

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA  
OFFICE OF THE SUPERINTENDENT

December 7, 2010  
Tuesday, 9:45 a.m.

MINUTES OF REGULAR MEETING

The School Board of Broward County, Florida, met in regular session at 9:49 a.m., Tuesday, December 7, 2010, in the Board Room of the Kathleen C. Wright Administrative Center, 600 Southeast Third Avenue, Fort Lauderdale, Florida. Present were: Chair Benjamin J. Williams; Vice Chair Ann Murray; Members, Robin Bartleman, Maureen S. Dinnen, Patricia Good, Jennifer Leonard Gottlieb, Laurie Rich Levinson, Nora Rupert, David Thomas; Superintendent James F. Notter, and Edward J. Marko, Esq.

**Call to Order** Mr. Williams, Board Chair, called the meeting to order and led the Pledge of Allegiance to the Flag of the United States of America.

Mr. Notter announced, with pride, that the Florida Department of Education released school grades this morning for high schools throughout the state, and that high schools in Broward County showed significant improvement. With the nation focusing on increasing graduation rates, enhancing rigor and preparing students for college readiness and the world of work, Broward County Public Schools (BCPS) has strengthened its high school reform initiatives to meet these new expectations.

The continued emphasis on high rigor for all high schools was evidenced by the Advanced Placement course enrollment five-year increase of 99 percent, including an increase of 148 percent for African American students and an increase of 154 percent for Hispanic students, and the high school graduation rates; in particular, the significant Black male increases and Hispanic male increases, and there has been a 49 percent increase in Honors enrollments which mirrored the Advanced Placement (AP) enrollments.

Mr. Notter further stated that the Broward County School District is at 7 percent higher than the state average in A grades, the state has 2.3 percent F grades but Broward County has no F grades. In addition, Broward exceeded the state average (70.5%) with nearly 75 percent (73.6%) of traditional high schools receiving an A or B grade and 100 percent of traditional high schools receiving an A, B or C grade. All seven high schools with prior D grades received a C or better grade. Schools with multiple grade improvement include Dillard from a D to a B; Coral Springs from a D to a B, South Plantation from a D to an A; and Western from a C to an A. Overall, 17 high schools increased at least one grade level.

Mr. Notter said that for the first time, this year's high school grades were based on more than the Florida Comprehensive Assessment Test (FCAT). The 2008 Legislature mandated that other factors be in the mix, including graduation rates and participation and passage on Advanced Placement exams. FCAT scores count for 50 percent of the grade; other factors count for the rest.

The Superintendent thanked teachers and administrators for doing an incredible job and also commended elementary and middle schools for the excellent foundation work done each day in their classrooms. Mr. Notter also thanked employees for their contributions to this great school system.

**Minutes for Approval** Motion was made by Ms. Dinnen, seconded by Ms. Murray and carried, to approve the official minutes for the following Board Meetings: (9-0 vote)

October 19, 2010 – Special – Student Expulsions  
October 19, 2010 – Regular School Board Meeting  
October 26, 2010 – Special – Student Expulsions  
November 9, 2010 – Special – Student Expulsions  
November 9, 2010 – Special – School Board Leasing Corporation  
November 16, 2010 – Annual Meeting – Organization of the School Board  
November 16, 2010 – Annual Meeting – The Broward School Board Leasing Corporation  
November 23, 2010 – Special – Student Expulsions

**Added Items** Two speakers

**Close Agenda** Upon motion by Mrs. Gottlieb, seconded by Ms. Good and carried, the Agenda was approved and declared closed. (9-0 vote)

### **SPECIAL PRESENTATION**

**Annual Report of the School Board Audit Committee** – Duane Wolter

Mr. Wolter, Chair, Audit Committee, presented to the School Board Members, Superintendent, and staff the Annual Report of the activities of the Audit Committee for the 2009-10 fiscal year. The Audit Chair emphasized that the purpose of the Audit Committee is to assist and advise the School Board and Superintendent in matters pertaining to the fiscal management of the school district.

Remarking that he has served on the Audit Committee for six years, Mr. Wolter introduced the current members of the committee for recognition: Mr. Steve Hurst, Certified Financial Planner and Vice Chair, representing District Advisory Council; Ms. Charlotte Greenbarg (Mrs. Murray's appointee); Mr. John Herbst (Ms. Dinnen's appointee); Mr. Anthony De Meo, CPA (Mr. Notter's appointee); Ms. Mary Fertig, (Mrs. Good's appointee); Dr. Henry Mack, (Mr. Williams' appointee); Ms. Alex Mores, (Mrs. Gottlieb's appointee); and Mr. Ken Evans, (Mrs. Rupert's appointee). The committee is awaiting appointments by Mrs. Rich Levinson, Mr. Thomas and the PTA.

Special thanks and recognition was given to Mr. Patrick Reilly, Chief Auditor, Office of the Chief Auditor, and staff for their continued dedication and hard work. They continue to do a great job of providing independent audits which result in discovery, assistance to staff, and making recommendations to improve both fiscal and operational issues of the district. The department has saved the district millions of dollars over the past six years.

Mr. Wolter also recognized the district's external auditing firm: Moore, Stephens and Lovelace, P.A., represented by Mr. Daniel O'Keefe, Engagement Leader, and their minority engagement firms, TCBA Watson Rice, LLP, represented by Mr. Ron Thompkins, and BKR Garcia and Company, represented by Mr. Manuel Garcia.

The Committee met eight times during the 2009-2010 fiscal year and has held two meetings so far during the current 2010-2011 year. Mr. Wolter stated that as a result of a difficult funding year due to the continuing effects of the recession, there were serious budget constraints that affected many operational areas, including food service operations, construction, payroll and jobs within the schools and departments. The audits identified and reviewed the administration's responses of over 35 audit reports. The responses included proposed actions the administration would take to resolve the findings, as well as an associated timetable and identification of resources needed to bring resolution to the problems identified.

Financial statements were reviewed of approximately 50 charter schools. The Committee reviewed the Comprehensive Annual Financial Report (CAFR) which included the audited financial statements and the Management Letter for the fiscal year 2009, and the Auditor General's Broward County District School Board Financial, Operational and Federal Single Audit Report for the fiscal year ended June 30, 2009. The Auditor General reported 19 findings related to internal control and compliance issues. The Office of the Chief Auditor has recently completed a current status report, finding that a majority of the findings had been corrected by management.

Mr. Wolter informed that at the beginning of the 2009-2010 fiscal year, the Committee reviewed the audit of Ashbritt, Inc. and C & B Services invoices for district portable repairs related to Hurricane Wilma. Other Chief Auditor reports that were reviewed included: Audit of RFQ No. 2006 FC Kitchen/Cafeteria Program; Operational audit of the Facilities and Construction Management division; current status of the Southwest Area Bus Parking facility which is still not being used by staff; audits of the Internal Funds of over 200 schools and technical centers. The majority of the schools and centers had no audit exceptions and there continues to be a reduction in audit exceptions overall. Other audits included: Property and inventory reports of schools, centers and departments; desk review of overtime expenditures; desk review of reimbursement for personal use of district-issued cellular phones. Mr. Wolter advised that overall recommendations made in this reports, if implemented, would promote operational efficiency, better internal controls and compliance with applicable laws, regulations and School Board policies.

Areas of concern to the Audit Committee include: Completion of audit follow-up items. The Committee's requests are not being completed in a timely manner in some cases; perceived lack of a sense of urgency to correct the SAP payroll system's overtime program that continues to calculate overtime premium for employees who have second jobs, based on the hourly rate of their primary position. Management indicated that \$200,000 could be saved per year by correcting the SAP payroll system program to prevent the miscalculation. Praise was given to the Board for updating and approving Policy 4300.1 Overtime Pay – Non-Instructional Employees.

Other areas of concern include: delays in construction project completion needs to be addressed and better document management needs to be maintained, based on the latest audits. The committee recommends that the Audit staff be maintained at adequate levels, as several experienced Auditors have retired and have not been replaced. There is a need to strengthen the information technology security monitoring and existing IT contracts be reviewed for compliance with contract terms and verification of services provided; and obtaining assistance, legal opinions and follow-up responses from the General Counsel for items requested by the Auditors and the Audit Committee.

Mr. Wolter further reported that a recommendation was made by the Commission on Education Excellence through Integrity, Public Ethics and Transparency to change the reporting structure of the Chief Auditor to report directly to the School Board. He said he personally opposed changing the Office of the Chief Auditor's reporting structure for the following reasons: Comments and recommendations of the Ethics Commission show their lack of knowledge and experience in the operations of an effective internal audit department. For example, the Auditor should not be seated on the dais, as this implies that he is part of the management of the school district. The Auditor's job is to audit the management process and internal control. In addition, the Ethics Commission has not offered examples of how the current system is broken to support their recommendations, nor do they present what the current reporting system is; they did not meet with any member of the Audit Committee to obtain their view of the reporting relationships or its effectiveness.

Mr. Wolter noted that the Sarbanes/Oxley legislation requires that the Auditor of companies with SEC registration should not report to the board of directors (similar to the School Board) but to an independent audit committee. This is what the school district currently has and it is working.

Mr. Wolter informed that the Audit Committee is always ready to meet with the Board at any time to review the Audit Report or any other matter affecting its work, and any concerns the Board has of the critical functioning of the internal audit team.

Mr. Williams, on behalf of the School Board, thanked Mr. Wolter and the Audit Committee for their report.

Children Services Council, Broward Haiti Relief Task Force, to SBBC for Outstanding Performance Award

Mr. Francois Leconte, Minority Development and Empowerment, Inc., and Broward County Haiti Relief Task Force, and Sandra Bernard-Bastien, Children's Services Council, Broward County, thanked the School Board and staff for their support. Mr. Leconte discussed the situation in Haiti following the earthquake and the displacement of students to come to South Florida.

Ms. Bernard-Bastien informed that the Haitian community worked extremely hard to make sure that services were geared toward filling the needs of students in Haiti and students that were in the county, including supplies that were sent to Haiti from the district. Ms. Bernard-Bastien stated that more than 30 tons of items were collected and sent to Haiti through Food for the Poor. She thanked Mr. Israel Canales, Administrative Site Manager, for coordinating the pick up of items, and warehouse staff for packing items that were delivered to Haiti.

The Children Services Council, along with Broward Development and Empowerment, Inc., presented a performance award to the School Board and to Dr. Laurel Thompson, Director, Student Services Department, for their outstanding service to the Haitian community and the Haitian Task Force. A photographic session was taken with School Board Members and the Superintendent.

**REPORTS**

Employee Unions – Bernie Schultz

Ms. Schultz recognized high school stewards and teachers, who are attending the School Board meeting as part of their steward training.

Broward County Association of Student Councils and Student Advisor to the Board – Graham Rabinowitsch

Graham reported that several schools participated in the Holiday Cards for Veterans program through the Broward County Association of Student Councils. Each school created cards to be sent to veterans' hospitals for the holidays.

Speak Up, Speak Out sessions were held at nine schools from October 25, 2010 to December 1, 2010. A written report from these sessions will be sent to the School Board Members and Superintendent.

The next meeting of the Broward County Association of Student Councils will be held on Thursday, December 16, 2010, 8:30 a.m., at Piper High School.

Graham informed that student involvement is a vital part of the decision-making process in public education. Students provide a unique perspective not seen by any other stakeholder. All decisions made directly impact the lives of students. Unfortunately, the value of student input is not always recognized.

Student input is not always incorporated at all levels. When serving on advisory committees, students are not always treated as equals with other members of these committees. They are not always afforded the same levels of respect as given to other members.

Graham further reported that on Saturday, November 20, 2010, District 6 of the Florida Association of Student Councils, consisting of Broward, Miami-Dade, and Monroe counties, approved two resolutions relating to student involvement, Resolution on the Florida Commissioner of Education's Race to the Top Implementation Committee and the Resolution of Student Involvement. These resolutions will be considered at the Florida Association of Student Councils Convention in February for state-wide support. Graham read the resolutions into the record.

Support in these initiatives was requested of the Board and to express support of student involvement in the district and across the state.

#### Facilities Task Force – Charlotte Greenbarg

Ms. Greenbarg reported that an extensive discussion was held with Mr. Notter and Mr. Donnie Carter, Chief Operations Officer, Office of the Chief Operations Officer, concerning transportation issues, including using some schools for remote depots. The mission of the Task Force is to save the district money in light of the extreme budget constraints and researching large districts nationwide to discover practices that could benefit this district.

The transportation issues involved in the Plantation/Seminole Middle schools area are resolved, with the 15 students receiving transportation this year and next year. Mr. Carter will research whether there was or is a definitive policy and if changes are needed. The Southwest Bus Terminal is scheduled to be completed in early spring after six years of work.

Ms. Greenbarg further reported that the Task Force met on December 2, 2010 and welcomed new members and attendees. Mr. Thomas Lindner, Acting Deputy Superintendent, Facilities and Construction Management, informed that he testified before the Grand Jury, gave an update on the department's move from Hortt to Sawgrass Center on April 15, 2011. Discussion was also held regarding the demolition of portables, cost to move staff, and how future interlocal agreements will be met with loss of portable capacity. Mr. Lindner explained that the county has seats available, and a shift of boundaries will need to be addressed to support meeting state, local requirements and students' needs.

Mr. Omar Shim, Director, Capital Budget, reported through e-mail that \$65 million in Capital Budget transfers were made in 2009 and 2010. Mr. Marvin Quittner gave a Tools for Schools update. Mr. Lindner complimented this award-winning program working with the Environmental Protection Agency, stating it is a benchmark for all other air-quality programs.

The next Task Force meeting is scheduled for January 6, 2011.

Mrs. Bartleman requested additional information about the K-8 Montessori school on the Parkland Wedge. She stated that the community of Virginia Shuman-Young is concerned about placing a Montessori in this area.

Mr. Lindner responded that the City of Parkland indicated they would be interested in a K-8 Montessori School at this location and negotiations are underway to obtain a site that is sufficient to support this center, if it comes to fruition.

Mrs. Bartleman stated that the Board should have this information so that the appropriate response can be provided to constituents.

Mrs. Gottlieb stated that when the district has a successful Montessori program other communities want to replicate those programs. She said it was wise for the city to bring the program forward for discussion, and she encouraged the Board to keep an open mind when discussing future plans.

### **BOARD MEMBERS**

Ms. Murray informed that Gulfstream Middle School has organized a Youth March for December 11, 2010, beginning at Hallandale High School, 9:00 a.m. to 1:00 p.m., to stand up against youth violence in conjunction with the Hallandale Innovation Zone.

Board Members expressed holiday wishes and a safe holiday break to everyone in the school district.

### **Speakers**

Rhonda Ward  
Billy Davison  
Karen Cormack  
Edward DelCampo

Staff will review concerns of Mrs. Karen Cormack regarding her ESE child not having Transition planning.

**CONSENT AGENDA** Following identification of those items Board Members and members of the public indicated they would like considered separately, motion was made by Ms. Dinnen, seconded by Ms. Murray and carried, to approve the Consent Agenda for the remaining items (**identified by \***). Mrs. Gottlieb was absent for the vote. (8-0 vote)

## CONSENT ITEMS

### A. RESOLUTIONS

- A-1. Resolution in Support of National Magnet Schools of America Month  
(Adopted)

Motion was made by Mrs. Gottlieb, seconded by Mrs. Good and carried, to adopt Resolution #11-66, in support of the 2011 National Magnet Schools of America Month. (9-0 vote)

Remarking that magnet programs are the wave of the future, Ms. Dinnen stated that the district's various magnet schools should be highlighted, as many people want specialized schools that offer special programs. Ms. Dinnen suggested placing facets of magnet programs on BECON television station

Mr. Thomas informed that a new Science, Technology, Engineering and Math (STEM) program will be offered at some of the middle schools. He stated that the program will be going into some of his district's schools which will make them competitive with charter schools.

