

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS MEETING
WEDNESDAY, MAY 4, 2022**

A meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, May 4, 2022 at 9:00A.M. at the offices of the Authority at 32 East Front Street, Trenton, New Jersey.

Participating were:

Robert Nixon, Chairman
David Moore (Treasury)
Bernard Piaia (DOE)
Juan Burgos (EDA)
Kevin Luckie (DCA)
Richard Elbert
Michael Maloney
Lester Lewis-Powder
Mario Vargas

being a quorum of the Members of the Board. Mr. Elbert, Mr. Lewis-Powder, Mr. Moore, Mr. Piaia and Mr. Vargas participated in the meeting by teleconference.

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

Pledge of Allegiance

Led by the Chairman, the Members and all assembled stood and recited the Pledge of Allegiance.

The meeting was called to order by Mr. Nixon, who requested that Ms. Kelly 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 had been duly posted on the Secretary of State's bulletin board at 20 West State Street in Trenton, New Jersey and on the SDA Website. Ms. Kelly then conducted a roll call and indicated that a quorum of the Members of the Board was present.

Approval of Meeting Minutes

The Chairman presented for consideration and approval the minutes of the Board's April 6, 2022 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. Luckie and seconded by Mr. Maloney, the Open Session minutes of the April 6, 2022 SDA Board meeting were approved with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3a***.

Mr. Nixon then presented for consideration and approval the minutes of the Board's April 6, 2022 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. Burgos and seconded by Mr. Vargas, the Executive Session minutes of the April 6, 2022 SDA Board meeting were approved with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3b***.

Authority Matters

CEO Report

The Chairman asked Mr. Da Silva for the Report of the CEO. Mr. Da Silva began his report with an update on design-build projects in construction. He advised that Phase IV building

enclosure continues for the Millville High School project. For the Perth Amboy High School project, he said that slabs on deck work is continuing and mechanical, electrical and plumbing (MEP) rough in work is ongoing on all floors. He reported that for the Plainfield Woodland Avenue Elementary School project, exterior brick installation is ongoing, as well as interior framing and drywall.

Turning to design-bid-build projects in the construction stage, Mr. Da Silva reported that for the Keansburg Port Monmouth Road School project, interior MEP rough in work is complete in the new addition as well as in the existing building. He advised that site work and interior finish work is underway. For the Orange High School project, he said that installation of furniture and IT equipment in the addition is complete. He added that renovation of the cafeteria and other areas of the building is ongoing.

Mr. Da Silva then provided an update on projects in the programming/pre-design/in-house design stages. He said that technical and price proposals are due next week for the Union City New Grade 7 to 9 School.

Mr. Da Silva advised that it is anticipated that the Millville High School, Keansburg High School, and Passaic Dayton Avenue Educational Campus projects will be delivered this year.

Turning to non-project related matters, Mr. Da Silva reported that on Friday, April 8, SDA participated in a beam signing ceremony for the new Perth Amboy High School. He said that management was pleased that Board Members Robert Nixon, Mario Vargas and Michael Maloney were able to participate in the celebration. He said that the highlight of the ceremony was a speech by 9th grader Jesus de Jesus.

Mr. Da Silva informed the Members that he, CFO Donald Guarriello and managing director Gregory Voronov appeared before the Senate Budget and Appropriations Committee on Thursday, April 28. He advised the Board that management would be responding to follow-up

questions received from both the Assembly Budget Committee and, as required, following Thursday's Senate hearing, from the Senate Budget Committee. He added that management will continue to engage with the Legislature and the Governor's Office as the FY 2023 budget process continues.

Mr. Da Silva then reminded the Members that Financial Disclosure Statements are due to be filed with the State Ethics Commission by May 15. He noted that post-May 15, a late penalty of \$50 per day will be assessed.

In continuing, Mr. Da Silva provided an update on the Astor Place Community Garden (Community Garden). He reminded the Members that in 2009, with a use and occupancy agreement, the Authority authorized the Jersey City School District (District) to use the property located adjacent to the Julia Barnes School for play space and parking. He said that when management discovered last year that the terms of the license were being violated, the Authority had no choice but to terminate the use and occupancy agreement. He explained that management has consistently said, however, that the SDA would support the use of the property for a Community Garden going forward. He added that this would require that the SDA enter into a licensing agreement with the District. He advised that management has provided both the District and the Black Interest Team Enterprise (BITE) organization with the forms of license that the Authority uses when management authorizes public bodies to utilize SDA-owned lands for Community Gardens. Mr. Da Silva said that, to date, management has received no proposed document revisions from the District that are acceptable to both the District and to BITE.

