

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS TELECONFERENCE MEETING
WEDNESDAY, APRIL 1, 2020**

A teleconference meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, April 1, 2020 at 9:00 A.M.

Participating were:

Robert Nixon, Chairman
Michael Kanef (Treasury)
Bernard Piaia (DOE)
Stephen Martorana (EDA)
Kevin Luckie (DCA)
Kevin Egan
Richard Elbert
Loren Lemelle
Lester Lewis-Powder
Michael Maloney
Mario Vargas

being all the Members of the Board.

At the Chairman's request, Manuel Da Silva, chief executive officer; Andrew Yosha, vice president; Jane F. Kelly, vice president and assistant secretary; Donald Guarriello, vice president and chief financial officer; Albert Barnes, chief counsel; and Cecelia Haney, deputy chief counsel, of the SDA, participated in the meeting by teleconference. Joy Johnson of the Governor's Authorities Unit (GAU) also participated in the meeting by teleconference.

The meeting was called to order by the Chairman of the Board. The Chairman then asked Ms. Kelly to read the requisite notice of the meeting. Ms. Kelly announced that the meeting notice had been sent to the *Trenton Times* and *Star-Ledger* at least 48 hours prior to the meeting,

and was duly posted on the Secretary of State's bulletin board at 20 West State Street in Trenton, New Jersey. She reported that a call-in number was provided on the SDA Website so that members of the public could participate in the meeting by teleconference. Ms. Kelly then conducted a roll call and indicated that a quorum of the Members was present. The Chairman asked that all participating in the meeting engage in a moment of silence to reflect on the dedication and hard work of our doctors and nurses, police, firefighters, EMS workers, construction workers, and all those who are not able to stay home with their families during this difficult time.

Approval of Meeting Minutes

The Chairman presented for consideration and approval the minutes of the Board's March 4, 2020 Open Session meeting. A copy of the meeting minutes and a resolution had been provided to the Members for review in advance of the meeting. Upon motion duly made by Mr. Vargas and seconded by Ms. Lemelle, the Open Session minutes of the March 4, 2020 SDA Board meeting were approved by the Board upon its unanimous vote in favor of the resolution attached hereto as ***Resolution 4a***.

Authority Matters

CEO Report

The Chairman then asked Mr. Da Silva for the Report of the CEO. Mr. Da Silva advised the Board that Authority management and staff are complying with the Governor's directive to isolate due to the COVID-19 virus while keeping SDA's projects moving forward. He said that staff has been working in the field and remotely so that they can maximize social distancing, try to maintain the operation of the projects, and minimize staff visits to the office. He noted that the executive team has been engaging in routine calls with the Authority's supervisory staff to

answer questions and provide direction as needed, along with daily staff update emails. Mr. Da Silva reported that the human resources department has established an intake protocol for staff. He said that he is proud to work with a team that is as professional and committed as this team. He said that staff transitioned beautifully from office conditions to work from home and work from field conditions. Mr. Da Silva highlighted the work of Tony Gilfillan and the MIS team during the transition period. He also highlighted the work of Colleen Connolly from a human resources and communications standpoint.

Mr. Da Silva said that he would be brief and limit the remainder of his report to highlighting project changes since his last report to the Board. He advised the Board that the Authority has applied to the Department of Community Affairs (DCA) for an updated renewal of a temporary certificate of occupancy (CO) issued on March 2, 2020 in order to address the final DCA items needed for a CO for the Trenton Central HS project. He said that the Board will be considering a recommendation of award for construction management (CM) services for the Perth Amboy HS project at today's meeting. He also reminded the Board that on February 5 the Board approved the award of a design-build contract to Epic Management, Inc. (Epic) for the Plainfield Woodland ES project. He said that the notice-to-proceed was issued on March 11 and a kick-off meeting was held on March 20. He noted that Epic has begun site condition review and testing there. In continuing, Mr. Da Silva said that the building permit was issued on March 10 for the Orange Cleveland Street ES project. He said that footings, foundations and underground utility work is ongoing there. He reported that Terminal Construction's site clearing activities are complete for the Orange HS project, and footings, foundations and underground utility work is ongoing there as well. Mr. Da Silva said that he would be pleased to answer questions regarding these or any of the Authority's projects.