Mrs. Bartleman suggested adding a one-pager to the Legislative platform to push to restore the funding to magnet programs.

Mrs. Rupert stated that magnet schools provide an opportunity for hands-on learning and makes a difference with children.

Mrs. Good requested that the Board be provided a fact sheet regarding what magnet programs are available within the district and county-wide. Ms. Good stated that disseminating this program will promote public schools in the best way possible.

- \*A-2. Resolution in Support of No Name-Calling Week – January 24-28, 2011  
(Adopted)

Adopted Resolution #11-67, in support of National No Name-Calling Week – January 24-28, 2011.

- \*A-3. Resolution in Support of Jewish History Month – January 2011  
(Adopted)

Adopted Resolution #11-68, in support of Jewish History Month, January 2011.

- A-4. Resolution in Support of National School Counselors' Week, February 7-11, 2011 (Adopted)

Motion was made by Mrs. Bartleman, seconded by Ms. Dinnen and carried, to adopt Resolution #11-69, in support of National School Counselors' Week. (9-0 vote)

Mrs. Bartleman spoke of the importance of school counselors to the educational process. She expressed gratitude to Mr. Ralph Aiello, Coordinator, Core Curriculum, who will be leaving the district, for being an advocate for the children and counselors of the county's schools.

Expressing gratitude for the opportunity to serve the district, Mr. Aiello highlighted the patience and guidance that school counselors have provided to him over the past several years, especially with the high school grading formulas, students earning their proper credits, receiving their FCAT scores and opportunity for concordance for SAT, ACT and college readiness, and Bright Futures scholarships. Mr. Aiello noted that middle school counselors play an integral part in the personal, social, knowledge skills and abilities to be successful; and to BRACE advisors in the high schools who focus on making sure students have the financial resources and knowledge, skills and abilities to move onto post-secondary schools. Mr. Aiello stated there must be assurance that staff is available at the school level on the "ground floor" to make sure that students are able to succeed.

Mr. Williams stated that the district will miss Mr. Aiello, including the Princeton Review program.

- \*A-5. Resolution in Support of Celebrate Literacy Week, Florida! January 24-28, 2011 (Adopted)

Adopted Resolution #11-70, in support of Celebrate Literacy Week, Florida! January 24-28, 2011.

- A-6. Resolution in Support of BrightStar Credit Union as Philanthropic Corporate Donor of the Year (Adopted)

Motion was made by Ms. Dinnen, seconded by Mrs. Gottlieb and carried, to adopt Resolution #11- 71, in support of BrightStar Credit Union as Philanthropic Corporate Donor of the Year. (9-0 vote)

Ms. Dinnen praised the BrightStar Credit Union for their support of the annual Historic Sistrunk Festival, Broward County's largest and longest-running African and Caribbean-American festival and they have raised more than \$40,000 for Hurricane Katrina victims and earthquake victims in Haiti.

Ms. Dinnen stated that the well-deserved resolution by the School Board honors and recognizes the outstanding service and accomplishments of the BrightStar Credit Union.

Ms. Dinnen introduced Mr. Sam Chesser, Mrs. Dorothy Orr, and Mr. Ralph Crockett, President, BrightStar Credit Union. She thanked the organization for their support.

Mr. Crockett, who thanked the School Board for their recognition, said that BrightStar will continue to offer support to students, teachers and administrators in the future.

**B. BOARD MEMBERS**

- \*B-1. Rescind Board Action Approving New Job Description and Minimum Qualifications for the General Counsel Emeritus Position for The School Board of Broward County, Florida (Approved)

It is requested that The School Board of Broward County, Florida, rescind the Board Action Approving New Job Description and Minimum Qualifications for the General Counsel Emeritus Position for The School Board of Broward County, Florida, Item CC-4, which passed on final reading on November 9, 2010, and allow this Board the opportunity to revisit the terms and conditions of this position.

On November 9, 2010, the School Board passed, on final reading, Item CC-4, creating a New Job Description and Minimum Qualifications for the General Counsel Emeritus Position for The School Board of Broward County, Florida. This action was taken at the last Board meeting attended by three Board members who were not returning. Four new board members had been elected and would be seated the following week. Several current and incoming board members asked the Board to delay taking action on this item until the new Board could be seated, but the Board in place at that time voted to approve the item on final reading.

At the time the item was passed, then-Board member Kevin Tynan remarked that this was a routine item, and merely a job description. In fact, this is an item that creates a position that has not been in existence before, defines the parameters of the position, sets forth the expectations of the board regarding the position, and provides specific performance responsibilities.

During the Board workshop of November 29, 2010, the position of Counsel Emeritus was discussed. Several Board members expressed a desire to revisit the terms and conditions of the job description, especially as it pertains to certain specific responsibilities and the status of the term of office, hours of employment, and salary and benefits.

Inasmuch as this new Board did not have the opportunity to discuss this position, or the description, details and responsibilities of this position, it is respectfully requested that this Board rescind the action taken on November 9, 2010, approving the New Job Description and Minimum Qualifications for the General Counsel Emeritus Position for The School Board of Broward County, Florida, Item CC-4, and allow this Board the opportunity to revisit the terms and conditions of this position.

There is no impact to the district.

B-2. Second Amendment to Employment Agreement of Edward J. Marko, General Counsel (Withdrawn)

Motion was made by Mrs. Gottlieb, seconded by Mrs. Good , to approve terms and conditions of three-month extension (January 1, 2011 – March 31, 2011) of Employment Agreement for Edward J. Marko, General Counsel, for The School Board of Broward County, Florida. This motion was superseded by a Motion to Withdraw (page 12). (9-0 vote)

Benjamin Williams, School Board Chair, provides this Second Amendment to the Employment Agreement of Edward J. Marko as General Counsel of Broward County Public Schools. The Employment Agreement was made and entered into as of March 18, 2008, (Item H-1, 3/18/08). Subsequently amended as of November 10, 2009 (Item H-4, 11/10/09).

This item is the Second Amendment to the Employment Agreement.

There is no financial impact as the new General Counsel and this contract extension are not proposed to overlap.

Ms. Dinnen inquired whether the agenda item is a moot point.

Mr. Notter responded that as a result of the approval of Agenda Item G-4, Mr. Marko's retirement on December 31, 2010, the recommendation is to re-open the agenda and withdraw Agenda Item B-2.

Motion to Re-Open Agenda (Carried)

Motion was made by Ms. Dinnen, seconded by Mrs. Gottlieb and carried, to re-open the agenda. (9-0 vote)

A vote was taken on the Motion to Re-Open Agenda.

Motion to Withdraw (Carried)

Motion was made by Ms. Dinnen, seconded by Mrs. Gottlieb and carried, to withdraw the agenda item for consideration. (9-0 vote)

A vote was taken on the Motion to Withdraw.

Motion to Close Agenda (Carried)

Motion was made by Mrs. Gottlieb, seconded by Ms. Murray and carried, to close the agenda. (9-0 vote)

A vote was taken on the Motion to Close Agenda.

B-3. Value Adjustment Board Alternate Representative (Approved)

Motion was made by Mrs. Good, seconded by Mrs. Murray and carried, to approve appointment of Alternate Representative to the Value Adjustment Board. (9-0 vote)

The School Board is requested to approve an Alternate Representative. Per the Bylaws of the Value Adjustment Board, the School Board is required to appoint two School Board Members to serve.

At the November 16, 2010, Special Organizational meeting the School Board appointed one of its members to the Value Adjustment Board. The remaining School Board Member, designated as an alternate, must be appointed.

There is no financial impact to the school district.

Mrs. Bartleman informed that an e-mail was circulated, indicating that Mrs. Good is willing to serve as appointee on the Value Adjustment Board. She stated that she will serve as a back-up, as it is imperative that someone attend, as being absent is not an option. She requested that an additional back-up be appointed.

Mr. Notter informed that in the event someone is not available, the Chair is empowered to designate someone in an emergency situation.

Mr. Marko advised that the Value Adjustment Board cannot meet without a School Board Member being present. In the past, there have been two Board Member appointments and they alternated; if one member could cover the meeting, a request would be made to the Chairman to appoint someone to appear at the meeting, per statute.

Mr. Notter stated that the same practice will be utilized in the Organizational Meeting, to include the name of Ms. Good, for the record.

**D. OFFICE OF THE CHIEF AUDITOR**

**E. CHIEF OPERATIONS OFFICER**

**\*E-1. Default of Biko Engineering Services (Approved)**

Approved default on the following contracts: Bid 11-003N – Paper and Plastic Items for Cafeterias and Bid 11-004N – Cleaning Chemicals for Cafeterias.

It is recommended that The School Board of Broward County, Florida, find Biko Engineering Services in default of the bid conditions of the subject bids. Biko Engineering Services has been notified various times to submit their certificate of insurance in accordance with General Condition 12 – Insurance of the subject bids. Biko did not submit their certificate of insurance to our Risk Management Department when notified by the Supply Management and Logistics Departments on August 11, 2010, September 13, 2010, and October 19, 2010. It is further recommended their contracts be canceled, their company name be removed from the bid list for two years, no bids be considered from this vendor or recommended for award, and no purchase orders be released to this vendor. This recommendation is in accordance with General Conditions 54 – Nonconformance to Contract, and 24 – Cancellation. These bid items will be purchased in accordance with standard purchasing policies and procedures through informal quotations, new formal bids or by piggy-back of other governmental agency bids.

There is no financial impact.

**\*E-2. Transportation Agreement for the City of Pembroke Pines (Approved)**

Approved agreement between The School Board of Broward County, Florida, and the City of Pembroke Pines to provide school bus transportation for recreational programs for the period of one year.

The transportation agreement allows the City of Pembroke Pines to utilize District school buses for city sponsored recreation programs and events that are dependent on transportation. The city recreation programs provide activities and supervision for many District students during the summer and other days when school is not in session. City sponsored recreation programs provide a valuable service to their respective communities.

The transportation service will be provided during the times school buses are not being utilized for service to Broward County Public Schools. The City of Pembroke Pines will reimburse the District for the cost of this service.

This agreement has been reviewed and approved as to form and legal content by the School Board Attorney.

The City of Pembroke Pines will reimburse the District for the cost of this service as invoiced.

\*E-3. Riverside Publishing a Subsidiary of Houghton Mifflin Harcourt  
(Approved)

Approved the issuance of a Purchase Order to Riverside Publishing for the purchase of the CogAT instrument for universal screening of students for eligibility for gifted services.

Based on the belief that there are equal proportions of gifted students across all ethnic, language, and socioeconomic student groups, The School Board of Broward County, Florida, directly addressed the underrepresentation of Free and Reduced Lunch (FRL) and Limited English Proficient (LEP) students within the gifted population by establishing a Universal Screening Task Force in 2003.

The Universal Screening Task Force was charged with the responsibility of choosing an appropriate screening instrument for intellectual ability and implementing a systemic process to annually screen all students in one grade level for potential eligibility for gifted services.

The District is reaping several key benefits as a result of Universal Screening: 1) Students who are traditionally overlooked as potentially gifted are now being identified. 2) More teachers are becoming gifted-endorsed, especially in schools where few or no gifted students were previously identified. 3) Schools are receiving supplemental instructional dollars as a result of greater numbers of gifted students. Annually, over 1,000 students are identified as eligible for gifted services within a screening cohort. Most of these students are traditionally underrepresented in gifted education and would not have been identified without the Universal Screening process.

Approximately \$7.8 million in supplemental instructional dollars will be generated throughout the student's school career. 4) The demographics of our gifted population now mirror, more closely the demographics of the District student population as a whole, allowing us to report substantial progress with regard to identification of our underrepresented population to DOE's Office of Monitoring and Compliance. Hispanics are no longer underrepresented in the gifted population distribution in grades 3-8 as a result of Universal Screening.

The amount of \$234,000, is allocated annually by the District for Universal Screening to cover the screening instrument and the cost of testing referred students by school psychologists. Riverside Publishing is the sole provider of this instrument. Costs for one (1) year in the amount of \$195,500, include the purchase of software and test booklets that are re-usable. As a result of this large investment in year one, future years' costs for the screening instrument will be approximately \$50,000. Funding for annual maintenance will be from the Advanced Academic Programs.

Purchasing Policy 3320, Part IIH, authorizes the purchase of any type of copyrighted materials, instructional materials, and computer software without competitive solicitations. Purchases in excess of \$50,000 for commodities or services which competitive solicitations have been waived require School Board Approval.

The Quotation has been reviewed and approved as to form and legal content by the School Board Attorney.

The total financial impact to the district is \$195,501. The funding source is from Advanced Academic Programs.

**F. CURRICULUM/EDUCATIONAL PROGRAMS & STUDENT SUPPORT**

**\*F-1. Grant Applications (Approved)**

Approved the submission of grant applications to:

- A. ExxonMobil Educational Alliance, \$750
- B. Title I School Improvement Initiative 1003(a), \$1,343,613
- C. University of South Florida Project 10: Transition Education Network, \$1,900

Copies of the full grant applications are available at the Board Members' Office on the 14th floor of the KC Wright Building.

The positive financial impact is \$1,346,263 from various sources. There is no additional financial impact to the school district.

- \*F-2. Continuation Agreement between the National Academy Foundation (NAF), and The School Board of Broward County, Florida (SBBC)  
(Approved)

Approved the proposed Continuation Agreement between SBBC and NAF.

On April 29, 2008, the School Board approved the newly formed membership agreement with NAF to support the District's Academy of Finance, Academy Of Information Technology, and Academy Of Hospitality and Tourism Programs. SBBC has maintained an agreement with NAF since 1985.

The District currently has Academies Of Finance (AOF) at Boyd Anderson, Cooper City, Coral Glades, Cypress Bay, Deerfield Beach, Flanagan, Northeast, Plantation, Piper, Stoneman Douglas, Taravella and Western High Schools; Academies Of Hospitality and Tourism (AOHT) at Plantation and South Broward High Schools; and Academies Of Information Technology (AOIT) at Atlantic Technical Center, Blanche Ely, Boyd Anderson, and Northeast High Schools.

The NAF annual membership fee of \$800 per Academy, per school, will be paid through the Carl Perkins Grant.

The services provided as a part of the membership fee include access to the online curriculum, funding for District and school staff to attend the annual Summer Institute for Professional Development, technical assistance and support to schools by the NAF staff assigned to Broward County, and scholarship opportunities for students.

This Agreement has been reviewed and approved as to form and legal content by the School Board Attorney.

There is a financial impact of \$14,400 to the district. The source of the funds is the Carl Perkins Grant. There is no additional financial impact to the district.

## **G. HUMAN RESOURCES**

- \*G-1. Personnel Recommendations for Instructional Appointments and Leaves for 2010-2011 School Year  
(Approved)

Approved the personnel recommendations for the 2010-2011 appointments and leaves as listed in the Executive Summary and respective lists for Instructional staff. All recommendations are made with the understanding that these individuals will comply with regulations/policies as set forth by the Florida State Department of Education and The School Board of Broward County, Florida.

December 7, 2010

Minutes of Regular Meeting  
Page 16 of 66

The teacher approvals on this G-1 item are teachers in subject areas for which there is no surplus and/or layoff teacher in that certification area that could be placed in these positions.

