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## Board of Education

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### Minutes

#### The Board of Education

A Called School Board Meeting of the Board of Education of Fort Smith Public Schools was held Monday, August 9, 2021, beginning at 5:30 PM in the Woods Elementary School, 3201 Massard Road, Fort Smith, Arkansas 72903.

Ms. McFerran, president, called the meeting to order. Other board members present were: Ms. Talicia Richardson, Mr. Dalton Person, Ms. Dee Blackwell, Mr. Matt Blaylock, Mr. Troy Eckelhoff and Ms. Yvonne Keaton-Martin. District administration present included: Dr. Terry Morawski, Superintendent; Mr. Martin Mahan, Deputy Superintendent; Dr. Chris Davis, Assistant Superintendent of Human Resources and Campus Support; Dr. Tiffany Bone, Assistant Superintendent of Curriculum and Instruction, Mr. Charles Warren, Chief Financial Officer, Mr. Darian Layes, Executive Director of Student Services; Mr. Vance Gregory, Executive Director of Technology; Ms. Zena Featherston Marshall, Executive Director of Communication and Community Partnerships; and Ms. Nadine Brooks, Office Manager to the Superintendent. Mr. Marshall Ney, of Friday, Eldridge and Clark, District Attorney was also in attendance.

### **CITIZENS PARTICIPATION**

Ms. McFerran recognized those signed up to speak during Citizens Participation. Each participant was allotted 1.5 minutes. The following citizens spoke for or against a mask mandate in the District.

Dr. Donald Sanders

Tim Carrier

Anne Thomas

Dr. Brock Wilson

Amber Selby

Matthew Graham

Leona Hadwin

Tara Mendoza

Aaron Ray

Lacy McCain

### **SUPERINTENDENT'S REPORT**

Dr. Morawski reported on upcoming events. He noted that Launch for Learning the annual kickoff for staff will be hosted at Southside High School and livestreamed to other campuses and locations. All FSPS employees and board members were invited to livestream as well.

Dr. Morawski reported that an ESSER update will be provided at the next board meeting

Dr. Morawski reminded board members of scheduled board training on August 19.

Dr. Morawski reported that the next board meeting is scheduled for August 23 in Building B Auditorium.

#### **CONSENT AGENDA**

The consent agenda included August 9 Professional Staff Recommendations, August Student Services Report, adoption of Student Policy Change for Second Reading, and approval of 2021-2022 Child and Adult Care Food Program (CACFP).

Mr. Person made a motion, seconded by Ms. Richardson, to approve the consent agenda items as presented. The vote passed 7/0.

#### **AUTHORIZATION OF ELECTRONIC TRANSFER OF FUNDS**

Mr. Warren provided the list of EFTs for 2021-2022 with the authorization to complete these recurring transactions electronically. All funds released will be initiated by the District, following standard District internal controls and recordkeeping. If a new EFT is generated in the next year, an additional authorization from the Disbursing Officer will be initiated.

Mr. Warren noted that In 2021-2022, the District will move to a weekly "automatic" release of funds for purchases made with the Arvest ePayable system. All purchasing requisition processes will be in place before the ePayable is released.

This authorization is required for the disbursing officer of the Board, but not by the full Board. Therefore, no action is needed by the Board.

#### **CONSIDER APPROVING RESOLUTION TO ADVANCE REFUNDING OF SERIES 2018A BONDS**

Mr. Warren reported that earlier in the year, the Board reviewed a timeline to issue bonds supported by the 2018 election. The initial Series August 15, 2018A Bonds was \$90 million.

Kevin Faught, Senior Vice President with Stephens, has identified an advance refunding opportunity for Fort Smith Public Schools for this bond issue. Unlike the February opportunity, this one includes completed bids. Mr. Warren reported that the District will save \$4,715,580.32 in debt service costs over the lifetime of the bond. The timing of the debt service reduction includes an approximate savings of \$2.5 million in FY22 and \$2.1 million in FY23. These are operational savings and gives the District the opportunity to reduce the operational debt service cost. Dr. Morawski stated that administration will review how best to use these savings keeping capital improvement projects in mind with all close to completion.

The administration recommended that the board consider approval of the refinancing of the Series 2018A Bonds.

Ms. Richardson made a motion, seconded by Mr. Troy Eckelhoff, to authorize Stephens Inc. to refund the outstanding Series 2018A Bonds, approving the resolution and required documentation. The vote passed 7/0.

**CONSIDER APPROVING NEW "DISTRICT COVID-19 LEAVE" RESOLUTION**

Mr. Warren reported that the District is requesting that the Board consider an updated District COVID 19 leave resolution that will end at the end of the fiscal year on June 30, 2022. The administration recommended a new ten (10) days of leave to employees and their dependent children that are restricted from attending school or daycare. If the state or federal government provides additional leave as happened last year, the District will use that leave first.

