

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS TELECONFERENCE MEETING
WEDNESDAY, MARCH 3, 2021**

A teleconference meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, March 3, 2021 at 9:00 A.M.

Participating by teleconference were:

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

being a quorum 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; and Albert Barnes, 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, Mr. Nixon. 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. She said that a call-in number was provided on the SDA Website so that members of the public could participate in the meeting by teleconference. She also advised the Members that the call-in number for the meeting was posted at the SDA offices earlier in the morning. Ms. Kelly then conducted a roll call and indicated that a quorum of the Board Members were present.

Approval of Meeting Minutes

The Chairman presented for consideration and approval the minutes of the Board's February 3, 2021 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 Mr. Luckie, the Open Session minutes of the February 3, 2021 SDA Board meeting were approved by the Board with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3a***.

Next, Mr. Nixon presented for consideration and approval the minutes of the Board's February 3, 2021 Executive 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 Executive Session minutes of the February 3, 2021 SDA Board meeting were approved by the Board with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3b***.

Authority Matters

CEO Report

The Chairman then asked Mr. Da Silva for the Report of the CEO. Mr. Da Silva began his report with an update on design-build projects in the design phase. He said that the design-builder, Epic Management, has responded to the Department of Community Affairs' (DCA)

comments on design package 1 for work including foundations for the Plainfield Woodland ES project.

Turning to design-build projects in construction, Mr. Da Silva reported that for the Paterson Union Avenue MS project, permanent power to the building is scheduled to be energized this month. He advised that, interior mechanical, electrical, and plumbing finish work is underway for the Camden HS project. Mr. Da Silva said that Phase III interior mechanical finish work is underway for the Millville HS project. He also advised that the building is weather tight and temporary heat is allowing all finish work on the upper floors to continue through the winter months on the Passaic Dayton Avenue Educational Campus project. Mr. Da Silva then reported that ceiling installation work has also started there in the corridors and in all classrooms on floors 3 and 4. He said that this work is expected to begin on the 2nd floor this month and exterior finish work is ongoing as weather allows.

In continuing, Mr. Da Silva said that for the Perth Amboy HS project, test piles work has commenced and work on production piles is expected to begin later in the month. He noted that utility relocation work is expected to start this month as well.

Next, Mr. Da Silva gave an update on design-bid-build projects in the construction stage. He said that footings and foundations activities began last month on the Keansburg Port Monmouth Road School project. For the Orange Cleveland Street ES project, he reported that asbestos abatement within the existing building is complete, and Phase 2 renovation work in the existing building is in progress. With respect to the Orange HS project, he advised that masonry work for the addition is complete.

Finally, Mr. Da Silva said that he would like to address a situation that has arisen involving property SDA owns located adjacent to the Julia Barnes School in Jersey City. He explained that, in 2009, the Authority entered into a Use & Occupancy agreement with the Jersey

City School District which allowed the District to use the property for two purposes only--for parking and for children's recreational space. He said that the agreement also required that use of the space would remain under District control and not be sublet or assigned to another party for use.

Mr. Da Silva advised the Members that, in December 2020, SDA inspections confirmed that the property was being used by a third party in violation of the SDA's agreement with the District. He said that this was also evidenced by signage posted on the property fencing. Mr. Da Silva said that SDA also became aware that the property was being used for religious events, and for other purposes including food distribution, clothing drives, flea markets and the like.

In continuing, Mr. Da Silva said that SDA repeatedly attempted to contact the Superintendent by phone to discuss these concerns but did not receive a response. So, on January 20, 2021 he wrote to the Superintendent and gave the District an opportunity to address the violations. He said that the District eventually removed the signage and a portable toilet that was on the property, although after expiration of the cure period, but it is the Authority's understanding that the property continued to be used in violation of the agreement. He said that, ultimately, he wrote to the Superintendent again on February 19, 2021 and notified the District that SDA was terminating the 2009 agreement.

Mr. Da Silva stressed that, at every step of the way, SDA emphasized to the District that the Authority was very willing to discuss the future use of the property. He said that the Authority is not opposed but is, in fact, very pleased when properties it owns can be put to good use for the benefit of the public. He reminded the Board that SDA has approved community gardens, food distributions and other events on several Authority properties across the state. He emphasized, however, that in every case, these events were done legally, with the proper paperwork and insurance in place and with SDA's full knowledge and consent.