The Personnel Recommendations for Instructional Employees include the following items:

1. Teacher Approvals
2. Substitute Teachers
3. Interim Substitute Teachers
4. Instructional Leaves

There will be no financial impact to the school district. Funding for the positions has been allocated in the school and department budgets.

\*G-2. Personnel Recommendations for Instructional Separation of Employment or Discipline for the 2010-2011 School Year (Approved)

Approved the personnel recommendations for separation of employment or discipline as listed in the respective lists for instructional staff. All recommendations are made with the understanding that these individuals will comply with regulations/policies as set forth by the Florida State Department of Education and The School Board of Broward County, Florida.

The Personnel Recommendations for Instructional Employees include the following items:

1. Instructional Resignations/Retirements/Layoffs
2. Instructional Suspensions/Terminations

There will be no financial impact to the school district.

\*G-3. Personnel Recommendations for Non-Instructional Appointments and Leaves for the 2010-2011 School Year (Approved)

Approved the personnel recommendations for appointments and reassignments as listed on the Executive Summary, respective lists and individual appointments for Non-Instructional Employees.

All recommendations are made pending security clearance and with the understanding that these individuals will comply with regulations/policies as set forth by the Florida State Department of Education and The School Board of Broward County, Florida.

The Personnel Recommendations for Non-Instructional Employees include the following sections:

December 7, 2010

Minutes of Regular Meeting  
Page 17 of 66

1. Non-Instructional Approval(s)
2. Non-Instructional Reassignment(s) – Promotion(s)
3. Non-Instructional Reassignment(s) – Demotion(s)
4. Non-Instructional Substitutes/Temporaries
5. Non-Instructional Leave(s)-Layoff(s)
6. District Managerial/Professional/Technical
7. Reassignment of Current School-Based/District Managerial/Professional Technical Personnel
8. School-Based Managerial
9. School-Based/District Managerial Acting/Special/Task Assignment(s)
10. School-Based/District Managerial/Professional/Technical Leave(s) – Layoff(s)
11. Salary Adjustment

Funding has been budgeted in 10-11 fiscal year for all appointments through June 30, 2011.

Newly-appointed district personnel were recognized by Mrs. Gottlieb, Mrs. Bartleman, Mrs. Rich Levinson, Ms. Murray, Mrs. Rupert and Mr. Thomas.

G-4. Personnel Recommendations for Non-Instructional Separation of Employment or Discipline(s) for the 2010-2011 School Year  
(Approved as amended)

Motion was made by Mrs. Gottlieb, seconded by Ms. Dinnen and carried, to approve the personnel recommendations for separation of employment or discipline as listed on the respective lists for Non-Instructional staff. All recommendations are made with the understanding that these individuals will comply with regulations/policies as set forth by the Florida State Department of Education and The School Board of Broward County, Florida. **This item was amended to add one name to page 1 and remove one (same) name from page 4, and add one name to Section 3. (9-0 vote)**

The Personnel Recommendations include the following items:

Non-Instructional Resignation(s)/Retirement(s)  
Non-Instructional Suspension(s)/Termination(s)  
Managerial and Professional/Technical Resignation(s)/Retirement(s)  
Managerial and Professional/Technical Suspension(s)/Termination(s)

There is no financial impact to the school district.

A vote was taken on the item prior to the following discussion:

Mrs. Bartleman praised the service and dedication of Mr. Marko for the past 40 years to the school system. She wished him well in his retirement.

Ms. Dinnen recognized Mr. Mark Thomas and Ms. Mary Ellen Fowler, who are retiring, most recently serving McFatter Technical.

Ms. Dinnen recognized Mr. Marko's expertise and said that his conservative approach has been good for the School Board, in the long run. Ms. Dinnen stated there are many attorneys throughout the state that consider Mr. Marko the eminent authority on educational topics in the state of Florida. She thanked Mr. Marko for his dedication to the children of Broward County.

Remarking that he has not worked with Mr. Marko, Mr. Thomas stated that he has recently spoken to several individuals throughout the state, and Mr. Marko is listed among the top six Board Attorneys in the state, having dedicated his time to an important endeavor for 42 years. He thanked Mr. Marko for his service.

Mr. Notter, on behalf of the administration of the school district, expressed gratitude to Mr. Marko for serving as Board Attorney for 42 years. Mr. Notter stated that he has personally known Mr. Marko for 25 years, having had great debates over many issues, and wished him well in retirement.

The following individuals addressed this item:

Shirley Campbell  
Billy Davison  
Joan Gabay

Mr. Notter informed that the Transportation employees have the right to move forward on a grievance procedure, and any type of offense has a corresponding consequence that is agreed upon by the collective bargaining agreement and is unique for Transportation.

Mrs. Victoria Kaufman, Director, Non-Instructional Staffing, informed the Board that she met with Ms. Campbell and Ms. Gabay prior to today's meeting and informed them of the process at this meeting and, if the suspension is upheld, how they can file a grievance through the Employee Relations Department if they are not a union member or through their union. Mrs. Kaufman stated she will meet with them following the meeting, depending on the Board's decision, and assist them with that process.

Responding to Mrs. Bartleman's inquiry, Mrs. Kaufman stated that a review was made of the letter by Ms. Campbell which refutes the details of the incident. Mrs. Kaufman stated that a videotape was viewed of the incident; a Transportation Specialist was sent to the stop, directing her where to stop the bus for the safety of the students, stopping at the end of the driveway for the students. She said that Ms. Campbell had been directed verbally, in writing, and going to the bus stop and directing her where to stop the bus.

Ms. Murray inquired whether the driver was given an opportunity to appeal when she appeared at the Accident Review Board.

Mrs. Kaufman responded that both accidents went before the Accident Review Board and a determination was made that they were preventable accidents. She stated she would need to review whether an appeal process was followed.

Ms. Murray requested a separation of employee Ms. Gabay pending a completed explanation of the Accident Review process.

Motion to Separate (Carried)

Motion was made by Ms. Murray, seconded by Mrs. Gottlieb and carried, to separate Employee Joan Gabay from the agenda item. (9-0 vote)

A vote was taken on the Motion to Separate.

Motion to Defer (Carried)

Motion was made by Ms. Murray, seconded by Mrs. Rupert and carried, to defer Employee Joan Gabay in order to have complete information. (9-0 vote)

A vote was taken on the Motion to Defer.

Mrs. Kaufman informed that she reviewed documentation dated May 29, 2010, indicating that Ms. Gabay was given the opportunity to appeal the ruling and she indicated, no, she did not wish to appeal, followed by her signature and date.

Motion to Reconsider (Carried)

Motion was made by Ms. Dinnen, seconded by Mr. Thomas and carried, to reconsider the deferral of Employee Joan Gabay. (9-0 vote)

A vote was taken on the Motion to Reconsider, followed by a vote on the entire agenda item.

\*G-5. Supplemental Pay Positions – List #10

(Approved)

Approved the recommended supplemental pay positions of employees for the 2010-2011 school/fiscal year.

Employees are recommended for supplemental pay positions by Principals or Department Supervisors and approved by the Area Superintendent or appropriate Division Head. Supplemental positions are listed alphabetically by last name, with location and supplement type.

The Specific Supplemental Pay Positions include the following type of supplements: Secondary department chairpersons high school; secondary department chairpersons and/or team leaders middle school; elementary grade level chairpersons and/or team leaders; athletic supplements; general supplements; and special supplements for the 2010-2011 school years.

Individuals may be recommended for task assignments that improve the school's/department's programs and/or operations. A computer-generated list of those names is printed and reveals all individuals recommended for Non-Specific (SPL). Non-Specific Supplements are additional Task Assignments performed beyond the employee's regular day based on the recommendations of the direct supervisor.

Individuals listed meet the requirements for the supplemental positions. The total number of Supplements recommended in this item is **209**.

Funding has been budgeted in 2010-2011 school/fiscal year for all supplements through June 30, 2011.

H. ATTORNEY

H-1. Broward County School Board VS. Paul Kushch

(Adopted)

Motion was made by Mrs. Gottlieb, seconded by Mrs. Good and carried, to consider (1) the Recommended Order, rendered on October 1, 2010, by Errol H. Powell, Administrative Law Judge, in the matter of Broward County School Board, Petitioner vs. Paul Kushch, Respondent, Case No. 10-0628, before the State of Florida Division of Administrative Hearings; and (2) Petitioner's Exceptions to Recommended Order; and (3) render a Final Order in this cause. (9-0 vote)

On February 2, 2010, The School Board approved the recommendation from the Superintendent of Schools for the termination of Mr. Paul Kushch, a Science Teacher. Subsequently, Mr. Kushch challenged The School Board's action and requested an administrative hearing before the State of Florida Division of Administrative Hearings.

Following the administrative hearing, the Administrative Law Judge issued a Recommended Order, recommending that The School Board enter a final order suspending Mr. Kushch for six months and requiring his enrollment in professional skills enhancement programs. The Petitioner (The School Board, by and through the Superintendent and its cadre counsel) filed Exceptions to the Recommended Order.

The School Board of Broward County, Florida, must take final agency action after considering the Recommended Order and the Petitioner's Exceptions to the Recommended Order, and enter a final order.

There is no financial impact to the district.

Mr. Marko explained the process that would be followed during this hearing, stating that an administrative hearing was previously held and a recommendation was issued from the Administrative Law Judge (ALJ). Subsequently there were exceptions filed by the Superintendent's attorney, claiming there were certain things in the Recommended Order that should be addressed or changed. Mr. Marko further explained the criteria regarding the exceptions.

Mr. Marko informed that Mr. Eugene K. Pettis, Esq. represented the School Board at the administrative hearing and is present at today's meeting, and Mr. Steve Rossi, Esq., represented the Respondent at the administrative hearing and is present today on behalf of the Respondent.

Mr. Pettis provided a historical synopsis of the events leading up to the Recommended Order, based on the teacher engaging in inappropriate behavior in the work place, such as inappropriate profanity and inappropriate behavior toward co-workers and students in the classroom. The Administrative Law Judge concluded that the employee engaged in misconduct in office that was so serious as to impair his effectiveness in the school system, as well as insubordination. A six-month suspension was issued, with a requirement that the Respondent enroll in professional skills enhancement programs instead of the termination from employment, as recommended by the School Board.

Referring to Exception 1, Petitioner's Findings of Fact, Mr. Pettis stated that in the fall of 2008 the employee gave a motivational speech to the football team at the request of the football coach, and during the speech he used racially discriminatory words and profanity. This was admitted to by the employee. The ALJ concluded that, "No further incidents involving profanity occurred after the fall of 2008." Mr. Pettis stated that this conclusion is inconsistent with the findings that the ALJ made. The ALJ concluded that the employee admitted to subsequently using profanity in the classroom.

Mr. Pettis explained the criteria as it relates to a finding of fact; the Board must show by way of competent substantial evidence in the record that supports the evidence, additional uses of profanity. Mr. Pettis stated that the competent substantial evidence does not support a finding that the employee did not engage in profanity again.

Mr. Rossi responded that the ALJ found that his client was guilty of insubordination and misconduct, and found not guilty of incompetency as to inefficiency and not guilty as to any immorality. The ALJ did indicate as a conclusion that there was profanity indicated later on in the school year. Mr. Rossi stated that ultimately the ALJ found him to be guilty of the misconduct and insubordination. Mr. Rossi stated that since his client was suspended from his position of employment without pay, as of February 2010, that his pay be applied retroactively. His client will still have to attend the professional skills and enhancement class.

Mr. Pettis responded that Mr. Rossi is agreeing that there is evidence in the record to support the exception that he raised. He recommended a motion to strike a portion of paragraph 10, finding that no further use of profanity occurred. The competent substantial evidence in the record reflects additional incidents as referenced in paragraphs 20 and 21.

#### Motion to Exception 1 (Carried)

Motion was made by Ms. Dinnen, seconded by Mrs. Rupert and carried, to strike a portion of paragraph 10, finding that no further use of profanity occurred. The competent substantial evidence in the record reflects additional incidents as referenced in paragraphs 20 and 21. (9-0 vote)

A vote was taken on the Motion to Exception 1.

Referring to Petitioner's Exceptions to Conclusions of Law, Mr. Pettis stated that the ALJ concluded that the employee committed misconduct in office so serious as to impair his effectiveness in the school system and, further, that the employee committed gross insubordination.

Mr. Pettis further stated that he had been instructed, in writing, to engage in appropriate, respectful and professional behavior at all times, and to limit his classroom discussions to the assigned curriculum. However, he continued to engage in inappropriate behavior. Notwithstanding these conclusions, the ALJ found that the recommendation of termination was too harsh.

Mr. Pettis stated that following a response by Mr. Rossi, he will offer a motion to strike paragraph 49, as relates to the exception on the Conclusions of Law, because the evidence in paragraphs 8 and 19 more reasonably supports a conclusion that the employee was off topic in the classroom and his effectiveness in the school system was impaired by his misconduct and his insubordination.

Mr. Rossi responded that the ALJ had the opportunity to hear from his client, the witnesses, and found that what his client did was wrong but felt the termination was too severe a sanction, and recommended that he receive a six-months suspension period of time with the professional skills course taken.

Mr. Pettis further stated that the Board has a right to make a decision in the Final Order, after reviewing the record, and making a conclusion that more reasonably supports the position of termination.

#### Motion to Exception 2 (Carried)

Motion was made by Mr. Thomas, seconded by Mrs. Gottlieb and carried, to strike paragraph 49, as relates to the exception on the Conclusions of Law, because the evidence in paragraphs 8 and 19 more reasonably supports a conclusion that Mr. Kushch was off topic in the classroom and his effectiveness in the school system, due to the behaviors noted, were impaired by his misconduct and his insubordination. (9-0 vote)

Mr. Thomas voiced concern with the pattern of classroom conduct, setting aside curriculum in order to discuss more relevant issues, in particular, personal items. He said he was in favor of striking paragraph 49.

Mr. Rossi responded that his client had no prior disciplinary actions during his 10 year tenure and as the record reflected, he never had the opportunity to have professional counseling and there was never an initiation of a disciplinary sanction by a superior. Mr. Rossi stated that his client's intention was not to harm or hurt anyone, it is his methodology that was inappropriate.

Mr. Pettis informed that in the fall of 2008 Mr. Kushch was given an opportunity, a second chance, and after signing an agreement as to what was expected of him professionally, which was violated in May 2009. The record is clear that he was given more than one opportunity to correct his behavior.

Mrs. Rupert inquired whether there was union representation for the employee and was there a time period to implement changed behavior.

Referring to paragraph 8, whereby the Assistant Principal met with Mr. Kushch as to what the expectations were, Mr. Pettis stated that in the context of the October 30, 2008 document, the expectation of change was immediate.

Responding to Mrs. Good, Mr. Pettis relayed Mr. Kushch being banned from a talent show due to his behavior, as testified at the hearing, including the behavior in the classroom and curriculum issues, as the judge acknowledged those facts.

Remarking that there is a pattern of behavior, Ms. Dinnen stated that inappropriate language is not acceptable in the classroom despite the difficult challenges facing teachers.

Mr. Thomas stated that there was an incident at a parent/teacher conference that required a third party to diffuse the situation.

Concurring, Mr. Pettis stated that the situation in the office occurred whereby Mr. Kushch became very loud and it was inappropriate in the presence of parents.

A vote was taken on the Motion to Exception 2.

Mr. Pettis informed that he spoke with Mr. Rossi regarding a statement by Mr. Kushch to the Board, stating that he did not recommend such a statement but it is a decision to be made by the Board.

