able to speak to the whole process without getting input from all of the team members. If Turn Key can give their opinion, the others should be able to give their opinion and perspective. Ms. Dixon responded that once a third party is selected they go to each of the parties involved and get each of their perceptions. She stated that she is in agreement of a third party review and that the administration not be involved.

Mr. Whiteaker asked Mr. Ney if he had any suggestion or advice that he could give the Board. Mr. Ney noted a couple of observations: One, Ms. Dixon can ultimately decide if she wants to recuse or abstain. Second, even if it is not a conflict of interest it is an appearance of impropriety to participate. Mr. Ney stated that while Ms. Dixon has stated she is in favor of the process, she has used the platform to make statements about design flaw and administration's fault. Mr. Ney stated these actions could make it hard for the public to have faith in the process.

Mr. Ney also explained that per statute if a board member is in the room when a vote is had, even if you do not vote, you are deemed to have voted no. Mr. Ney stated this is why the statute requires when there is a conflict of interest to leave the room. Mr. Ney concluded by saying if he had to decide on whether or not it's proper for Ms. Dixon to sit in this discussion, he would say it was improper.

Mr. Person suggested the Board define this RFQ as an investigation into the multiple Peak drainage system failures and Peak drainage system in place. Mr. Person asked each board member individually if they were in agreement. Mr. Blaylock, Mr. Whiteaker, Mr. Chitwood, and Ms. Richardson all stated they were in agreement.

Ms. Dixon asked why would the scope not be expanded to other issues that occurred causing projects to be over schedule and issues with a project manager. Mr. Person stated that could be done at a separate time but there have not been issues with any other facility as are seen at Peak.

Ms. Richardson made a motion, seconded by Mr. Blaylock, that the broad scope of this project be an investigation into the drainage system failures at the Peak Innovation Center and the current drainage systems in place at the Peak Innovation Center. The motion passed 6-0.

With the scope of the RFQ process in place, Mr. Person asked the Board to discuss who this firm or individual will report to.

At 7:05 PM Ms. Dixon recused herself from the meeting.

Mr. Person proposed that the RFQ specifically identify that the consultant report to and operate under the direction of the Board of Education, excluding Ms. Dixon.

Mr. Blaylock suggested that there be a designee for the consultant to contact directly.

Mr. Whiteaker made a motion, seconded by Mr. Blaylock, that the RFQ include a provision that the consultant report to and operate under the direction of the Fort Smith Public Schools Board of Education with the exclusion of Ms. Dixon and that the Board specifically designates its president for the day-to-day contact. The motion passed 5/0.

Dr. Morawski asked to clarify if the Board was comfortable with the District being the vehicle to advertise the RFQ. Mr. Person answered yes but once the consultant is selected then they will report to the Board of Directors excluding Ms. Dixon.

The Board discussed the advertising details of the RFQ and specifically what does the Board want this consultant to do in their review. That scope includes being responsible for an onsite inspection, review documents (bids, contracts, change orders), conduct interviews (general contractor, architects, engineers), look at payments made (where payments went, who received money), and determine the inefficiencies, make recommendations for improvements, and prepare and present a report to the Board of Education as to failures, parties at fault, financial responsibility, and ultimate recommendations including recommendations to our construction processes in place.

Mr. Mahan expressed he is looking forward to how the District can improve operations and learn from this process moving ahead. He looks forward to the day that we can look at the great things that are happening at Peak instead continually revisiting these issues.

At 7:29 PM, Ms. Dixon returned to the meeting.

BOARD MEMBERS FORUM

The next regular scheduled board meeting will be Monday, July 17, 2023.

Mr. Warren informed the Board from the insurance claim submitted to ASBA the District received \$160,984.47.

Mr. Whiteaker noted all the camps that are going on at Peak Innovation Center this summer for our younger students. He is proud of the good things going on in the District.

ADJOURN

There was no further business and the meeting was adjourned at 7:32 PM.

President, Board of Education

Secretary, Board of Education