In continuing, Mr. Da Silva reported that earlier this week, he wrote a letter to the Superintendent and President of the Jersey City School Board. He said that in the letter, SDA inquired as to whether the District remains interested in entering into a licensing agreement with the SDA for use of the property. He said that, if so, management would expect that the District

would need to come to terms with BITE on the license and sub-license and then share any suggested revisions with the Authority. He added that he knows that representatives of BITE are present at the meeting today and suggested that they encourage their attorney to communicate with the District's attorney and negotiate terms that are acceptable to both the District and BITE.

Finally, Mr. Da Silva informed the Members that program director Andrew Oakley has determined to move on from the SDA and pursue a new opportunity. He said that he wanted to thank Mr. Oakley for his years of service and commitment to the SDA and the children of New Jersey.

Audit Committee

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on April 18, 2022 at which time management provided the Committee with the March 2022 New Funding Allocation and Capital Plan Update. He reported that there was a \$4.1 million decrease in the unforeseen events reserve balance following CEO approval of the revised final project charter for the Orange High School Addition and Renovation project. He noted that the decrease was to allocate additional contingency to the project to account for the cost impacts of several unforeseen events related to the renovation and site work portion of the project. Additionally, he reported a \$230,000 increase in the 2011 Emergent Projects Reserve balance following a reduction in the budget for the Newark Cleveland boiler repair emergent project based on the award of the "general construction with design" task order engagement. He advised that there were no changes in any of the other reserve balances for the reporting period. Mr. Nixon then reported that the reserve balance for the Regular Operating Districts (RODs) increased by \$800,000 during the reporting period due to a reduction in state share for grant projects nearing completion.

Next, Mr. Nixon informed the Board that the Committee was provided with the results of 2 interim [real time] project audits. He noted that the audits were conducted to comply with the statutory requirement that capital portfolio projects with a state share over \$10 million be reviewed to assess whether state funds were expended in accordance with contractual terms, SDA practices and state regulations.

Lastly, Mr. Nixon provided the Board with an overview of the March 2022 Monthly Financial Report. He advised the Members that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period totaled \$5.2 million, down \$730,000 as compared to the budget for the corresponding period. He explained that this decrease is mainly attributable to lower than projected employee salary and benefit costs, partially offset by lower than projected payroll expense allocation to project costs. He noted that other contributing factors to the variance include lower than anticipated spending for contracted services, general office expenses, SDA-owned vehicles and information systems. He reported that the current full-time equivalent (FTE) headcount was at the 143 level through March 31, representing a 21 FTE decrease compared to year-to-date projections. Mr. Nixon reported that year-to-date Authority operating expenses (Actual vs. Prior Year Actual) are \$449,000 lower as compared to the operating budget for the corresponding prior year period. He explained that this decrease is mainly attributable to lower employee salary and benefit costs, offset by year over year lower payroll expense allocation to project costs. He reported that the headcount of 143 is down 26 FTEs as compared to the prior year. Mr. Nixon noted that the Committee discussed its concerns with the impact of these staff reductions on the Authority's ability to handle its current and future workload. He reminded the Members that the current year budget authorizes and provides funding for a 175 member workforce. He explained that 175 is the number of staff identified as

necessary to meet the current demand. He said that the Committee will be monitoring the situation to ensure that the Authority is adequately staffed.

Mr. Nixon then reported that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period total approximately \$105 million, approximately \$31 million higher as compared to the capital spending forecast for the corresponding period. He advised the Members that this variance is the result of higher than forecasted expenditures for grant activity and school furniture purchases, offset by lower than forecasted spending in construction activity. Mr. Nixon said that project expenditures (Actual vs. Prior Year Actual), at approximately \$105 million, are higher by approximately \$49.1 million when compared to the capital spending forecast for the corresponding prior year period. He advised that this variance is the result of an increase in expenditures for grant activity and school furniture purchases, offset by decreased spending in construction activity.

Mr. Nixon said that, since program inception, 91.3% 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 \$1.1 billion.

School Review Committee

The Chairman asked Mr. Luckie to provide the report of the School Review Committee. Mr. Luckie reported that the School Review Committee met on April 16, 2022, at which time one item that requires Board consideration was discussed. He informed the Members that management is seeking Board approval of the proposed re-adoption with amendments of the Authority's Equal Employment Opportunity (EEO) and Affirmative Action Rules (Rules) for the school construction program. He advised that the SDA is statutorily required to adopt regulations

to establish an affirmative action program for the hiring of minority workers on its construction projects. He said that in 2007 the Schools Construction Corporation (SCC) adopted regulations for this purpose which were later readopted by the SDA with amendments in 2015. He noted that these regulations are due to expire on May 12, 2022. Mr. Luckie explained that the Rules proposed for re-adoption with amendments address the EEO and Affirmative Action requirements that apply to SDA-engaged construction and goods and services contractors and consultants. He said that the Rules also address SDA's set-aside and subcontracting goals for small business entity participation and implement the requirement that the Authority set aside three-percent of its total contracts and subcontracts for construction and goods and services to Disabled Veteran Owned Businesses. He noted that there are also several minor and clarifying amendments which are described in the Board memorandum, including provisions which pertain to the imposition of sanctions on firms that have failed to meet their obligations under the law.