Mr. Marko advised that the proceeding before the Board is limited to the record, the recommendation, and the exceptions. The Board listens to the arguments, dispose the exceptions, and adopt the Order in its entirety subject to any exceptions or modifications the Board has made. Mr. Marko recommended that the Board decline the offer of a statement by the employee.

Mr. Pettis stated that given the Board's striking of a portion of paragraph 10, no subsequent profanity, and based on the Board's favorable vote on the exception regarding the conclusion of law, he is requesting that after a complete review of the record the recommended penalty should be increased to termination based on Mr. Kushch's use of profanity, inappropriate language, insubordination, and his inability to keep his class on curriculum as set forth in the Findings of Fact, including, but not limited to, paragraphs 6, 8, 9, 19, 20 and 21. Increase the termination versus six months of suspension. Mr. Pettis stated this will be in the form of a motion.

Motion (Carried)

Motion was made by Mrs. Gottlieb, seconded by Ms. Dinnen and carried, that after a complete review of the record the recommended penalty should be increased to termination based on Mr. Kushch's use of profanity, inappropriate language, insubordination, and his inability to keep his class on curriculum as set forth in the Findings of Fact, including, but not limited to, paragraphs 6, 8, 9, 19, 20 and 21.

Mr. Rossi stated that the due process is to allow the employee to go through the 120 process, and that the Board honor that process. He requested that the Board follow the recommendation of the Recommended Order. Mr. Rossi stated that a termination is too severe a sanction under the circumstances and facts of this case.

Remarking that she is not condoning the behavior, Mrs. Good inquired whether the Employee Assistance Program would assist the employee to improve himself. Mrs. Good voiced concern that the employee is not being given an opportunity to go through the EAP program.

Mr. Pettis responded that Mr. Kushch had previous school-based interventions and opportunities prior to May 8, 2009; he was employed for 9 years in the district and should have known "right from wrong." Mr. Pettis had an incident in October 2008, a situation that could have been the basis for termination, but Mr. Kushch was given the opportunity to be counseled by his assistant principal. Remarking that the process starts at the Professional Standards level, Mr. Pettis stated that Professional Standards found evidence of probable cause. Mr. Kushch has had due process and findings have been made, and the record reflects that the employee insists on doing things his way.

Mrs. Gottlieb stated that there is a recommendation by the Superintendent and the Board Attorney, and she will support their position.

Mr. Thomas stated that the School Board has a job to ensure protection for all students. He stated he was not comfortable placing the employee back in the classroom.

Ms. Dinnen stated that inappropriate behavior sends the wrong message to everyone and she is concerned that this behavior would be repeated.

Mrs. Rupert stated that the focus is on children and there is a responsibility to employees. She suggested that the teacher seek professional counseling for this type of behavior.

Ms. Murray stated that no child should be subjected to verbal or physical abuse from any employee, and will support the termination.

Mr. Pettis restated the Motion, and a vote was taken on the Motion.

Mr. Marko advised that a motion would be appropriate that would adopt the Findings of Fact and Conclusions of Law in the Recommended Order, including the amendments that the Board has made and approved.

Second Motion (Carried)

Motion was made by Mrs. Gottlieb, seconded by Mrs. Good and carried, to adopt the Findings of Fact and Conclusions of Law in the Recommended Order, including the amendments that the Board has made and approved. (9-0 vote)

A vote was taken on the Second Motion.

Mr. Marko advised that a motion would be appropriate to accept the recommendation of termination as provided for in the amendment, or the exception that was filed.

Third Motion (Carried)

Motion was made by Mrs. Gottlieb, seconded by Ms. Dinnen and carried, to accept the recommendation of termination as provided for in the amendment, or the exception that was filed. (9-0 vote)

A vote was taken on the Third Motion.

\*H-2. Settlement Agreement between The School Board of Broward County, Florida, and Liberty Mutual Insurance Company (Approved)

Approved the Settlement Agreement between The School Board of Broward County, Florida, and Liberty Mutual Insurance Company.

The School Board entered into two separate contracts with Aventura Engineering & Construction Corp., ("Aventura"), for the replacement and renovation of heating, ventilation, and air conditioning systems at Silver Lakes Middle School and Attucks Middle School, ("Projects"). Aventura defaulted on both of its contracts and its surety, Liberty Mutual Insurance Company, undertook to perform the work contemplated by the Aventura contracts.

In an action styled **Liberty Mutual Insurance Company vs. School Board of Broward County, Florida**, Case No. 09-61400-CIV-ZLOCH, pending in the United States District Court for the Southern District of Florida (the "Litigation"), Liberty seeks the payment of what LIBERTY deems to be the remaining contract funds of \$203,816, on the Attucks project and \$84,720.50, on the Silver Lakes project.

The School Board counterclaimed asserting affirmative monetary claims for defective and incomplete work and delay in completing the Projects. Liberty has agreed to settle its claims and The School Board's counterclaim by The School Board withholding \$150,000, from the contract funds for the Projects and paying over to LIBERTY the remaining balances from the contract funds after such deduction, thus paying Liberty \$138,536.50, within thirty (30) days of The School Board's acceptance of this agreement.

Liberty and The School Board shall release each other from further claims on these projects and The School Board shall return to Liberty their original performance bonds on the Attucks and Silver Lake projects.

District staff, the School Board Attorney, and The School Board's cadre counsel, F. Malcolm Cunningham, Jr., Esq., recommend approval of the Settlement Agreement as a fair and reasonable cost-effective resolution to these matters, which will eliminate protracted litigation and additional costs.

The financial impact to the district is a credit in the amount of \$150,000.

- \*H-3. Settlement Agreement between The School Board of Broward County, Florida, and BJSS Duarte Bryant, (now known as Ambia, Inc.)  
(Approved)

Approved the Settlement Agreement between The School Board of Broward County, Florida, and BJSS Duarte Bryant, (now known as Ambia, Inc.), and authorize the General Counsel to execute Satisfactions of Judgment in favor of BJSS Duarte Bryant on behalf of The School Board of Broward County, Florida.

The School Board of Broward County, Florida ("SBBC"), and Joint Ventura, Rodriguez Design Group / BJSS Duarte Bryant entered into a Professional Services Agreement for the design and specifications of a twelve (12) classroom addition, including the design, design development, construction documents and contract administration for improvement of the Margate Elementary School.

SBBC asserted monetary claims in the amount of \$160,000 resulting from the Joint Venture's design errors and omissions within its design. SBBC brought suit for the full amount of the errors and omissions (i.e.- betterment analysis was not performed at this stage). SBBC's damages resulting from consultant errors and /or omissions after "betterment" received are approximately \$75,000.

SBBC obtained Final Judgments against each of the individual entities that comprised the joint venture, (BJSS and RDG), by way of the Court Striking the Pleadings of the Defendant for failure to comply with Rules and Court Orders. The Final Judgments are for the sum of \$160,000.

SBBC and BJSS Duarte Bryant, (now known as Ambia, Inc.), have agreed to resolve and settle all claims asserted against Ambia, Inc., (a Washington State Corporation), with respect to the project. Ambia, Inc., will pay SBBC \$100,000, within fourteen (14) days of the effective date of the Settlement and Release Agreement. The parties acknowledge that said amount represents a compromised sum as full and final payment in consideration for a full release of all claims against BJSS Duarte Bryant and Ambia, Inc.

The remaining individual company, RDG remains liable for the unsatisfied portion of the Final Judgment. The General Counsel for the School Board is authorized to execute Satisfactions of Judgment in favor of BJSS Duarte Bryant and on behalf of The School Board of Broward County, Florida.

District staff, the School Board Attorney, and The School Board's cadre counsel, Oscar E. Soto, Esq., recommend approval of the Settlement Agreement as a fair and reasonable cost-effective resolution to these matters, which will eliminate protracted litigation and additional costs.

The financial impact to the district is a credit in the amount of \$100,000.

\*H-4. Settlement Agreement between The School Board of Broward County, Florida, and Great American Insurance Company (Approved)

Approve the Settlement Agreement between The School Board of Broward County, Florida, and Great American Insurance Company.

The School Board of Broward County, Florida, entered into a written contract (hereinafter "Contract") with General Contractors and Construction Management, Inc., ("Contractor"), to perform additions, remodeling and renovations of Royal Palm Elementary School, Project Number: 1851-98-01 (hereinafter, the "Project").

The Project consisted of Phase I and Phase II. After non-performance by the Contractor, the School Board terminated the Contract. At the time of termination, the Contractor had completed Phase I work, excluding Phase I punch list work, and had not completed Phase II work.

The School Board retained the sum of \$773,142, representing the unpaid contract balance which would have been due the Contractor had the Contractor timely completed the work. The School Board made demand upon Contractor's surety, Great American Insurance Company ("GAIC") to satisfy its obligations under the Bond.

GAIC ultimately completed Phase 2 work, including Phase II punch list work. Thereafter, GAIC filed a complaint styled GREAT AMERICAN INSURANCE COMPANY, v. THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA Case No.: 09-CV-61636 in the Southern District of Florida, United States District Court (hereinafter "Litigation"), and demanded approximately \$1,600,000, for unpaid contract balances and/or for sums it expended to complete Phase II work. In response, the School Board asserted a counterclaim for liquidated damages and set offs for the Phase I incomplete punch list work and for delays to Project completion.

During the mediation of this dispute, and pending School Board approval, the parties agreed to resolve and settle all claims asserted or that could have been asserted in the case. The School Board shall pay GAIC \$603,150, out of the unpaid contract balance of \$773,142.

District staff, the School Board Attorney, and The School Board's cadre counsel, Oscar E. Soto, Esq., recommend approval of the Settlement Agreement as a fair and reasonable cost-effective resolution to these matters, which will eliminate protracted litigation and additional costs.

The financial impact to the district is a credit in the amount of \$169,992.

- \*H-5. Approval of Final Order in The Weitz Company, LLC v. The School Board of Broward County, Florida; Case No. 10-8182 BID, before the Florida Division of Administrative Hearings (Approved)

Approved the Final Order in The Weitz Company, LLC v. The School Board of Broward County, Florida; Case No. 10-8182 BID, before the Florida Division of Administrative Hearings, to adopt the Findings of Fact and Conclusions of Law contained in the Administrative Law Judge's Recommended Order, accept the Administrative Law Judge's Recommendation to reject the bid protest filed by The Weitz Company, LLC, and to award costs in the amount of \$2,394.50 in favor of The School Board of Broward County, Florida.

The Weitz Company, LLC ("Weitz") filed a formal written bid protest against The School Board. The bid protest was referred to the Florida Division of Administrative Hearings for a formal hearing which was conducted on September 16, 2010. The Administrative Law Judge rendered a Recommended Order on October 20, 2010, that found that The School Board's intended rejection of all proposals for the Fort Lauderdale High School portion of RFQ No. 2008-30-FC, "Request for Qualifications for Construction Management at Risk Services", made "...perfect sense...", "...was the product... of a sincere and well-reasoned desire to promote competition and save taxpayers money...", and that the protest asserted by Weitz could not be sustained. The School Board is entitled to an award of costs (court reporter's fees) against Weitz in the amount of \$2,394.50. Upon Weitz's payment of the awarded costs, the bid protest costs bond furnished by Weitz will be returned in accordance with School Board Policy 3320.

The school district will recover \$2,394.50, in costs as a result of this Final Order.

## **I. OFFICE OF THE SUPERINTENDENT**

- \*I-1. 2010-2011 School Improvement Plans (Approved)

1. Approved the District Improvement & Assistance Plan and District Differentiated Accountability Checklist of Compliance;
2. Approved the School Improvement Plans required by No Child Left Behind (NCLB) and the Florida's Differentiated Accountability Plan;
3. Approved the School Improvement Plans submitted by schools/centers as required by the State of Florida Statute 1001.42 and SB Policy 1403.

Schools in Florida are required to submit an annual School Improvement Plan (SIP) for School Board approval. Each School Advisory Council (SAC), representing all stakeholder groups, has developed objectives that address Florida's Educational Goals and Broward's District Strategic Plan Goals. Plans reflect the District Comprehensive Reading Plan and the requirements set forth under No Child Left Behind (NCLB) and Florida's Differentiated Accountability Plan. The school improvement plans were developed with input from all stakeholder groups through the School Advisory Council. All SIP plans were reviewed by a District Review Teams, including Intern principals, Accountability support staff, as well as the Area Superintendents' Offices.

The State requires each District to develop a District Improvement & Assistance Plan that describes how the district will provide assistance and intervention to schools at risk of not meeting state standards or not making adequate yearly progress by implementing the required support and interventions under Differentiated Accountability. The District Improvement & Assistance Plan was developed collaboratively with Area Offices, District Departments and school-based personnel; it is designed to deliver a single voice of support services to the District's most critical schools and students performing below proficiency levels and reflects the requirements under Differentiated Accountability.

A set of SIPs and the District Improvement & Assistance Plan, which includes the District Differentiated Accountability Checklist of Compliance, are available at:  
<http://www.broward.k12.fl.us/schoolimprove>.

There is no financial impact to the district.

I-2. School Advisory Council Membership for 2010-11 (Approved)

Motion was made by Ms. Dinnen, seconded by Mrs. Rich Levinson and carried, to approve the School Advisory Council membership for the 2010-11 school year. Mrs. Gottlieb was absent for the vote. (8-0 vote)

Each school in the State of Florida is required to submit to the District School Board a list of members of the School Advisory Council (SAC). The membership must be representative of all stakeholders and duly elected or appointed according to the guidelines. Membership guidelines require that a majority of the members not be employed by the Broward County Public Schools and that the membership reflect the diversity of the school's student population. All SAC membership lists have been reviewed by the Area Superintendents' offices and have been approved as meeting the requirements outlined in State Statute and School Board Policy 1403. The primary focus is to collaborate in the School Improvement Plan (SIP) process.

A copy of the SAC Membership for 2010-11 school year is available at the public stand in the lobby of the KC Wright building, at the Board Members' Office on the 14th floor of the KC Wright building and also at <http://www.broward.k12.fl.us/schoolimprove>.

There is no financial impact to the district.

Mrs. Rich Levinson stated that in the past there has been Board discussion about working to attain 51 percent parent component on the SAC. She inquired whether this is still being done.

Mrs. Brown responded that there is 51 percent of non-school district employees on the Student Advisory Council composition. Mrs. Brown informed that there is an electronic system; every SAC member is entered into the system and they are identified as to whether or not they are a district employee. Remarking that it is state law, Mrs. Brown stated that the district is at 100 percent of non-school district employees as members of every school advisory council.

Mrs. Brown stated that the 51 percent component is not in the policy.

Mr. Notter informed that at one point in time the district had in policy that it was going to strive toward ascertaining 51 percent parents in attendance over a one-year period. The Superintendent stated there was "rich" debate at workshops at the Board level, with a lot of input from Area Superintendents and principals, regarding the difficulty of attaining this percentage. Mr. Notter further stated that the Board settled on language that discussed taking a year to ascertain this.

Mrs. Brown informed that staff worked with the Board significantly on the representation on a quorum, having previously in policy where the voting quorum had to represent a certain number of parents. She stated there were a number of parents who were district employees that were disenfranchised because they could not participate in a voting quorum or in SAC if they were above the 51 percent, because now they were counted as an employee. Mrs. Brown further stated that staff strives for parental component but they have to be represented as employees and not parents.

Mrs. Rupert stated that she was not allowed to participate on the SAC committee at the school she taught at.