The CEO said that this past Friday February 26, he received a phone call from Jersey City Deputy Superintendent Fernandez who has indicated that the District's attorney will be reaching out to the Authority to begin discussions regarding the potential future use of the property by the District.

He said that there may be members of the public on the call today who will urge SDA to authorize the use of this property in Jersey City for a community garden and other purposes. He said that the Authority greatly appreciates their interest and said that, at this point, the community should be gratified that the District has now made outreach to the Authority to begin the necessary discussions. He said that SDA looks forward to engaging in discussions with the District but emphasized that any future use of this property must be in complete conformance with the law and with any future agreement that SDA might ultimately reach with the District.

The Chairman then asked Mr. Da Silva to discuss the Governor's inclusion of funding for school construction in the proposed State budget. Mr. Da Silva said that the Governor's budget, as proposed, would allocate \$200 million towards SDA's current portfolio of projects. He said that normally the SDA would bond \$300 million to \$400 million but that this year the state is only pursuing \$150 million in bonding. He said that as proposed, the remainder would be provided as part of budgetary appropriations in the amount of \$200 million. He added that the budget must still go before the Legislature for approval. He said that the Governor has also proposed an appropriation of \$75 million to be used for emergent and facilities maintenance projects across districts in New Jersey. He added that this funding would require legislative approval as well.

Audit Committee

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on February 16, 2021 at which time management provided the Committee with the January 2021

New Funding Allocation and Capital Plan Update. He said that staff informed the Committee that there were no changes in any of SDA District Reserve balances during the reporting period.

He then advised the Board that the reserve balance for the Regular Operating Districts (RODs) increased by \$1.7 million during the reporting period due to a reduction in state share for grant projects nearing completion.

Next, Mr. Nixon discussed the preliminary December 2020 Monthly Financial Report. He noted that this is a preliminary report as the financial statements are currently under review by the Authority's independent auditors. Mr. Nixon advised the Members that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period totaled \$13.8 million, down \$3.6 million as compared to the budget for the corresponding period. He explained that this decrease is mainly attributable to a decrease in payroll and benefits costs, lower than anticipated spending related to professional and other contracted services, facilities and general office expenses and information systems. He reported that year-to-date Authority operating expenses (Actual vs. Prior Year Actual) are \$2.7 million lower as compared to the operating budget for the corresponding prior year period. He explained that this decrease is mainly attributable to SDA having fewer FTEs than in the previous year. He then said that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period total approximately \$293.5 million, approximately \$28.7 million lower as compared to the capital spending forecast for the corresponding period. He advised the Members that this variance is the result of lower than forecasted expenditures for grant activity, construction activity, property acquisition and payroll expense allocation to project expenditures. He noted that this decreased spending is offset by an increase in school furniture purchases. Mr. Nixon then reported that project expenditures (Actual vs. Prior Year Actual), at approximately \$293.5 million, are lower by \$16 million when compared to the corresponding prior year period. He explained that the variance is due to

decreased grant activity, school furniture purchases and payroll expense allocation to project expenditures. He noted that this decreased spending is offset by an increase in spending for construction activity, design services and property acquisition.

Mr. Nixon said that, since program inception, 88.9% of the funds authorized for the SDA districts have been disbursed. Additionally, he noted that 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 projects, along with emergent and regular operating district grant projects, is approximately \$2 billion.

Next, Mr. Nixon advised that, in compliance with the 2019 changes to the SDA Bylaws and Audit Committee Charter, the CEO reported to the Committee regarding Authority personnel matters and changes as part of his quarterly staffing report.

Next, Mr. Nixon said that in executive session and for informational purposes, the Committee received an update from Cowden Associates, Inc. (Cowden), the human resources consultant that was retained by the Board. He reminded the Members that Cowden was tasked with reviewing and making recommendations regarding SDA job descriptions, functional responsibilities and compensation levels along with conducting an operational efficiency review. He said that Cowden was also tasked, on a privileged and confidential basis, with working with SDA's Counsel's Office and outside employment counsel to develop an analytical tool that the Authority can utilize as part of its efforts to ensure current and future compliance with the 2018 Diane B. Allen Equal Pay Act (the Act). Mr. Nixon said that Chief Counsel's office provided the Committee with an update on the progress of this aspect of Cowden's work.