Mr. Warren stated that the funding of this employee leave could be from ESSER monies.

Ms. Richardson asked if data is available for the percentage of employee usage and average leave time. Ms. Richardson suggested that extra leave time be provided for employees with large families and multiple needs for leave time or employees with extreme illness from COVID who might need longer periods of recovery time.

Mr. Warren stated that this data is available and would be provide to board members. Mr. Warren added that this leave was retroactive to July 1, 2021.

Ms. Keaton-Martin made a motion, seconded by Mr. Eckelhoff, to approve the District COVID-19 Leave updated resolution. The vote passed 7/0.

**PRESENTATION - VISION 2023 CAPITAL IMPROVEMENT UPDATE**

Mr. Shaffer provided a construction update with completion timelines on capital improvement projects at Northside High School, Southside High School, Darby Middle School, The Peak Center and Access and Security Phase 2 packages.

He provided an update on Morrison Elementary School stating that the roof and two classrooms should be complete in six weeks. He added that students would be able to be back in the school in August when classes resume.

**PRESENTATION – SAFE RETURN AND CONTINUITY OF SERVICE – 2021-2022**

Dr. Morawski introduced Dr. Bala Simon, Deputy Chief Medical Officer and State Chronic Disease Director, Arkansas Department of Health and Dr. Amanda Britt, Arkansas Department of Health/Department of Education Liaison as experts in the health field particularly with COVID. Both were available by Zoom for questions.

Mr. Mahan provided an overview of this plan that was previously the Ready to Learn Plan, a requirement of the Division of Elementary and Secondary Education.

Mr. Mahan’s overview included current quarantine guidelines, outlines response protocols, and District-wide procedures. The district-wide procedures include, high-level disinfection of

classrooms and buildings, encouraging use of face coverings according to ADH and CDC guidelines, following quarantine procedures, and maintaining distance between students in classrooms and enclosed spaces.

Ms. Kerri Tucker, School-Based Health Center Coordinator/District COVID 19 Point of Contact, provided an update regarding quarantine guidelines.

This was a presentation and did not require action.

**CONSIDER APPROVAL OF A RESOLUTION REGARDING MASKS AND LITIGATION CONCERNING ACT 1002 FOR THE 2021/2022 SCHOOL YEAR**

Dr. Morawski, Ms. Marshall and Mr. Ney, presented an overview of COVID timeline, survey results, options for masks for students, staff and visitors and board discussion and input from expert guests Dr. Simon and Dr. Britt.

COVID Timeline

March 11, 2020 - First presumed case of Covid 19 in Arkansas

March 15, 2020 - Governor Closes Schools to In-Person Learning

July 26, 2020 - Statewide Mask Mandate Put Into Place

November 18, 2020 - FSPS Highest Daily Number of Close Contacts  
(878 Total: 769 Students, 109 Staff)

January 4, 2021 - FSPS Highest Daily Number of Positive Cases  
(143 Total: 79 Students, 64 Staff)

April 29, 2021 - Act 1002 Ending Mandatory Face Coverings  
(for Public Schools)

August 6, 2021 - Judge Timothy Fox Rules Act 1002 "Cannot Be Enforced..."

August 9, 2021 - Per Legal Advice of Attorney Marshall Ney,  
FSPS Considers Mandatory Face Coverings

Ms. Marshall presented mask/face covering protocols in schools survey results. This survey was sent out on August 6 to approximately 30,000 contacts that included students, parents and employees. Within the first hour, 1,600 responses were completed with more than 2,000 additional responses received by Monday morning for a total of 3,766 responses. These 3,766 responders identified themselves in multiple categories that included parents, teachers, support staff and students. Dr. Morawski stated that this survey was provided to give a large audience an opportunity to have input and give board members an opportunity to review the results from the survey.

Dr. Morawski presented the following options as an example for consideration if the Board chose to vote on a mask mandate resolution for students, staff and visitors.

Student Face Coverings

Mandatory Face Coverings in All Schools and Administration Buildings

Mandatory Face Coverings in All Elementary and Middle Schools (and any other buildings where students under the age of 12 are present)

Face Coverings Optional for Students in All Schools and Administration Buildings

Staff Face Coverings

Mandatory Face Coverings for Staff in Buildings Where Student Face Coverings Are Required

Mandatory Face Coverings for Staff in All Schools and Administration Buildings

Face Coverings Optional for Staff

Visitor Face Coverings

Mandatory Face Coverings for Visitors in Buildings Where Student Face Coverings Are Required

Mandatory Face Coverings for Visitors in All Schools and Administration Buildings

Face Coverings Optional for Visitors in All Schools and Administration Buildings

Dr. Morawski noted that, Mr. Marshall Ney, attorney for the District, was attending if the Board had questions or edits if a resolution was presented for a vote. Dr. Morawski added that there would need to be further action with a vote from the personnel policy committees regarding a mask mandate for staff.