Audit Committee

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on March 16, 2020 at which time management provided the Committee with the February 2020 New Funding Allocation and Capital Plan Update. He advised that, during the reporting period, there was a \$2.4 million decrease in the Planning Reserve balance following approval of the final charter for the Plainfield New ES project. He added that there were no changes in the remaining SDA District Reserve balances. Mr. Nixon reported that the reserve balance for the Regular Operating Districts (RODs) increased by \$2.2 million during the reporting period due to a reduction in state share for grant projects nearing completion.

In continuing, Mr. Nixon advised the Board that the Committee was provided with the results of one project audit from the Internal Audit Unit that was conducted to comply with the statutory requirement that capital portfolio projects with a state share of over \$10 million be reviewed to assess whether state funds were expended in accordance with contract terms, SDA practices and state regulations. He reported that there was one suggestion for improvement, adding that the audit revealed that State funds utilized for the project were expended prudently and consistent with legal requirements.

Next, Mr. Nixon provided the February 2020 Monthly Financial Report. He advised the Committee that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period totaled \$2.3 million, \$439,000 lower as compared to the budget for the corresponding period. He explained that the decrease is mainly attributable to lower personnel costs as the Authority has fewer full time employees (FTEs) than budgeted. He reported that Year-to-Date Authority Operating expenses (Actual vs. Prior Year Actual), at \$2.3 million, are \$594,000 lower as compared to the operating budget for the corresponding prior year period. He noted that this decrease is mainly attributable to SDA having 42 fewer FTEs than last year. Mr. Nixon then

reported that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period total \$47.2 million, \$3.7 million lower as compared to the capital spending forecast for the corresponding period. He advised that this variance is the result of lower than forecasted expenditures in construction activity and school furniture purchases. He reported that project expenditures (Actual vs. Prior Year Actual), are \$3.8 million higher as compared to the corresponding prior year period. He explained that the variance is due to an increase in construction activity. Mr. Nixon then reported that, since program inception, approximately 86.3% of the funds authorized for SDA districts have been disbursed. Additionally, he said that, since program inception, 96% of all SDA disbursements relate to school facilities projects, while 4% relate to operating expenses. He advised that the estimated value of active school facilities capital, emergent and regular operating district grant projects is approximately \$2 billion.

Mr. Nixon said that in compliance with changes the Board made to the SDA Bylaws and Audit Committee Charter, management reported to the Committee regarding recent personnel actions and related personnel matters.

In concluding his report, Mr. Nixon advised the Board that the Committee had also discussed workplace matters related to the COVID-19 virus. He said that management reported that contingencies have been put in place enabling SDA staff to work remotely, that projects are continuing, and that the SDA has been in contact with its contractors. He said that management advises that the GAU remains in ongoing contact with the SDA providing guidance and direction.

School Review Committee

Construction Manager Award – Perth Amboy School District – Perth Amboy New High School – ET- 0099-M01; Approval of Awards – Design Consultant Services for Limited-Scope Projects – GP-0263-R01; Proposed New Rules for OPRA Compliance: Notice of Proposal – Requests for Access to Government Records, N.J.A.C. 19:33

Next, Mr. Nixon asked Mr. Luckie to provide the report of the School Review Committee (SRC). Mr. Luckie reported that the SRC met on March 16, 2020 at which time three items were discussed.

First, he said that management is seeking approval to award a CM services award for the Perth Amboy New HS project (Project). He informed the Members that the Project involves construction of an approximately 576,000 square foot building to educate approximately 2,800 students in grades 9 through 12. He explained that the Board had approved the Project's preliminary charter on June 1, 2016, authorizing construction of the Project and related site development work. He noted that the Project site is district-owned and the Project is advancing with an in-house design through the design-build delivery method. Mr. Luckie reported that on January 10, 2020, a package for CM services was advertised as a "price and other factors" procurement with price weighted as 40%, and all non-price factors having a combined weight of 60%, of the final combined score. He said that, following the procurement process, management recommends award of the CM services contract in the amount of \$4,180,920 to Cambridge Construction Management (Cambridge). He noted that, upon review, Cambridge has confirmed that its price proposal is inclusive of all scope elements contained in the contract documents. Mr. Luckie then advised the Board that after the determination of the recommended awardee, SDA received notice regarding the filing of a bid protest by one separate bidder in the process. He added that the protest is undergoing a review and a final determination by the Authority's chief financial officer in consultation with the division of chief counsel. Mr. Luckie advised the Members that execution of the contract for CM services would not proceed until a final determination is made by the Authority with regard to the bid protest that has been filed.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Vargas and seconded by Mr. Elbert, the