In concluding his report, Mr. Nixon advised that the Audit Committee is awaiting additional analyses and reports from Cowden. He said that once the same are presented to the Audit Committee they will be shared with the full Board.

Public Comments

The Chairman then opened the Public Comments portion of the meeting.

At the Chairman's request, Bishop Militinia Bland addressed the Board. Bishop Bland said that she is the president of the non-profit Black Interest Team Enterprise Corporation (B.I.T.E). She said that B.I.T.E. has been directly affected by this decision (to terminate the 2009 Use and Occupancy agreement). She said that B.I.T.E. has been operating as a non-profit organization in the Astor Community Garden (garden) for the past 15 years with permission via a building use form. She said that the garden was built from the rubble where there were dead animals, drug paraphernalia, drugs being sold in the area and illicit sexual activities that directly and negatively affected the children in the area when they were walking to the elementary and high schools. She said that as residents of this area, B.I.T.E. wanted to collaborate with the Jersey City Board of Education, which was then under Dr. Charles Epps, the then-superintendent. Bishop Bland added that the group has worked through all the superintendents in a collaborative manner that has been extremely positive. She said that 15 years later, they house an organic garden on the property that is used for the STEM program, an afterschool program, a literacy program, and homework projects; and now provides a full pantry that feeds 1,000 plus people per week. She added that in January there was a new coat giveaway because families are suffering from COVID-19 and the children were home from school and they didn't have the means to obtain what they needed. Bishop Bland then listed the programs that are scheduled to happen in March and said that bringing these programs to a halt would be very problematic, especially in the time of COVID-19. She said that B.I.T.E. also works in collaboration with one of the area hospitals.

In continuing, Bishop Bland said that she understands that all involved want to work together for the good of the community and especially for the good of the children and schools.

She said that she wanted to thank the Board for providing an opportunity to either collaborate with the schools or for the SDA to collaborate with the organization because they know how to keep the Authority informed and work within the parameters of a lease agreement.

Next, at the Chairman's request, Neal Bronson addressed the Board. Mr. Bronson said that he is calling in to support B.I.T.E. and the garden. He said that he is from Jersey City and runs the African American Historical Society Museum. He said that he has seen community projects come and go in Jersey City but he has not seen one with the longevity that this community project; nor has he seen one with the opportunity that this one has. He said that one of the things that is current in terms of agriculture is urban gardening which has become a food source and a learning tool for the communities. He said that practically every college in the "Big 10" has an agricultural school and one of the difficulties that children from these urban environments have when entering into these programs is that they lack the rudimentary experience that this garden can provide. He added that this leads to opportunities that are incalculable. He said that this program in its locale adjacent to an elementary school in Jersey City facilitates an opportunity. He said that he's been able to take a look at the lease agreement and Bishop Bland is correct that this program has been running under the radar with great acclaim in the community. Mr. Bronson said that he wanted to emphasize two points: 1) this issue should be beyond politics; and 2) the program should be measured and weighed on its history and accomplishments. He said that if you do this, you have no choice but to support the program in the future and to even look for opportunities to expand it. He said that community programs need institutional and community support.

At the Chairman's request, Myani Lawson addressed the Board. Ms. Lawson said that she is a resident of Astor Place. She said that she has lived on the street for the last 20 years and is speaking from her perspective as an educator. She said that she has been a teacher for the past

24 years and what she seen with this community garden has been nothing short of amazing. She said that when she first moved to Astor Place and saw the empty lot, it was just disgraceful. She said that the community garden is located directly adjacent to PS 12 ES. She asked what message we are sending the children when they look out the windows of their school or walk past to go to their school and see broken glass, urine, and drug paraphilia. She said that the message we are sending the children is that they are worthless. Ms. Lawson said that when the B.I.T.E. organization came in they cleared up the debris from the empty lot and built garden beds with no financial support. She added that B.I.T.E. is an all-volunteer organization and as people see what the organization is doing for the community, more and more people are embracing it and they are getting additional assistance coming in and building up this garden community. She said that now the children see the beautiful space that they deserve and that the community deserves as well. She said that she runs an early childhood program and she took her students to the garden. She reported that the children had the time of their lives. She said that not only is the organization growing food but they are getting donations of food for the 1000 plus people who come each week so that they can eat.