Dr. Harrison stated that one of the struggles is how to get parents to get involved and it became an issue, having gone electronic to track everyone who is attending so they could conduct business.

Ms. Rise Yevelson, Coordinator, School Improvement, informed that last year the district developed a document, Guidelines for Recruiting Parents which was disseminated to all schools in the spring, along with a sample letter that they could use. The letter was also translated so that it was available in English, Spanish, Haitian Creole, and Portuguese, personalized by the schools' names and sent home to all parents as an attempt to recruit parents to participate in SAC. Ms. Yevelson stated that anything new takes a little time until it becomes a part of the culture. She added that staff does not want the schools to say to parents that they work here and they are not welcomed; they are parents and have a right to be concerned about their child's education. The letter is also posted on the School Improvement website, under the link for School Advisory Council.

I-3. Proposed School Board of Broward County, Florida 2011-2012 School Calendar (Approved)

Motion was made by Mrs. Bartleman, seconded by Mrs. Good and carried, to approve the proposed School Board of Broward County, Florida 2011-2012 School Calendar, student start date August 22, 2011. Mrs. Gottlieb was absent for the vote. (8-0 vote)

The Calendar Committee comprised of area representatives from the various bargaining units, PTA, District Advisory Council, principals, and selected District departments, established the proposed 2011-2012 School Calendar. The proposed School Calendar reflects six paid holidays, ten employee planning days, and six early release days beginning in August and ending in June. Students will begin school on August 22, 2011, and end on June 7, 2012. Spring Break will be March 12, 2012 through March 16, 2012, due to the FCAT testing windows for the 2011-2012 school year.

On September 28, 2010, staff presented the draft calendar options for the 2011-2012 school year and informed the Board of the Calendar Committee's recommendation to approve the proposed calendar. Following the Workshop, staff developed a fifth calendar option featuring a traditional Spring Break. Additionally, staff presented the five calendar options at the October 13, 2010, District Advisory Committee (DAC) meeting, developed an on-line presentation on the calendar options to solicit feedback from the public, and planned to bring the issue back to a future Board Workshop.

The on-line presentation was featured on the District's home webpage since early October. There has been limited feedback provided on the calendar option and does not suggest any substantive trend.

**(See e-Agenda for continuation of Summary Explanation and Background.)**

There is no financial impact to the district.

Mrs. Good inquired whether parental follow-up was gathered on this issue.

Mr. Jeff Moquin, Executive Director, Support Operations, responded that following the Board Workshop in September 2010, staff developed a presentation to explain the distinctions between the five options. Less than 100 comments and feedback was received and about 31 percent of them were spam or did not support one of the available options.

Mr. Moquin stated it was taken back to the Calendar Committee to reconsider Option 5; they did not like that option because it was the week prior to the FCAT window starting. Mr. Moquin further stated that the Calendar Committee reconfirmed their support for the option before the Board in the agenda item.

Mrs. Good inquired whether Option 1 was funneled through DCA again.

Mr. Moquin responded that he presented to DCA with all five options and made them aware of their opportunity to provide feedback and to share with their members. He noted that DAC is a participant on the Calendar Committee.

Mrs. Bartleman thanked Mr. Moquin and staff for putting all the information together. Mrs. Bartleman discussed the suggestion of having Thanksgiving week off, and people not liking the week before Christmas off and having to come back the day after New Year's.

Mr. Moquin informed that some districts approve their calendars multiple years out in advance, recognizing that there needs to be some flexibility to come back and "tweak" it because there are issues with AP exams and FCAT schedules.

The following individual addressed this item:

Bernie Schultz

I-4. Request for Letter of Interest (RLI) for General Counsel Services  
(Approved)

Motion was made by Mrs. Gottlieb, seconded by Mrs. Good and carried, to approve the release of the Request for Letter of Interest (RLI) for In-house General Counsel – full time employee or full time specified attorney of a law firm. Mrs. Gottlieb was absent for the vote. (8-0 vote)

On March 13, 2008, The School Board of Broward County, Florida, approved the Employment Agreement of the General Counsel for the period of April 1, 2008 through January 1, 2010. Section 15 of this agreement contained a provision to issue a Request for Proposal for the position of General Counsel in June 2009, and that the School Board anticipated selecting a candidate for this position in September 2009.

Subsequently, at the November 10, 2009, Regular School Board Meeting, The School Board of Broward County, Florida, approved the First Amendment to the Employment Agreement for General Counsel, Edward J. Marko.

This amendment covers the timeframe, January 2, 2010 through December 31, 2010. On February 2, 2010, The School Board of Broward County, Florida, approved the release of a RLI for the position of General Counsel.

The screening, interviewing, and selection concluded on October 11, 2010 with a recommendation to enter into negotiations with Mr. James Stokes, esq. Subsequently, Mr. Stokes withdrew from consideration; therefore the School Board requested at the November 29, 2010 School Board Workshop to review the RLI for possible revisions and in preparation for a prompt release.

The financial impact for an individual respondent who will be a full time employee of The School Board would include an annual salary of \$180,000 to \$216,000, plus benefits, including pension contributions, health insurance, and other benefits as negotiated.

The financial impact for a law firm with a specified attorney providing full time services as a General Counsel, contract payment to the selected respondent law firm will be in the range of \$234,000 to \$270,000 annually, no additional payments for benefits will be provided to the selected respondent law firm or the individual attorney specified to perform the full time services. The difference in cost is related to the benefits being paid by the firm versus The School Board paying directly for employee benefits.

Following extensive discussion by the Board Members, staff was requested to make the following revisions to the RLI:

1. Remove the option for a firm to apply for the General Counsel position and only allow in-house attorney respondents.
2. Retain the language of allowing respondents to have educational, governmental and/or administrative experience.
3. Include verbiage about the expectation that the School Board will evaluate the General Counsel once a year.

4. Include verbiage that there is an expectation the individual will pursue State certification in Educational Law.
5. Include detailed items from the job description in order for the applicants to include related experiences in their submittal.
6. Allow the amended language to remain that requires the respondents to provide their immediate supervisor's reference when interviewing as a finalist for the position.

Mrs. Gottlieb recommended an independent Screening Committee, composed of a number of individuals as determined by the Board, individuals in the legal field who are not affiliated with the school district (non-cadre attorneys, or currently working in the General Counsel's office).

Ms. Dinnen said she would prefer that the final interviews for General Counsel be handled by the School Board Members rather than the Legal Services Committee. Ms. Dinnen concurred that staff review and process the initial applications, and said that she wants more than one individual to interview.

Mrs. Good stated that the Board might consider a representative from the Florida Bar Association included in the Screening Committee.

Responding to Mrs. Good's inquiry, Mr. Marko stated that 10 years experience is required in the General Counsel's Job Description, a minimum amount of time to run the 6<sup>th</sup> largest school district.

Ms. Gracie Diaz, Associate Superintendent, Human Resources, informed that applicants are asked to provide their experience in regard to educational/ governmental/ administrative law. Previous applicants did indicate their trial experience and contractual experience, providing sufficient information to put themselves in the best position to be screened.

Mrs. Rich Levinson concurred with her colleagues with the terms of the process, but disagrees with the immediate supervisor letter. She said that in order to get the best candidates to apply for the position this letter should not be required at the beginning of the process. Mrs. Rich Levinson stated that the immediate employer should be contacted but not before the interview process, after the interview process when the selection is down to the top candidates.

Responding to Mrs. Rupert's inquiry, Mr. Robert D. Soloff, Esq., informed that for all certifications there is a number of years of experience that is required in the particular field, as well as spending a percentage of the applicant's time in the field.

Mr. Soloff stated, if someone has extensive experience in representing governmental entities, such as a municipal attorney, but lacks educational experience, that person may not be able to sit for the certification examination for some period of time.

Mrs. Marylin Batista-McNamara, Esq., added that for the certification requirement the attorney must have 5 years experience in educational law in Florida. In addition, the attorney must be licensed in Florida for a period of 10 years. Mrs. Batista-McNamara stated that the certification examination will be given in March 2011; in June 2011 they will be the first group of Education Attorneys in Florida. She stated that Florida is the first state to offer this type of certification.

Mrs. Bartleman suggested having an individual from the Florida Association of School Board Attorneys participate on the Screening Committee. Mrs. Bartleman said she was not comfortable letting the Screeners, who are unknown to her, tell the Board who they are going to interview.

Mr. Marko stated that these individuals would most likely apply as a candidate for the position.

Mrs. Gottlieb stated that a review should be made of the applicants to ascertain whether there is a conflict of interest with members of the Screening Committee.

Concurring, Mrs. Good stated there should be a diverse group of individuals on the Screening Committee, and reaching out to the local universities and the Bar Association.

Mr. Notter stated that the Board needs to notify staff how many finalists they desire. Remarking on the current process by Personnel, Mr. Notter stated that the resumes are reviewed by three screeners, the resumes are ranked on various benchmarks as taken from the job description, and they are scored by rank order.

Mr. Thomas requested an explanation of Cone of Silence and how it comes into play in the process.

Mr. Soloff responded that under the Request for Letter of Interest (RLI) there was a determination of the Screening Committee, and the purpose which is standard, is to ensure that there is not inappropriate communication with Board Members who are going to make the final selection. If the Board removes the Legal Services Committee, the Cone of Silence would apply to a Screening Committee of composition of which the Board will decide, as well as the Board itself.

Mr. Soloff stated that the Board does not want to have any individual communication but, rather, have resumes, background information so that it is an above-board process and transparent.

Ms. Dinnen concurred that the Screening Committee should be informed as to the number of candidates that the Board would interview.

Ms. Diaz stated that the Board may choose a two-tier process to interview candidates if the pool of candidates is large, or one interview process if the Board interviews two or three candidates.

Mr. Soloff informed that at some point the Board will have to determine the process by which the Board interviews.

Mr. Marko informed that the interview by the Board will be in an open meeting before the public.

The following individual addressed this item:

Rhonda Ward

## **J. FACILITIES AND CONSTRUCTION MANAGEMENT**

### **J-1. Change Orders (Approved)**

Motion was made by Ms. Dinnen, seconded by Mrs. Bartleman and carried, to approve change orders as listed for various school projects, and approve an increase of \$3,472,819, to the Capital Projects reserve. Mrs. Gottlieb was absent for the vote. (8-0 vote)

<b><u>Dania Elementary</u></b>	Change Order 01	\$1,364
Unforeseen Condition	\$1,364	
<b><u>Western High</u></b>	Change Order 05	\$3,472,819 (CREDIT)
Owner Request	\$3,472,819 (CREDIT)	

Financial Impact: Western High, 36 Classroom Addition – Project No P.000891, results in a \$3,472,819 CREDIT. The resulting financial impact will increase the Capital Projects Reserve by \$3,472,819. The 5-year capital plan that was adopted September 7, 2010, requires that the District set aside approximately \$70 million in funding to balance the plan.

This credit will be utilized in an ongoing process to close out older projects and reallocate those funds for the purposes approved by the Board in the 5-year capital plan. There is no additional financial impact to the district for the remaining project.

Mr. Williams stated that the audience member is not present to speak on the item.

Mrs. Rich Levinson thanked Mr. Lindner for including the cover pages of the change orders, which provides the additional information she was seeking.

\*J-2. Reappointment and Appointment of School District Representatives to the Oversight Committee (Approved)

Approved the reappointment of School Board Member Robin Bartleman and Lew Naylor, a member of the District Advisory Council, and appoint School Board Member Patricia Good and School Board Member Laurie Rich Levinson as School Board Representatives to the Oversight Committee for the Implementation of the Amended Interlocal Agreement for Public School Facility Planning, to comply with the provisions of the Amended Interlocal Agreement.

The Amended Interlocal Agreement for the Implementation of Public School Facility Planning (ILA), addresses the coordination of growth management issues and the provision and availability of public school facilities in Broward County. The ILA between The School Board of Broward County, Florida, Broward County, and 27 Broward County Municipalities requires the establishment of a 15 member Oversight Committee (OC), five each appointed by the School Board, the Broward County Commission, and the 27 Municipalities, to monitor implementation of the Agreement. Through a mutually agreeable process, the 27 Municipalities elected to have the Broward League of Cities appoint the five Municipal representatives to the Committee. Also, the ILA requires the Committee to meet at least annually to conduct a public hearing and issue a report to the parties to the Agreement and the general public regarding the successes and failures of implementation of the ILA in the preceding calendar year. However, the Committee By-Laws requires the Committee to meet quarterly during each calendar year and conduct public hearings.

Section 1, Article II-Membership, of the Oversight Committee By-Laws, states that "Each appointing body shall appoint/reappoint their members for two year terms. Each member's two (2) year term shall begin on the date of their official appointment by their appointing body." Ms. Bartleman and Mr. Naylor were initially appointed by the Board on December 12, 2006, and subsequently reappointed on December 16, 2008, as two of the current five School Board representatives on the Committee, and as such, their terms on the Committee will expire on December 16, 2010. Ms. Bartleman and Mr. Naylor have indicated that they would like to continue to serve as School Board representatives on the Committee.

School Board Member Patricia Good and School Board Member Laurie Rich Levinson have indicated that they would like to be appointed to replace School Board Member Maureen S. Dinnen and School Board Member Kevin P. Tynan as the School Board representative on the Committee. Therefore, staff recommends that Mrs. Bartleman and Mr. Naylor be reappointed, and Mrs. Good and Mrs. Rich Levinson be appointed to the Oversight Committee.

There is no financial impact to the school district. However, the Interlocal Agreement requires the Superintendent to organize and staff the meetings of the Oversight Committee. This item does not require a collaboration form from the Capital Budget Department.

\*J-3. License Agreement between The School Board of Broward County, Florida, and Coral Ridge Mall for the Annual Science Fair (Approved)

Approved the license agreement between The School Board of Broward County, Florida, and Coral Ridge Mall for the annual Science Fair.

The School Board's Department of Student Activities is holding their annual Science Fair at Coral Ridge Mall beginning February 9 through February 13, 2011. The event is to highlight the science projects of over 550 students from over 62 schools.

The Coral Ridge Mall has requested the School Board execute this agreement first. This agreement has been reviewed and approved as to form and legal content by the School Board Attorney.

There is no financial impact to the school district; therefore this item does not require a collaboration form from the Capital Budget Department.

J-4. Reject Bid and Award of Contract – District Wide Relocatable Buildings – Bid No. 2010-04-FC (Concrete, Steel & Alternative Buildings)  
(Approved)

Motion was made by Mrs. Bartleman, seconded by Ms. Murray and carried, to approve to reject the bid from Royal Concrete Concepts for District Wide Relocatable Buildings, Various Locations, Bid No. 2010-04-FC, Concrete, Steel and Alternative Construction Buildings, Group 13 – Concrete Relocatable Buildings, and approve Award of a Construction Contract for District Wide Relocatable Buildings, Various Locations, Bid No. 2010-04-FC, Concrete, Steel and Alternative Construction Buildings, to MVP Contractors, Inc., for Group 14 – Steel Relocatable Buildings, and to MVP Contractors, Inc., for Group 15 – Alternative Construction Relocatable Buildings to the low bidders meeting the bid specifications. Mrs. Gottlieb was absent for the vote. (8-0 vote)

**Project Consultant:** Facilities and Construction Management Division,  
Design Services Department

**Reject Bid:**

- Royal Concrete Concepts for failure to comply with Document 00200, Article 4.01.2, as a result of the bidder not providing Document 00420, Bid Security Form, with its bid.