construction management services award for the Perth Amboy New HS project was approved with the Board's unanimous vote in favor of **Resolution 7a**.

Next, Mr. Luckie reported that management is requesting that the Board approve the proposed awards for design consultant services for limited-scope projects. He reported that SDA executive management is recommending Board approval of the award of contracts to 20 firms for design consultant services for Authority projects involving emergent facilities conditions, capital improvement needs, or other limited scope tasks. He said that these 20 engagements, resulting from a competitive procurement process, will provide a pool of design consultants from which SDA staff is authorized to assign task orders on an as-needed basis for time-sensitive, limited-scope projects requiring predesign, design and/or construction administration services. He explained that the SDA chief executive officer and staff will ensure the execution of individual project planning charters for those projects for which design services will be assigned through these task orders. He noted that, in the Board memorandum, management has outlined the terms of the contracts to be awarded, the details of the competitive procurement process that SDA followed, and the proposed methodologies to be used in award of the task orders.

In response to an inquiry by Mr. Vargas, Mr. Murphy advised that, of the twenty (20) firms, eight (8) are returning firms and twelve (12) are new firms. He noted that during the last engagement, ten (10) task orders were issued for a total of \$1.1 million expended.

A resolution pertaining to this matter was provided to the Board in advance of the meeting. Upon motion duly made by Mr. Kanef and seconded by Mr. Maloney, the awards for design consultant services for limited-scope projects were approved with the Board's unanimous vote in favor of **Resolution 7b**.

Next, Mr. Luckie reported that management also is seeking approval of proposed new Rules for Open Public Records Act (OPRA) Compliance: Notice of Proposal for Requests for

Access to Government Records, N.J.A.C. 19:33. He explained that New Jersey's OPRA requires that government records be readily accessible for inspection, copying or examination by members of the public unless exempt by law or regulation. He said that OPRA further authorizes a public agency to identify categories of documents that are not subject to public access. He advised that the Board memorandum describes in detail the provisions of the proposed regulations which establish requirements and procedures for citizens seeking access to government records that are made, maintained or kept on file by the SDA, consistent with OPRA. Mr. Luckie said that SDA management recommends Board approval so that management can proceed with the promulgation and publication of these proposed new rules, as well as the issuance of the Notice of Proposal, and their filing with the Office of Administrative Law.

A resolution pertaining to this matter was provided to the Board in advance of the meeting. Upon motion duly made by Mr. Vargas and seconded by Mr. Kanef, the Publication of a Notice of Proposal for New Rules governing requests for Access to Government Records, N.J.A.C 19:33 was approved with the Board's unanimous vote in favor of ***Resolution 7c***.

Public Comments

Mr. Nixon then opened the Public Comments portion of the meeting. The Chairman asked Ms. Kelly if there were any members of the public on the teleconference who wish to address the Board. Ms. Kelly called upon Ms. Linda Stork of New Brunswick to offer comments. Ms. Stork introduced herself to the Members as a long-time resident of New Brunswick, adding that she had previously worked for the New Brunswick School District. She said that what is being proposed for the Lincoln Annex School (School) is totally unacceptable. She said that the public officials in New Brunswick have accused the citizens objecting to the plans regarding the School of "rumor mongering". She said that indications are that the plans to tear down the School have been on the drawing board for quite some time. She said that local district officials

have set up a citizens committee but no one knows who has been appointed to that committee. She said that two alternative sites for a new school have been proposed and both are contaminated. She added that the owner of one site who had failed to pay taxes on the site for years, having become aware of the plans for the site, reclaimed ownership of it in an effort to make a profit. She said that the whole process has been a sham.