The Chairman then asked Rev. Philip Webb to address the Board. Rev. Webb said that he is a third generation resident of Jersey City. He said that he serves as a Church pastor and was a police officer for 29 years, now retired. He said that he was one of the innovators and facilitators of the Jersey City Social Justice Commission, one of the most advanced police reform initiatives that may exist nationally. He said that he was calling in to support the B.I.T.E. organization and their good work. Rev. Webb said that he has worked in association with B.I.T.E. and has seen and supports their good work.

Mr. Nixon thanked Rev. Webb for his service as a police office and for his work in the community.

At the Chairman's request, Debra Alston then addressed the Board. She said that the garden has been around for 15 years. She said that the children experience field trips to the garden where they learn how to plant and to grow fresh fruit and vegetables. She said that the garden is a STEM program and that children from the lower grades up to college-age students visit the garden and are exposed to different possibilities (i.e. agriculture) when determining what they would like to do in their lives. She said that the garden is available to children that speak different languages and that they can learn in those languages. However, she noted that gardening doesn't need "language". She then described other learning experiences that are made available to the children. Ms. Alston said that the community does not want the garden to go back to the drug dealers. She then cited a "success story" involving a drug dealer who obtained his masters degree and indicated that the group would like more success stories.

At the Chairman's request, Mustafa Salaam addressed the Board next. Mr. Salaam said that he wanted to address the Board on behalf of the B.I.T.E. organization and Bishop Bland. He said that he came into the community in the late '90s and was able to witness what Bishop Bland did out of sheer love and concern to cultivate usage of the space. He said that without the confrontation that goes on within the community, this was a natural organic transformation and a positive for the community—providing food and clothing. He said that this a cross-cultural, cross-ethnic effort and promotes self-esteem and self-worth. He said that for anyone to be in opposition and to try to stop and prevent such a positive effort is a crime against humanity.

The Chairman then asked Ruben Rodriguez to address the Board. Mr. Rodriguez said that he has lived in Jersey City for 20 years. He said that the property was full of drug dealers and garbage and that B.I.T.E cleaned it up. He said that now the community is benefiting from this. He said that children are being taught how to grow vegetables and that these are significant benefits. He said that he does not understand why B.I.T.E. cannot continue this work. He said

that more places like this are needed and asked that the Board not take away the property from B.I.T.E. He thanked the Board for the opportunity to speak.

Next, Vera Bland addressed the Board. Ms. Bland said that she is a resident of the Jersey City area at issue. She said the question is not who wants the garden but who does not want the garden. She asked what spotlighted this area. She said that if there is a winning team, that team should be kept whole. She asked the Members of the Board to search their souls as their mission is to make things better for the schools. She said that SDA is responsible for millions of dollars and questioned why this one small area was highlighted. She advised the Board that in the past, the police had to constantly patrol the area due to the presence of drug dealers and other undesirables there. She said that rather than ask for a greater police presence, the volunteers went to the site and give local families food. She said that now these families are allies. She said that it is this type of community involvement that makes the world a better place. She asked that the Board work with B.I.T.E. so that the work can continue.

Next, Paula Jones Watson said that she is a stakeholder and lifetime resident of Jersey City. Ms. Watson said she concurs with the comments of all of the previous speakers. She said that the garden is a symbol of hope and survival showing that there are many possibilities in life. Ms. Watson echoed the description of the property offered by the speakers before her – as an empty trash filled lot and the site of illegal transactions. She said that the garden represents a place of beauty and change and what God wants us to do for each other by providing for each other. She said that it is like in the Bible “What you sow you will reap” and we need to sow something into our community to reap the good. Ms. Watson said that we cannot let our personal or emotional opinions remove the progressive statement that the garden makes. She said that the garden provides safety and a place where many nationalities come together and it should be a blueprint for the city demonstrating what can be done with vacant lots. She said that

we have a responsibility to future generations and asked that everyone do whatever they can do. She asked that SDA lease the site with a perpetual lease as the garden is a symbol of hope, life and survival.