**Award Contracts:**

- MVP Contractors, Inc., to provide Group 14 – Steel Relocatable Buildings in the contract amount of \$1,000,000.
- MVP Contractors, Inc., to provide Group 15 – Alternative Construction Relocatable Buildings in the contract amount of \$5,000,000.

**Scope of Work:**

The term of the bid shall be for one (1) year, and may, by mutual agreement between the SBBC and the awardee, upon final SBBC approval, be renewable for two additional one year periods and, if needed 90 days beyond the expiration date of the final renewal period.

There is no financial impact to the school district; therefore, this item does not require a collaboration form from the Capital Budget Department.

Responding to Mrs. Good's inquiry, Mr. Lindner stated that there were two respondents on the bid, for metal tilt-wall portable classroom construction. Mr. Lindner further stated that vendors know the district is not building additional portables and that is why only two responses were submitted. He said that in the event of a catastrophe, such as a fire, where portables need to be replaced quickly, these open-end contracts are available on an emergency basis. The cost for this contract was based upon a benchmark; costs are starting to go up a little bit more and are a negotiated price.

- \*J-5. Contingency Use Directive No. 1 – James B. Pirtle Construction Company, Inc. –Remodeling and Additions – Western High School, Sunrise – Project No. 2831 – P.000891 (Approved)

Approved Contingency Use Directive No. 1, decreasing the project contingency fund by \$141,715.

The project was originally bid on 06/25/2008, to establish the project Guaranteed Maximum Price (GMP). Stone Circle Underground was the apparent lowest responsible and responsive bidder for the site utility portion of the project with a proposal of \$741,900, for site utility work.

After approval of the GMP, Stone Circle became aware of a large (\$400,000), error in their bid and refused to execute a contract for the work. Stone Circle officially withdrew their proposal on 10/08/2008.

After obtaining authorization from this office, the Total Program Manager re-bid the site utility portion of the work on 10/22/08. Sunline Engineering was the new low responsible and responsive bidder at \$975,675. Of the \$233,775 variance between the bids, \$92,060, was due to the addition of the site utilities for the mini gym (site work which had not been previously approved by the Central Broward Water Control District at the time of the original bid in June and so was not included in that bid).

The remaining variance, \$141,715, includes savings of \$52,571, due to declines in the competitive cost of construction during the four months between the two bids. Note that the Total Program Manager does not receive any additional overhead or profit for this use of the project contingency and that the \$300,000, contingency is otherwise unused on this project. Also note that a deduct change order of \$3.47 million for this project is before the Board for approval.

There is no financial impact from this Contingency Use Directive because the funds are already in the project Guaranteed Maximum Price. Since this item adjusts the contract allocations and does not affect the project budget, a collaboration form is not required from the Capital Budget Department.

J-6. Contingency Use Directive No. 10, 11, 12 & 13 – James B. Pirtle Construction Co., Inc. – New Prototypical High School – West Broward High School – Project No. P.000660 (f.k.a. 3971-25-03) (Approved)

Motion was made by Ms. Murray, seconded by Mrs. Bartleman and carried, to approve a decrease in the Contingency account in the amount of \$939,046, as provided for in the Agreement with James B. Pirtle Construction Co., Inc. Mrs. Gottlieb was absent for the vote. (8-0 vote)

This Contingency Use Directive represents the buy-out costs for tiltwall, fire-sprinkler, structural steel and stage rigging/curtain contracts. The total amount necessary to accomplish this required action is a reduction to the contract contingency account of \$939,046 from the original contract contingency of \$3,000,000. (CUD #10 – \$459,197, CUD #11 – \$232,190, CUD #12 – \$142,019, CUD #13 – \$105,640, totaling \$939,046).

The funds being released totaling \$939,046 are included in the Adopted District Educational Facilities Plan, Fiscal Years, 2008-2009 to 2012-2013. This amount will come from the contingency line of the CM contract. Since this item adjusts the contract allocations and does not affect the project budget, a collaboration form is not required from the Capital Budget Department.

Responding to Mrs. Rich Levinson's inquiry, Mr. Lindner stated that in a CM at-Risk contract a price is negotiated, a Guaranteed Maximum Price, and then the contract is monitored. Mr. Lindner stated that the district purchases its own materials and the cost of those materials are estimated. At the end of a CM contract there will be an Owner Savings and Owner Buyout.

- \*J-7. Final Acceptance and Release of Retainage – James B. Pirtle Construction Company, Inc. – New Prototypical High School – West Broward High School, Pembroke Pines – Project No. P.000660 (f.k.a.3971-25-03) (Approved)

Approved the Final Acceptance of the West Broward High School, New Prototypical High School, Project No. P.000660, and release the balance of retainage in the amount of \$227,898.

The contractor, James B. Pirtle Construction Company, Inc., has completed the scope of their contract within the contract limits.

The funds being released totaling \$227,898, are included in the Adopted District Educational Facilities Plan, Fiscal Years, 2010-2011 to 2014-2015.

- \*J-8. Reduction of Retainage – Hyvac, Inc. – HVAC Additions and Alterations – Coconut Creek High School, Coconut Creek – Project No. P.000308 (f.k.a. 1681-99-05) (Approved)

Approved the recommendation to reduce retainage now being held on Coconut Creek High School, HVAC Additions and Alterations, Project No. P.000308, for Hyvac, Inc., from \$160,208 to \$32,042.

In accordance with School Board Policy 7005, the Facilities and Construction Management Department is recommending that the retainage be reduced from \$160,208 to \$32,042. The amount of \$32,042 is being withheld pending final completion of the project.

This project will be brought back to the Board for Final Acceptance and Release of Retainage.

The funds being released totaling \$128,166, were in a previously Adopted District Educational Facilities Plan, Fiscal Years 2009-2010 to 2013-2014, page E-21.

J-9. Extend Open End Professional Services Agreements – Miscellaneous Environmental Consulting Services (Approved)

Motion was made by Mrs. Bartleman, seconded by Ms. Murray and carried, to approve a one-year extension to the Open End Professional Services Agreements for each consultant listed in Exhibit 1 for the services listed. Mrs. Gottlieb was absent for the vote. (8-0 vote)

The original contract dates, amounts and periods are included in Exhibit 1. Recommendation is being made for an extended period of one year from 2/19/11 to 2/18/12 for each open end consultant listed.

There is no financial impact. This item is not affecting the overall budget; therefore, it does not require a collaboration form from the Capital Budget Department.

Mrs. Rich Levinson inquired about the amounts of the contracts.

Mr. Lindner responded that normally there is a spending threshold and go back to ask for additional spending authority if the spending is exceeded. Mr. Lindner stated that as the district's construction projects wind down there will be less spending on these contracts. He said he does not anticipate accessing most of these contracts. Mr. Lindner further stated that the only money that can be spent is money already budgeted and included in the Five-Year Plan.

Responding to Mrs. Good's inquiry, Mr. Lindner stated that Consultants are contractors who do environmental testing and environmental certifications. The district is required to do a tri-annual asbestos inspection. Mr. Lindner stated that these are certified asbestos handlers and contractors, and they also do mold and mildew testing and remediation.

J-10. Approve Contract Extension – Construction Services Minor Projects – Hyvac, Inc. – (HVAC and Refrigeration Construction Services) – Various Locations – Bid No. 2007-08-FC (Approved)

Motion was made by Ms. Dinnen, seconded by Ms. Good and carried, to approve the contract extension for Bid No. 2007-08-FC, Construction Services Minor Projects (HVAC and Refrigeration Construction Services), Various Locations, indicated in Exhibit 3 for one additional year. Mrs. Gottlieb was absent for the vote. (8-0 vote)

The School Board of Broward County, Florida, approved the award of contracts for Construction Services Minor Projects, (HVAC and Refrigeration Construction Services), on January 15, 2008, with a contract period of three (3) years from the date of execution.

By mutual agreement between The School Board of Broward County, Florida, and the Contractor, upon final School Board approval, the agreement may be extended for an additional one-year period. This item extends the term by one year to January 14, 2012.

**Contractor:**

- Hyvac, Inc. – Items #1 – 6 for Heating, Ventilation, & Air Conditioning Class A
- Hyvac, Inc. – Items #1 – 6 for Heating, Ventilation, & Air Conditioning Class B
- Hyvac, Inc. – Item #1 for Heating, Ventilation, & Air Conditioning Class C
- Hyvac, Inc. – Item #1 for Refrigeration Construction Services

**Scope of Work:**

The purpose of this bid is to establish term contracts Construction Services to complete various projects and many others included in the Adopted District Educational Facilities Plan.

There is no financial impact. This item is not affecting the overall budget; therefore it does not require a collaboration form from the Capital Budget Department.

This item was discussed concurrent with Agenda Items J-11 and J-12.

Ms. Dinnen inquired about the benefits of extending the contract rather than issuing a new bid.

Mr. Lindner responded that it is routine for the final year option to be extended on contractors who are performing well for the district. He stated that he directed staff to execute the extension if the contractors are good performers and focus on trying to resolve past issues; laying off 58 people and having to retrain 45 people who “bumped” into positions. Mr. Lindner said that these contracts are based on the current means value; based on the current construction market, the financial impact to the district was minimal. He noted that contracts are written on a year-by-year basis and current means is a benchmark that is recognized as an estimating tool in the industry.

Mrs. Rich Levinson stated that she would be inclined to go out to bid again for an extra year, given the state of the current economy.

Mr. Lindner responded that based on the type of contracts and the staff available to do the work, a determination was made to return money to the Capital Funds Reserve (Agenda Item J-1), and closing out some of the projects that were already completed.

Mr. Lindner stated he made this decision because the pricing was based on means at the current value. He stated there might have been a bigger pool of contractors to do the work but it would not have saved the district any money.

Responding to Mrs. Good's inquiry, Mr. Lindner stated that the cost differential is covered because of the use of current means value as an entry for the pricing at the time the work is ordered.

J-11. Approve Contract Extension – Construction Services Minor Projects – Express Air Conditioning, Inc. – (HVAC and Refrigeration Construction Services) – Various Locations – Bid No. 2007-08-FC (Approved)

Motion was made by Ms. Dinnen, seconded by Mrs. Good and carried, to approve the contract extension for Bid No. 2007-08-FC, Construction Services Minor Projects, (HVAC and Refrigeration Construction Services), Various Locations, indicated in Exhibit 3 for one additional year. Mrs. Gottlieb was absent for the vote. (8-0 vote)

The School Board of Broward County, Florida, approved the award of contracts for Construction Services Minor Projects, (HVAC and Refrigeration Construction Services), on January 15, 2008, with a contract period of three (3) years from the date of execution. By mutual agreement between The School Board of Broward County, Florida, and the Contractor, upon final School Board approval, the agreement may be extended for an additional one-year period. This item extends the term by one year to January 14, 2012, for Item #2 – Heating, Ventilation & Air Conditioning Class C and for Item #2 – Refrigeration Construction Services.

**Contractor:**

- Express Air Conditioning Inc. – Item #2 for Heating, Ventilation, & Air Conditioning Class C
- Express Air Conditioning Inc. – Item #2 for Refrigeration Construction Services

**Scope of Work:**

The purpose of this bid is to establish term contracts Construction Services to complete various projects and many others included in the Adopted District Educational Facilities Plan.

There is no financial impact. This item is not affecting the overall budget; therefore it does not require a collaboration form from the Capital Budget Department.

This item was discussed concurrent with agenda items J-10 and J-12.

- J-12. Approve Contract Extension – Construction Services Minor Projects – Jag Air Mechanical, Inc. – (HVAC and Refrigeration Construction Services) – Various Locations – Bid No. 2007-08-FC (Approved)

Motion was made by Ms. Dinnen, seconded by Mrs. Good and carried, to approve the contract extension and increase for Bid No. 2007-08-FC, Construction Services Minor Projects, (HVAC and Refrigeration Construction Services), Various Locations, indicated in Exhibit 3 for one additional year. Mrs. Gottlieb was absent for the vote. (8-0 vote)

The School Board of Broward County, Florida, approved the award of contracts for Construction Services Minor Projects, (HVAC and Refrigeration Construction Services), on January 15, 2008, with a contract period of three (3) years from the date of execution. By mutual agreement between The School Board of Broward County, Florida, and the Contractor, upon final School Board approval, the agreement may be extended for an additional one-year period. This term extends the term by one year to January 14, 2012, for Item #3 – Heating, Ventilation & Air Conditioning Class C.

**Contractors:**

- Jag Air Mechanical, Inc. – Item #3 for Heating, Ventilation, & Air Conditioning Class C

**Scope of Work:**

The purpose of this bid is to establish term contracts Construction Services to complete various projects and many others included in the Adopted District Educational Facilities Plan.

There is no financial impact. This item is not affecting the overall budget; therefore it does not require a collaboration form from the Capital Budget Department.

This item was discussed concurrent with agenda items J-10 and J-11.

Mrs. Good requested a scrivener's error correction to the Requested Action section on the Agenda Request Form. "Approve the contract extension ~~and increase~~ for Bid..."

- J-13. Amend Professional Services Agreement – Zelch & McMahon, Architects – Remodel/Renovation & IAQ – HVAC – Western High School, Davie – Project No. P.000505 (f.k.a. 2831-99-02) (Withdrawn)

- J-14. Terminate Professional Services Agreement – M.C. Harry and Associates, Inc. – Remodeling and Renovations, ADA, HSS – Northeast High School, Oakland Park – Project No. 1241-99-02 (Approved)

Motion was made by Mrs. Bartleman, seconded by Ms. Dinnen and carried, to approve the Termination of the Professional Services Agreement with M. C. Harry and Associates, Inc., Northeast High School, Remodeling and Renovations, ADA, HSS, Project No. 1241-99-02, dated February 5, 2002. Mrs. Gottlieb was absent for the vote. (8-0 vote)

During project development, the architect determined that the original scope of work was not feasible due to code issues. It was determined that the scope changes necessary would exceed the allocated budget. A Castaldi Analysis supported the development of a Phased Replacement Master Plan. School Board personnel ordered the project consultant to stop work on scope related to the project on or about January 25, 2006. After several attempts to re-scope the project, a phased replacement project was approved. The phased replacement was subsequently cancelled on August 25, 2009. A final attempt to re-scope this project was unsuccessful.

On June 22, 2010, M.C. Harry and Associates, Inc., and the Superintendent's Dispute Resolution Committee met to discuss scope issues and delays pertaining to the Agreement. The Dispute Resolution Committee and M.C. Harry and Associates, Inc., agreed that the project should be terminated for convenience in accordance with Article 10.2.1, of the Professional Services Agreement dated February 5, 2002. M.C. Harry and Associates, Inc., has agreed to waive termination fees in the potential amount of \$14,987.

The original Agreement includes fees of \$504,717 for the project design. M.C. Harry and Associates, Inc., has been paid \$358,639.

The funds, in the amount of \$146,078, released by this Termination will be placed in the Capital Projects Reserve.

Funds released by this Termination, totaling \$146,078, will be placed in the Capital Projects Reserve.

Ms. Dinnen noted that a phased replacement was intended for Northeast High School and it is on a memorialized plan for a future time.