Mr. Ney reported that Judge Fox's blocking of Act 1002 created a position for schools to individually decide whether or not to issue mask mandates. Mr. Ney added that Arkansas law related to how policies are created further complicates this matter since policies adopted for staff this time of year are not enforceable until the following fiscal year beginning on July 1 of each year unless both the Certified and Classified Staff Personnel Policy Committee members have an opportunity to vote by secret ballot.

Mr. Person noted that an expedited appeal to the Arkansas Supreme Court could determine Judge Fox's ruling improper and the decision of the board would no longer be in effect.

Mr. Person asked to hear from the expert guests. Dr. Simon and Dr. Britt discussed their experience with the COVID virus and their recommendations for getting the vaccine and wearing of masks.

Ms. McFerran asked to hear from board member regarding their view on wearing of masks.

Mr. Eckelhoff stated that he felt it should be a personal choice whether to get the vaccine or wear a mask but considering the situation he felt that parents of children that can't get the

vaccine should consider having their child wear a mask.

Ms. Blackwell expressed that the biggest responsibility was to ensure an equitable safe opportunity for every student. Ms. Blackwell stated that the responsibility a board member has in the community is enormous. Ms. Blackwell stated that data provided last year determined that masks work. Ms. Blackwell said that for half of the student population, parents do not have the option to get their children vaccinated. Ms. Blackwell also noted that when students have to quarantine and miss school, the consequences for some are that they get behind in their education, some have no food, and no supervision. Ms. Blackwell stated that she does not want the mask mandate to continue any longer than necessary but to get kids in school, socializing, not delaying the start of school, she feels that masks are necessary.

Mr. Blaylock stated that he struggled with this, consuming most of his weekend and today as well. He stated that his stance after looking back at the oath he took to the United States Constitution is that no individual school board should make this decision. His opinion is that this decision should be from the Arkansas Department of Health and CDC.

Mr. Person referenced Supreme Court Justice Oliver Wendell Holmes quote "The right to swing my fist ends where the other man's nose begins." Mr. Person stated that the experts state that masks protect others and if all are wearing then all are protected. Mr. Person stated that he realizes this will be an unpopular decision based on the vaccination rate in this community. Mr. Person stated that he trust what the experts say. Mr. Person stated sometimes leaders have to make unpopular decisions but sometimes leader have to lead.

Ms. Richardson stated that the number of deaths in Arkansas specifically the three children that have died are very unfortunate. Ms. Richardson referenced the Vision 2023 Mission # 2, " We Believe that all students deserve an equal opportunity to a quality education in a safe and accepting environment to structure the learning process." Ms. Richardson stated that the Board doesn't need to focus on opinions but on facts from medical experts, researchers and scientists. Ms. Richardson stated that having a child in the school district during the pandemic last year and this year has made her family make some tough decisions.

Mr. Person made a motion, seconded by Ms. Richardson, to authorize Superintendent, Dr. Terry Morawski, to take all steps necessary to implement a face covering requirement to the maximum extent legally permissible for all persons present on school campuses or in school vehicles or buses, including staff, students and visitors, with such requirement to last the shorter of further action by the Board, the passage of 60 days or reversal of Judge Fox's order.

After discussion and edits to paragraph one, Mr. Ney was asked to read the motion out loud for all board members.

Mr. Person made a motion, seconded by Ms. Richardson, to amend the motion on the floor to reflect the resolution as amended and stated by legal counsel. The vote passed with a vote of 5/2 with Mr. Blaylock and Mr. Eckelhoff opposing.

With further discussion, Ms. McFerran called for a vote to approve the amended resolution as follows.

1. to authorize our Superintendent, Dr. Terry Morawski, to take all steps necessary to implement a face covering requirement to the maximum extent legally permissible for all persons, including staff, students, and visitors, in district buildings or in school vehicles or buses that contain two or more persons, with such requirement to last the shorter of further action by the Board, the passage of 60 days or the reversal of Judge Fox's Order; and
2. authorize our Superintendent to make exceptions to the these requirements, in his discretion and as informed by the CDC and Arkansas Department of Health; and
3. in any event, continue to strongly recommend that all of our students, their families, and our employees consider getting vaccinated and follow all CDC guidelines regarding wearing a mask in order to protect themselves and others, without regard to the final outcome of all litigation regarding Act 1002.

The vote passed 5/2 with Mr. Blaylock and Mr. Eckelhoff opposing.

#### **BOARD MEMBERS FORUM**

Ms. Blackwell thanked everyone and expressed respect for all involved.

Ms. McFerran thanked Ms. Schwartz and Woods Elementary School staff for hosting the meeting.

#### **ADJOURN**

There was no further business and the meeting was adjourned at 8:20 p.m.

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Susan McFerran, President

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Dee Blackwell, Secretary