Next, Jermaine Thomas of St. John the Baptist Church (Church) of Jersey City addressed the Board. Mr. Thomas said that he sits on the Board of the Church as a Deacon. He advised the Board that the Church's seniors go to the Astor community garden, adding that the garden serves as the site for Easter egg hunts, toy drives and events where household products, juices, etc. are distributed. Mr. Thomas asked what good it is doing to punish the community garden that is doing great things. He shared that his wife died of COVID-19 last year and that he came down with the virus and suffers from acute failure in his right lung. Mr. Thomas said that the garden provides fresh juices and vegetables for many people who are unemployed. He said that closing the garden is signing a death warrant to some people's lives. He noted the recession and loss of jobs, stating that these people get the necessities from the garden that they need to survive. He said the seniors need the garden for their survival. Mr. Thomas asked that everyone work together expeditiously to stand with the garden, especially at this time when people are going hungry and dying. Mr. Nixon extended his condolences to Mr. Thomas.

Next, Rosa Roney spoke to the Board. Ms. Roney said that she was a crossing guard on Astor Place for 6 years. She said that the property was in disarray with drugs and fires. She said that after she retired, the change in Astor Place was amazing, with the garden providing over 1,000 people with vegetables and water. Ms. Roney said that prices have gotten so high that even with food stamps people can't make it. She said that Bishop Bland makes sure that there is food for senior citizens and parents of children. She said that, prior to the pandemic, children and college kids were taken to the garden to show them what they can do to move along. Ms. Roney

asked everyone to work together to keep the garden going and to show the children that everyone is working together.

Next, at the Chairman's request, James Harris addressed the Board. Mr. Harris said that he is a member of B.I.T.E. and President of the New Jersey Organization of Black Educators. He expressed the disappointment of the community when facing locked gates to a piece of property that was supposed to be used to build a school that never got built. He said that the garden has been providing vital services for 15 years to the community during difficult times. Mr. Harris said that we need to do whatever we need to do—whether it's a relationship between the Jersey City Board of Education and the SDA or whatever the problem is that needs to be solved. He stressed that the garden needs to be opened on Saturday. He said that people have been coming for years to the garden as a resource. He encouraged the Members to take a ride by the site to see what goes on there. He said that this is not fake news, but that everyone who spoke is "speaking truth to power". He said that the SDA has the legal responsibility and authority to get this resolved.

In continuing, Mr. Harris said that when a piece of property that was an eyesore has been turned into a community resource, children come to see positive adults doing positive things, showing them that all is not lost for them living in a poverty community in the second largest city in New Jersey. Mr. Harris appealed to the Members noting that they have good intentions and that some have been appointed by a Governor who is truly sensitive to diversity. He said that this is an equal rights situation and he encouraged those involved to do whatever needs to be done over the next couple of days to take the locks off those gates so that the community can do what they have been doing very effectively for the last 15 years. He asked all involved to do the right thing for the community, and for fairness, justice and equality in a very stressful

environment. He thanked the Chairman and the Board for taking time this morning and looks forwards to a rapid return on what can happen in order to keep this vital resource functioning.

Mr. Nixon thanked everyone who participated and addressed the Board. He said that the Members did not need to be sold on the value of community gardens and the important services that organizations can provide our communities. He said that, as Mr. Da Silva announced at the start of the meeting, the SDA has been actively trying to get the school district to follow up on this matter to make sure that everyone is on the same page and that state property is being appropriately utilized and insured so that everyone can benefit and the community and the children are the better for it.

Mr. Nixon then announced that the Board would be adjourning into Executive Session. Ms. Kelly advised those participating in the meeting that the Board would be adjourning into Executive Session to discuss a proposed settlement of cost recovery litigation relating to the Jersey City PS3/MS4 School Facilities project. She added that the Board will vote on this matter upon its return to Open Session. She asked that the Chairman present ***Resolution 9*** for this purpose.

Upon motion duly made by Mr. Vargas and seconded by Mr. Elbert, the Board resolved to adjourn the meeting into Executive Session to discuss the matter so described with its unanimous vote in favor of ***Resolution 9***.

Following discussion in Executive Session the Board returned to Open Session.

Mr. Luckie announced that in Executive Session the Board had discussed the SRC's recommendation that the Board approve the proposed settlement of cost recovery litigation in connection with the Jersey City PS3/MS4 School Facilities project.

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. Lewis-Powder, the

Committee's recommendation in this matter was approved by the Board with its unanimous vote in favor of *Resolution A1*.

Adjournment

There being no further business to come before the Board, upon motion by the Chairman and with unanimous consent, the meeting was adjourned.

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 March 3, 2021 meeting.

/s/ Jane F. Kelly
Assistant Secretary