- J-15. Terminate Professional Services Agreement – Rodriguez and Quiroga Architects Chartered – Historical Facility Restoration – Old Dillard Museum, Fort Lauderdale – Project No. P.000678 (f.k.a. 9518-25-01) (Withdrawn)

J-16. Authorize Rejection of Response – Construction Management at Risk Services – Fort Lauderdale High School, Fort Lauderdale – Project No. P.000687 (Approved)

Motion was made by Mrs. Bartleman, seconded by Ms. Murray and carried, to approve the rejection of all responses received for Fort Lauderdale High School, Project No. P.000687. Mrs. Gottlieb was absent for the vote. (8-0 vote)

Article VII.A of the RFQ authorizes the Board to reject all proposals at any time prior to Board approval of the negotiated agreement. It is the school board staff's opinion that the original, intended scope of work as set forth in the original RFQ is substantially and materially different than the revised scope of work and budget in the proposed contracts and that such work should be re-advertised and re-bid.

Proposal documents submitted by the proposers, staff evaluation documents and the Qualification Selection Evaluation Committee's score sheets are available at the Facilities and Construction Management Division.

There is no financial impact to the district.

Ms. Dinnen requested an explanation regarding the rejection of all the responses.

Mr. Lindner informed that the project was originally awarded as a CM at-Risk, a multi-building final phase of a phased replacement at a cost of \$63 million. Mr. Lindner stated that the design was changed to a build a single building which changed the scope of the project that resulted in having to re-bid the project. He stated this opened up the ability of contractors who could bond for much less than the original project and it pushed aside the original contractor who was awarded the \$63 million project.

Mr. Lindner further stated that after significant discussion with the legal department, the original award is being rejected for the large project and 100 percent plans are almost ready for permitting. The intent is to bid this project as a hard-bid project which will be presented to the Board on January 25, 2011.

Ms. Dinnen informed that three sharettes have been held with the community regarding the re-building of that school. She stated that the community needs to be informed what the reduced scope looks like.

Mr. Lindner responded that this will be planned as soon as the project is awarded.

- \*J-17. Final Acceptance and Release of Retainage – Recreational Design & Construction, Inc. – Total Program Management Playgrounds Program – Various Locations – Group 1 – Banyan Elementary School, Project No. P.000396 (f.k.a. 2001-25-11), and Project No. P.000398 (f.k.a. 2001-27-11), Cresthaven Elementary School, Project No. P.000164 (f.k.a. 1901-25-11), Davie Elementary School, Project No. P.000494 (f.k.a. 2801-25-11), Palm Cove Elementary School, Project No. P.000592 (f.k.a. 3311-25-11), Park Ridge Elementary School, Project No. P.000389 (f.k.a. 1951-25-11), and Project No. P.000390 (f.k.a. 1951-27-11), and Project No. P.000391 (f.k.a. 1951-27-12), Sea Castle Elementary School, Project No. P.000518 (f.k.a. 2871-25-11), Westchester Elementary School, Project No. P.000468 (f.k.a. 2681-25-11) (Approved)

Approved the Final Acceptance of the Total Program Management Playgrounds Program – Various Locations – Group 1, and release the balance of retainage in the amount of \$44,096.

The contractor, Recreational Design & Construction, Inc., has completed the project within the extended contract limits.

The funds being released totaling \$44,096, are included in the Adopted District Educational Facilities Plan, Fiscal Year 2010-2011 to 2014-2015.

- \*J-18. Final Acceptance and Release of Retainage – Recreational Design & Construction, Inc. – Total Program Management Playgrounds Program – Various Locations – Group 2 – Drew Elementary School, Project No. P.000583 (f.k.a. 3221-24-11), and Project No. P.000584 (f.k.a. 3221-27-11), Forest Hills Elementary School, Project No. P.000456 (f.k.a. 2631-25-11), and Project No. P.000457 (f.k.a. 2631-25-12), Larkdale Elementary School, Project No. P.000120 (f.k.a. 0621-24-11), North Lauderdale Elementary School, Project No. P.000417 (f.k.a. 2231-24-11), and Project No. P.000420 (f.k.a. 2231-27-11), Nova Blanche Foreman Elementary School, Project No. P.000251 (f.k.a. 1282-25-12), Winston Park Elementary School, Project No. P.000557 (f.k.a. 3091-25-11), and Project No. P.000558 (f.k.a. 3091-25-12) (Approved)

Approved the Final Acceptance of the Total Program Management Playgrounds Program – Various Locations – Group 2, and release the balance of retainage in the amount of \$35,265.

The contractor, Recreational Design & Construction, Inc., has completed the project within the extended contract limits.

The funds being released totaling \$35,265 are included in the Adopted District Educational Facilities Plan, Fiscal Year 2010-2011 to 2014-2015.

- \*J-19. Final Acceptance and Release of Retainage – Recreational Design & Construction, Inc. – Total Program Management Playgrounds Program – Various Locations – Group 3 – Bethune Elementary School, Project No. P.000056 (f.k.a. 0341-24-11), Driftwood Elementary School, Project No. P.000136 (f.k.a. 0721-24-12), Pembroke Lakes Elementary School, Project No. P.000458 (f.k.a. 2661-24-11), Plantation High School, Project No. P.000280 (f.k.a. 1451-25-11), Riverglades Elementary School, Project No. P.000524 (f.k.a. 2891-25-11), and Project No. P.000525 (f.k.a. 2891-25-12), Riverland Elementary School, Project No. P.000021 (f.k.a. 0151-24-11), Silver Ridge Elementary School, Project No. P.000553 (f.k.a. 3081-24-11), Westwood Heights Elementary School, Project No. P.000122 (f.k.a. 0631-25-11), Hallandale Adult Center, Project No. P.000113 (f.k.a. 0592-25-11)  
(Approved)

Approved the Final Acceptance of the Total Program Management Playgrounds Program – Various Locations – Group 3 and release the balance of retainage in the amount of \$49,923.

The contractor, Recreational Design & Construction, Inc., has completed the project within the extended contract limits.

The funds being released totaling \$49,923 are included in the Adopted District Educational Facilities Plan, Fiscal Year 2010-2011 to 2014-2015.

- \*J-20. License Agreement between Professional Facilities Management and The School Board of Broward County, Florida, for the use of the Coral Springs Center for the Arts to Hold the All County Concert Events  
(Approved)

Approved the license agreement between Professional Facilities Management and The School Board of Broward County, Florida, for the use of the Coral Springs Center for the Arts to hold the All County Concert Events.

The School Board will use the Coral Springs Center for the Arts to hold the All County Concert Events for the school year 2010-2011. The schedule of events runs from January 19, 21, 24, and 26, 2011.

It is the policy of the Coral Springs Center for the Arts that the user of the facility executes the license agreement initially.  
This agreement has been reviewed and approved as to form and legal content by the School Board Attorney.

The financial impact to the school district is \$15,000, and will be paid from the General Fund Unappropriated Fund Balance.

J-21. Pre-Qualification of Contractors – Approval of Application and Issuance of Certification (Approved)

Motion was made by Mrs. Bartleman, seconded by Mrs. Rupert and carried, to approve the recommendations of the Superintendent indicated in Exhibit 1. Mrs. Gottlieb was absent for the vote. (9-0 vote)

The Qualification Selection Evaluation Committee (QSEC) convened on December 1, 2010, to review Contractor Pre-Qualification Staff Application Review Executive Summaries received for the following contractors and makes the following recommendations to the Superintendent of Schools:

\*\*ANF Group, Inc. – Issue Pre-qualification Re-Certification

\*\*Bazan Construction Corporation – Issue Pre-qualification Re-Certification

\*\*Horus Construction Services, Inc. – Issue Pre-qualification Re-Certification

James A. Cummings, Inc. – Issue Pre-qualification Re-Certification

KVC Constructors, Inc. – Issue Pre-qualification Re-Certification

Merkury Development – Issue Recommendation to Not Re-Certify

\*\*Mills Electric Service, Inc. – Issue Pre-qualification Re-Certification

National Roofing of South Florida, Inc. – Issue Pre-qualification Re-Certification

\*New Certification \*\*Certified M/WBE and/or SBE

The Pre-Qualification Application reviews were conducted and the recommendations were determined in accordance with F.S. 1013.46, State Requirements for Educational Facilities and Board Policy 7003.

Contractor Pre-Qualification Staff Application Review Executive Summaries are available for review at the Design & Construction Contracts Department.

There is no financial impact. This item is not affecting the overall budget; therefore, it does not require a collaboration form from the Capital Budget Department.

Mrs. Rupert thanked Mr. Lindner and staff for their responses to her inquiry regarding this project. She said she would be setting up a meeting with staff to discuss Consultant Errors and whether there is a pattern to save the district money.

**K. OFFICE OF CHIEF FINANCIAL OFFICER**

**\*K-1. Revision to General Fund Amendment (Approved)**

Approved the General Fund Amendment I-2 for Fiscal Year 2010-11.

This amendment is for the purpose of updating The Broward County School District Budget for changes in Revenue and Appropriations due to the recognition of new revenue or the adjustment of projected revenue through 10/31/10.

Recognize changes in Revenues and Appropriations through 10/31/10.

**\*K-2. Revision to Special Revenue (Other) Amendment (Approved)**

Approved the Special Revenue (Other) Amendment IV-2B for Fiscal Year 2010-11. This amendment is for the purpose of updating The Broward County School District Budget for changes in Revenue and Appropriations due to the recognition of new revenue or the adjustment of projected revenue through 10/31/10.

Recognize changes in Revenues and Appropriations due to new revenue or the adjustment of projected revenue through 10/31/10.

**K-3. Revision to Special Revenue – State Fiscal Stabilization (SFSF) Amendment (Stabilization, Education Jobs Act, and State Appropriated Equipment Assistance Food Service) (Approved)**

Motion was made by Mrs. Bartleman, seconded by Ms. Murray and carried, to approve the Special Revenue (SFSF) Amendment IV-2C for Fiscal Year 2010-11. Mrs. Gottlieb was absent for the vote. (8-0 vote)

This amendment is for the purpose of updating The Broward County School District Budget for changes in Revenue and Appropriations due to the recognition of new revenue or the adjustment of projected revenue through 10/31/10.

Recognize changes in Revenues and Appropriations due to new revenue or the adjustment of projected revenue through 10/31/10.

Mrs. Bartleman inquired about the remaining funds from the Jobs Bill/Stabilization Fund for 2011.

Mr. I. Benjamin Leong, Chief Financial Officer, Office of the Chief Financial Officer, responded that approximately \$7 million remains in the fund.

Mr. Notter informed that a decision is being considered as to the spending of additional funds. He stated that data is being gathered regarding teachers' seniority and their incoming salary, and staff is preparing a weekly report that will be completed by the end of the year on the funds balance.

- \*K-4. Revision to Special Revenue – American Recovery & Reinvestment Act (ARRA) Amendment – Part I (IDEA, IDEA-Pre-K, Title I, Title I-Part D and Title I School Improvement) (Approved)

Approved Special Revenue (ARRA – Part I) Amendment IV-2D for Fiscal Year 2010-11.

This amendment is for the purpose of updating The Broward County School District Budget for changes in Revenue and Appropriations due to the recognition of new revenue or the adjustment of projected revenue through 10/31/10.

Recognize changes in Revenues and Appropriations due to new revenue or the adjustment of projected revenue through 10/31/10.

- \*K-5. Revision to Capital Funds Budget Amendments (Approved)

Approved the Capital Funds Budget Amendments for Fiscal Year 2010-2011. These amendments are as of October, 2010.

These amendments are being submitted to reflect additional revenues and appropriations of the Capital Projects Funds in order to:

- 1) Recognize an increase in estimated revenue
- 2) Adjust appropriations
- 3) Reallocate budgeted funds
- 4) Allocate time and travel to projects

The financial impact of this agenda item is adjusting Revenue and Appropriation as indicated on schedules A and B for Capital Budget activities as of October, 2010.

- \*K-6. Interim Financial Statements for the Period Ended October 31, 2010 (Approved)

Approved the Interim Financial Statement for the period ended October 31, 2010.

Financial Statements are required to be submitted to the School Board, pursuant to State Board Administrative Rule 6A-1.008.

There is no financial impact to the district.

December 7, 2010

Minutes of Regular Meeting  
Page 55 of 66

## **OPEN ITEMS**

### **AA. RESOLUTIONS**

### **BB. BOARD MEMBERS**

### **CC. BOARD POLICIES**

- CC-1. Revisions to School Board Policy 5000 – Adequate Educational Facilities, Designation of Schools and Attendance Areas, Development of Positive Alternatives to Accommodate Growth, to Keep Schools Open, and to Eliminate, Consolidate and Re-purpose Schools (Adopted)

Motion was made by Mrs. Gottlieb, seconded by Ms. Dinnen and carried, to adopt revisions to School Board Policy 5000, at this final reading. (9-0 vote)

A review of Policy 5000 has been completed. Recommendations have been reviewed and approved by Executive Leadership, District legal counsel, and the School Board. The proposed changes in standards for overcrowded schools and their implications have been presented at the September 14, 2010, School Board Workshop and approved at the October 19, 2010, Regular School Board Meeting.

The recommendations include changes to allow consistency with School Board Policy 1161.

There is no additional financial impact to the school district.

Mrs. Bartleman requested a scrivener's error correction to page 7 of 7 of the policy, number 3, delete the word "be." School sites may not ~~be~~ remain vacant ...

Mrs. Bartleman inquired why the language was modified under this section.

Mrs. Leslie Brown, Executive Director, Educational Programs, responded that an issue arose in Facilities that a plan must be in place for using all sites within the school district, how to use the facilities.

Referring to page 2 of 7, Co-Teaching, Mrs. Rich Levinson expressed concern with the definition of Co-Teaching, and requested staff to review modifying the language in the future to state, to the effect of, "Two educators certified in the subject area..."

Dr. Joanne Harrison, Deputy Superintendent, Educational Programs and Student Support Services, informed that currently a review is being made of Class Size and establishing guidelines. One of the guidelines includes Co-Teaching guidelines for next year, some of those areas that may have had multiple interpretations at different locations.

Dr. Harrison stated that the verbiage could be added to the policy which will go to a third reading of the policy.

Mr. Notter explained that policies include writing a corresponding guideline book because the interpretations of the law change rapidly and this eliminates having to wait 31 days between readings to get a policy changed. Mr. Notter stated that there is a guideline that accompanies the policy in the event that some of the information changes from the Department of Education (DOE) or the Florida legislation.

Mrs. Bartleman requested that the Superintendent provide the guidelines at a workshop, with the Plan, Do, Study, Review process, and include stakeholder input.

Ms. Dinnen stated that the policy will be revisited because if a Legislative "fix" is placed on the Class Size requirements it will change what the district's policy will be.

Mrs. Good, who referred to page 4 of 7, Standards for Overcrowded Schools, numbers 2 and 6, voiced concern that there may be schools that although may have clusters of autistic children may appear to be under-enrolled when in fact they are not. Mrs. Good recommended that clarification be made to this section to the policy.

Dr. Harrison responded that under number 2, the verbiage was changed because staff will be reviewing the issue as compared to automatically being under-enrolled, and a review will be made as to why a school is at that level. Dr. Harrison stated that under number 7, verbiage was included regarding special programs and special circumstances. Dr. Harrison assured the Board that staff personally walk through the schools when reviewing whether schools are over-enrolled or under-enrolled.

Mrs. Good requested that the Board be provided with enrollment information with regard to those schools that specifically have issues with special programs.

Ms. Murray noted that many ESE classes are 8 to 12 students capacity and the guidelines for elementary school is 18 students. She stated that the target of the district is to service the students, which does not always comply with the directive of the state. Ms. Murray said that the policy is a living document that can be adjusted as the guidelines are followed.

Mr. Thomas stated that he views the word “shall” as directive in nature and there is no wiggle room, but the word “may” is better suited.