The Chairman advised Ms. Stork that the SDA has no organizational role in this process but that, rather, the Superintendent and district officials are the individuals who should be contacted. He noted that CEO Da Silva is, however, keeping himself current on the matter.

Next, Ms. Kelly asked Mr. Charlie Kratovil to address the Board. Mr. Kratovil said that he wanted to ask Authority Members and staff about their experience dealing with contaminated sites in terms of the amount of time it has taken to clean them up. Mr. Da Silva said that each site is different in this regard. Mr. Kratovil reminded the Members that the School opened just three and one-half (3 ½) years ago. He said that the Superintendent's handling of the current matter is the opposite of transparent. He said that the Superintendent and the Board of Education formed a citizen committee but that who is serving on the committee remains a secret. He said that the process is not being conducted in an above-board manner. He said that local officials have been asked to postpone this process during the COVID-19 crisis but it is moving forward. He reminded the Members that the School cost \$22 million and said that, as a taxpayer who contributed to the cost of the School, he objects to the current plans. He said that the manner in which this is proceeding effectively removes the SDA from any decision-making role in the process.

At Ms. Kelly's request, Ms. Danielle Moore offered comments to the Board. Ms. Moore discussed one of the potential sites proposed for construction of a new school, the 131 Jersey Avenue site. She said that she has pictures of the site which depict the serious contamination

issues there. She said that the chemicals on the site are so strong that they destroyed a new pair of sneakers that she wore to the site. She said that the proponents of building a new school have indicated a willingness to allocate \$55 million to the construction effort. She questioned whether this would be sufficient to address not only construction but also the remediation efforts that would be required at the site. She asked who is going to pay for the cleanup. Mr. Nixon said that these questions would be best addressed to the Superintendent. Ms. Moore emphasized that the Superintendent has not been responsive. In continuing, Ms. Moore stressed that the area where the Jersey Avenue site is located is a dangerous area. She cited concerns with children safely crossing the street (as it is a high accident area), along with drug activity and sexual assaults reported in the area. She asked that the School not be taken away from the community.

Next, Mr. Herb Tarovous addressed the Board. Mr. Tarovous advised the Members that he is a resident of Piscataway. He said that he endorses the comments offered by the previous three speakers. He said that \$22 million was spent on renovating the School just three years ago. He asked whether SDA was involved in that construction. Mr. Da Silva replied that, while SDA built the Redshaw and Robeson Schools in the New Brunswick School District, it had no involvement in renovation of the Lincoln Annex School. Mr. Tarovous said that he had been reviewing the SDA website and has concluded that this is a matter that would be appropriate for SDA as an emergent project. Mr. Da Silva suggested that Mr. Tarovous reach out to the SDA via email so that staff can discuss the role of the SDA with him.

Ms. Linda Stork asked to offer additional remarks to the Board. She said that there are many schools in New Brunswick that are over one-hundred (100) years old. She said that local officials continue to advise the public that SDA is “out of money” and that they should be grateful for this proposed project. She said that it would be a shame to tear down a perfectly good school.

Ms. Kelly asked Ms. Julie La Chance to address the Board. Ms. La Chance explained that she is a mechanical engineer and a PhD candidate at Princeton University. She said that she has been asked to review the 131 Jersey Avenue site and assess the contamination there. She said that she has submitted numerous OPRA requests, with limited success, seeking additional information regarding the site. Ms. La Chance said that the Jersey Avenue site is extremely contaminated. She described the contamination as inclusive of lead, arsenic and other substances. She said that there are ten (10) contaminants in the soil alone. She described carcinogens in the groundwater and the vapor intrusion risks that are present there. She stated that the site could never be fully remediated.

Ms. Kelly then announced that the Board has resolved to adjourn into Executive Session to discuss legal matters pertaining to the new Perth Amboy HS project. She said that there would be no additional formal action taken today following discussion in Executive Session.

Thereafter, upon motion by the Chairman and with unanimous consent, the meeting adjourned into Executive Session.

Certification: The foregoing represents a true and complete summary of the actions taken by the Board of the New Jersey Schools Development Authority at its April 1, 2020 meeting.

/s/ Jane F. Kelly
Assistant Secretary