Dr. Harrison explained that “shall” indicates that a review will be made, not that action is to be taken. Remarking that every year staff must go through an extensive process of review, Dr. Harrison stated that “shall” is used because staff did not want to give an option of reviewing or not reviewing.

Mrs. Rich Levinson referred to page 10, g., Reconfigured grades, dropping district-wide elementary, middle and high school grade configuration philosophy. Mrs. Rich Levinson inquired whether a discussion was held with the community about the philosophy of this configuration. She stated that parents need to be involved in the conversation about grade configuration.

Mrs. Brown responded that this was eliminated because a review was made of the K-8 model. The Board is moving to a broader look at how to configure schools and not be limited to only three grade configurations.

Dr. Harrison stated that the wording limited the Board to a K-5, 6-8, and 9-12 configurations. The Board has had extensive discussion about looking at a variety of configurations, having workshops to review “new thinking,” where the district should be heading in configurations, and receive guidance and direction from the Board.

Mr. Notter informed that the community input portion was to include scheduling from one to three Special School Board meetings for this purpose. Mr. Notter stated that the new Board will review this model and, if the Board concurs, this procedure would be initiated. Remarking that there has been discussion about including a community piece, Mr. Notter stated that the district has implemented providing press releases and communication, such as high school grades, to the municipalities, which was not done in the past.

Board Members concurred with scheduling a Board workshop to further discuss revamping the parent and community input on the policy, guidelines for the Use of Closed Schools (p. 6 of 7), review the potential of having a separate policy, and reverting back to the Policy Review Committee process.

In addition, that the policy be taken through the Policy Review Committee process, if there are major issues, and keep the Board apprised of its progress.

Mr. Williams recommended that a workshop be held so that parental input is gathered.

Motion to Defer (Withdrawn)

Motion was made by Ms. Dinnen, seconded by Mrs. Gottlieb, to defer the agenda item to the first School Board meeting following a Board Workshop, until after parental and community input on the current law and policy.

Dr. Harrison informed that the policy came forward to align the language through the new Interlocal Agreement (ILA). Remarking that the next review is to discuss boundaries, Dr. Harrison stated if the policy is not passed the recommendations for the new boundaries will not realign to the ILA changes. She recommended passing the policy today and then subsequently brought back to a Board Workshop to discuss additional changes.

Responding to Mrs. Gottlieb's inquiry, Dr. Harrison stated that the policy was presented to the Board in September 2010, first reading, and the second reading was held to ensure it aligned with the boundary process that moves forward to the boundary hearings in January and February 2011. Workshops have been held with the community, along with individual communities that had special concerns on specific areas.

Mrs. Bartleman noted that a Board Member can bring back a policy at any time as a "B" agenda item.

Ms. Dinnen stated she would withdraw the Motion to Defer, and concurred by Mrs. Gottlieb. (A 9-0 vote was taken to withdraw the motion).

Dr. Harrison informed that there is no misunderstanding as to how the Board wants to proceed forward.

The following individual addressed this item:

Billy Davison

A vote was taken on the agenda item.

CC-2. Amend Policy 5004.1, for the Purpose of Clarifying Processes for Parental Options (Adopted)

Motion was made by Ms. Dinnen, seconded by Mrs. Bartleman and carried, to adopt the recommendation to amend Policy 5004.1, for the purpose of clarifying processes for parental options, at this final reading. Mrs. Gottlieb was absent for the vote. Mrs. Bartleman voted "no." (7-1 vote)

At the September 14 and 28, 2010, School Board Workshops, the Board reviewed the above proposed policy for Innovative Programs/Parent Options. As a result of the School Board Workshops, the proposed amendment of current policy is being brought forward for approval. Through this amended Innovative Programs/Parent Options Policy, all components including: timelines, application processes, criteria, priorities, and parent/student notification, will be unified.

This policy has been reviewed by the School Board Attorney.

There is no financial impact to the district.

Responding to Mrs. Bartleman's inquiry regarding Virginia Shuman-Young, Dr. Harrison stated that there is a pending complaint and discussion cannot be held at this time on that issue.

Mrs. Bartleman requested that a review be made of the recruitment process regarding Beachside Montessori Village to ensure that the surrounding community is informed and has the opportunity to participate in the application process. Mrs. Bartleman stated there is a concern that the ethnic composition of the school does not reflect the community.

Mrs. Brown informed that the district no longer assigns students by percentages at any school. Mrs. Brown stated that the Office of Civil Rights has worked very closely with the district on its policies and they have been careful to advise the district to not use race-based assignment processes and getting certain percentages into schools. They are strongly against it because it may disenfranchise or create access issues for one race over another. Mrs. Brown further stated that the Office of Civil Rights has advised the district, per policy, that a review be made in January of every year of the racial makeup of the applicant pool and work on getting under-represented members in the applicant pool. By using a random-selection computerized process the district would meet the needs of access to the programs and then work on creating more diversity in the applicant pool.

Mrs. Brown stated that in previous years Virginia Shuman-Young students have gotten a seat in the kindergarten class, and the issue was continuing in theme. Continuing in theme will be used from K-12, not Pre-K-K.

Referring to page 11 of 17, Transportation, Mrs. Bartleman stated that previously the Board had discussed transportation to Nova and the idea of a sliding scale based on the need for transportation. Remarking that transportation is provided in the policy, Mrs. Bartleman inquired whether the budget process will determine this need.

Mr. Notter recommended that the policy remain as indicated and that the issue be brought forward early on in the budget process for discussion. Mr. Notter stated he is not convinced that there are not other programs that are in a similar circumstance.

Board Members Mrs. Bartleman, Mrs. Good, Mrs. Rich Levinson, and Mrs. Rupert requested that staff revisit the Magnet programs for transportation issues and bring this topic to the beginning of the budget process workshop for a broader discussion.

Mrs. Good stated that this issue needs to be looked at broadly through workshops and public input.

Remarking that there are many ways to lower transportation expenses, Ms. Murray stated that the district's success has been in their magnet schools and as new innovative schools are created, transportation is provided to meet the children's needs.

CC-3. Revisions to Exceptional Student Education Policies and Procedures (SP&P) (Adopted)

Motion was made by Ms. Dinnen, seconded by Ms. Good and carried, to adopt Revised Policy 6000.4, Exceptional Student Education Policies and Procedures (SP&P), at this final reading. Mrs. Gottlieb was absent for the vote. (8-0 vote)

This revision includes requirements by the State to align with the Florida State Statutes and State Board of Education. The changes are in **Part 1, General Policies and Procedures, Section A: Legal Requirement**, and to State Board of Education Rule changes during 2009-10, (See Exhibit #1). The language by the State cannot be revised as it provides the policy necessary to comply with the Individuals with Disabilities Education Act 2004 (IDEA).

Federal and Florida State law requires that School Boards adopt, as policy, the **Exceptional Student Education Policies and Procedures** (SP&P) in order to receive Federal and State funding. This document describes the process for determining eligibility, developing individual education plans (IEPs) for students with disabilities, developing education plans (EPs) for gifted students, and making placement decisions for exceptional students. The School Board previously approved SP&P for 2009-2010 through 2011-2012.

Exhibit #1 is an Amendment Table, August 2010, to the sections and changes required for the District. The District is allowed to enter local policy statements in boxed areas only. Exhibit #2 is the revised SP&P document.

There is no financial impact to the district.

No discussion was held on this item.

CC-4. Adopt Revisions to School Board Policy 1163 – Charter Schools  
(Adopted)

Motion was made by Mrs. Good, seconded by Ms. Murray and carried, to adopt revisions to Policy 1163, at this final reading. Mrs. Gottlieb was absent for the vote. (8-0 vote)

Policy 1163 – Charter Schools was last updated in 2007. Since that time, there have been statutory changes affecting charter schools, which necessitate that the policy be revised and aligned to current requirements. The proposed changes have been presented to the Charter School Task Force, the Florida Consortium of Public Charter Schools, the Charter School Principals, and have also been reviewed and approved by legal counsel.

There is no financial impact to the district.

Mrs. Good commended staff for fine-tuning the policy with regard to charter schools. Mrs. Good expressed concern with not providing staff ample opportunity to review documentation in regard to facilities. She said that currently applicants are required to provide the information the day school opens, which is inappropriate. She suggested that 10 business days be indicated as opposed to 10 days.

Remarking that leases are an important element to charter schools, Mrs. Good requested that a review be made of this policy in the future to ensure that executed leases by the not-for-profit organizations are also included as part of the documentation within that timeframe.

Referring to page 8, J. – “Charter schools will complete and submit all required reports, including employee database surveys, in a timely manner,” Mrs. Good cautioned using the term “timely.” She stated it benefits the district and the applicants to clearly have an understanding about what are the expectations, and suggested placing a specific time frame as to when these reports are required.

Mrs. Good discussed the issue of nesting, that certain charter schools use the nesting element to mentor one school to another. Mrs. Good suggested addressing this issue in the policy to ensure there are proper mechanisms in that policy for auditing purposes, to prevent fraudulent activity, and to prevent any misinformation. She said it has a benefit to certain schools but there should be certain mechanisms in place.

Referring to page 8, Eligible/Targeted Students, B., Mrs. Bartleman stated that ESE parents have received letters asking their children to leave charter schools because they cannot meet the need of the school.

Dr. Harrison stated that data is currently being gathered on all the schools that are nesting and the financial impact, which will be presented to the Superintendent and the Board next week. Dr. Harrison informed that in their application they have to indicate how they are going to serve the student; there are many issues that are referred to the Governing Board because it is their responsibility to enforce. She stated that every Legislative Session results in the district re-writing the Charter School policy.

Responding to Mrs. Bartleman’s inquiry, Mr. Marko stated that the contract belongs to the district as long as it prescribes to the standards that are set forth by the Department of Education. By Legislative enactment there is new criteria.

Mrs. Bartleman praised the actions of Mrs. Jody Perry, Director, Charter Schools Support, during the recent lockdown of the schools, having personally called every charter school principal.

Mrs. Good stated that the statute is silent on many aspects of this issue and if these events are happening at the schools those are violations of the district’s contract. Mrs. Good suggested that a review be made of what the tri-county district is doing in this regard and have legal staff review what can be placed into the contracts.

Mrs. Rupert stated that Eligible/Target Students do not address maintaining any educational excellence for those students, which might give them that “wiggle room” to ask some of the ESE students to leave. Mrs. Rupert stated that the same thing is occurring in magnet schools.

Mrs. Bartleman requested the names of those magnet schools where this is occurring.

Ms. Dinnen inquired who has the monitoring responsibility and whether there is enforcement power if a contract is violated. She stated that it is difficult to control a situation when there is no ability to monitor.

Mrs. Perry informed that the statute is very specific, when looking at the Charter School Governing Board's responsibility, in that it is the Governing Board that has to monitor student attendance, Full Time Equivalent (FTE), ESE, and English Language Learners (ELL) compliance. Mrs. Perry stated that the district can notice the schools, and it is included in the proposed policy, as to what is required of them. It is also included in the contract that ESE and ELL students will be served. Mrs. Perry further stated, as to the ownership of the process and monitoring, it falls on the governing board of the individual charters. The district does not have enforcement.

The following individual addressed this item:

Rhonda Ward

Mrs. Good inquired whether the contract language provides that if provisions of the contract are not adhered to that it is grounds for termination of the contract.

Mrs. Perry responded that the contract spells this out in good cause for non-renewal or termination.

Mrs. Brown informed that district staff strictly monitors by reviewing every folder, checking and ensuring that services are being provided to these children. If they are not, a corrective plan is developed and sent to the state. Mrs. Brown stated that letters are sent for every infraction, if it is known to the district, to the Governing Board. A follow-up is made with the Governing Board and a copy to the Charter School support office at the district. If further follow-up is needed, the information is sent to the Department of Education.

**DD. OFFICE OF THE CHIEF AUDITOR**

**EE. CHIEF OPERATIONS OFFICER**

**FF. CURRICULUM/EDUCATIONAL PROGRAMS & STUDENT SUPPORT**

**GG. HUMAN RESOURCES**

**HH. ATTORNEY**

## **II. OFFICE OF THE SUPERINTENDENT**

### **JJ. FACILITIES AND CONSTRUCTION MANAGEMENT**

- JJ-1. Terminate Professional Services Agreement – Perez & Perez Architects Planners, Inc. –Phased Replacement – Cooper City High School – Project No. P.000386 (f.k.a. 1931-99-02) (Withdrawn)

### **KK. OFFICE OF CHIEF FINANCIAL OFFICER**

Following the action of Agenda Item CC-1, the following Attorney-Client Session commenced at 12:10 p.m.

#### **FIRST SESSION**

##### **Announcement by Chair**

"The School Board of Broward County, Florida, will meet in an Attorney-Client Private Session in accordance with Florida Statutes, Section 286.011(8), today December 7, 2010, 11:45 a.m. The Attorney-Client Session will be held in the Board Room of the first floor of the Kathleen C. Wright Administration Center, 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301.

"The purpose of this Attorney-Client Session is for the School Board and Counsel to discuss pending litigation relative to the following case: The School Board of Broward County vs. Spillis Candela & Partners / AECOM Services, Inc., Case No. 09-024070 (02), before the Circuit Court of the 17<sup>th</sup> Judicial Circuit in and for Broward County, Florida, A Certified Court Reporter will record the entire session.

"The following persons will attend the Attorney-Client Session: Chair Benjamin J. Williams; Vice Chair Ann Murray; Members, Robin Bartleman, Maureen S. Dinnen, Patricia Good, Jennifer Leonard Gottlieb, Laurie Rich Levinson, Nora Rupert, David Thomas; Superintendent James F. Notter, Oscar E. Soto, Esq.; Thomas C. Cooney, Esq.; and Edward J. Marko, Esq.

"Telephone Conferencing or other telecommunications technology may be used in the conduct of this Attorney-Client Session to permit absent Board Members to participate and to be heard by other School Board Members and Counsel."

The Attorney-Client Session recessed at 1:30 p.m. The Regular School Board meeting reconvened at 1:40 p.m.

#### **SECOND SESSION**

"The School Board of Broward County, Florida, will meet in an Attorney-Client Private Session in accordance with Florida Statutes, Section 286.011(8), today December 7, 2010, 2:00 p.m. The Attorney-Client Session will be held in the Board Room of the first floor of the Kathleen C. Wright Administration Center, 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301.

"The purpose of this Attorney-Client Session is for the School Board and Counsel to discuss pending litigation relative to the following case: The School Board of Broward County vs. The Circle One Condominium Association, Inc., et al., Case No. 03-04537 (02), before the Circuit Court of the 17<sup>th</sup> Judicial Circuit in and for Broward County, Florida. A Certified Court Reporter will record the entire session.

"The following persons will attend the Attorney-Client Session: Chair Benjamin J. Williams; Vice Chair Ann Murray; Members, Robin Bartleman, Maureen S. Dinnen, Patricia Good, Jennifer Leonard Gottlieb, Laurie Rich Levinson, Nora Rupert, David Thomas; Superintendent James F. Notter, Mitchell J. Burnstein, Esq.; Peter D. Waldman, Esq., Thomas C. Cooney, Esq.; and Edward J. Marko, Esq.

"Telephone Conferencing or other telecommunications technology may be used in the conduct of this Attorney-Client Session to permit absent Board Members to participate and to be heard by other School Board Members and Counsel."

The Attorney-Client Session recessed at 2:50 p.m. The Regular School Board meeting reconvened at 2:54 p.m.

**Adjournment** This meeting was adjourned at 5:45 p.m.

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