Ms. Haney advised that the proposed amendments are largely driven by the new set-aside and subcontracting requirements for Disabled Veteran Owned Businesses which would be three-percent subcontracting or a set-aside requirement for all SDA contracts.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Maloney and seconded by Mr. Burgos, the proposed re-adoption of the Authority's Equal Employment Opportunity and Affirmative Action Rules with amendments, issuance of the Notice of Proposal, and filing of the Notice with the Office of Administrative Law were approved with the Board's unanimous vote in favor of ***Resolution 6a.***

Public Comments

The Chairman opened the Public Comments portion of the meeting. He initially asked that one spokesperson speak on behalf of the BITE organization given that the matter at hand,

the Astor Place Community Garden in Jersey City, has been the subject of significant public comment at numerous Board meetings and the issues are well understood. The Chairman also noted that there is no disagreement with BITE on the part of the Board, SDA management and staff regarding the value of the Community Garden but that its resumption must be preceded by the execution of licensing agreements.

The Chairman then indicated that he would receive comments from 10 speakers on behalf of the BITE organization. He asked Bishop Antonio Merino to address the Board. Bishop Merino's remarks were interpreted from his native language, Spanish, to English by Alejandro Perez. Bishop Merino advised the Board that he was speaking on behalf of BITE and his fellow Bishops. He said that the issue of the Community Garden should have been resolved by now and not allowed to drag on. He said that a sign has now materialized on the site indicating that the property has been shut down. He offered that what has been done is unimaginable and horrible, and that the property should be used for teaching.

At the Chairman's request, Deborah Alston spoke to the Board. She expressed her concern that there is nothing growing on the property. She said that the Authority has become a "slumlord" as people are now throwing trash on the site. She said that it is important for children to learn about growing through the Garden. She said that BITE would partner with the School to this end.

Next, Elvira Callist offered comments to the Board. She said that it is important that BITE be able to train children to grow—a skill the Community Garden can provide. She asked that the Board work with BITE to start over.

The Chairman then asked Marie Pierre to address the Board. Ms. Pierre said that it is important to provide children with a solid foundation. She said that the Community Garden serves this purpose and provides a benefit to the community as well.

Next, the Chairman requested Vera Bland approach the podium and address the Board. Ms. Bland emphasized that those present on behalf of BITE in support of the Community Garden are all volunteers as well as local homeowners and property owners. She asked for the Board's support, emphasizing that the volunteers simply want to plant and grow food. She stressed the need to get beyond the legalities.

The Chairman then requested that Landon Beckett approach the podium. Mr. Beckett said that Bishop Militinia Bland helps the community at no charge. He said that he thinks of the Community Garden as a "mini Botanical Garden" of New Jersey. He asked that the Board support the re-opening of the Community Garden.

At the Chairman's request, Alejandro Perez approached the podium. Mr. Perez urged that the property be restored to its former beauty. He asked that the Board help to make that happen, noting that New Jersey is the Garden State and that the people would like to see greenery in their community.

Next, Rosa Roney was invited by the Chairman to speak. Ms. Roney advised that she was previously a crossing guard in the area of the garden. She said that the Community Garden had been beautiful and that now that it is closed, there have been problems. She reminded the Board that New Jersey is the Garden State.

The Chairman then asked Shirley Peters to speak. Ms. Peters offered that the Community Garden had been beautiful but was destroyed by SDA's neglect. She urged that the Community Garden be re-opened. She asked that SDA stop destroying the community and work with BITE.

At the Chairman's request, Clifford Campbell approached the podium. Mr. Campbell said that the Community Garden is needed by the community. He asked that the SDA provide BITE with access to the property once again.

Next, Nikki Barker addressed the Board at the Chairman's invitation. Ms. Barker said that she was the representative of the Healthy Schools Now Coalition of the Work Environment Council. She reminded the Members that she had introduced herself to the Board at the April Board meeting. She reiterated her and her organization's interest in connecting with the Authority regarding matters of mutual interest.

The Chairman asked Michael Coleman to speak. Mr. Coleman said that the Community Garden is a "hinge point" in the community. He said that the garden is important to the children and requested the Board's support for its continuation.

Frank Touma was invited by the Chairman to address the Board. Mr. Touma said that SDA has written to BITE through attorneys. He said that the volunteers are present at the meeting today to show the Board their support for the Community Garden. He said that the garden is now full of drugs and in disrepair.

Mr. Nixon said that he would like to close the Public Comment section of the meeting by reemphasizing that there is no disagreement between the Board, the staff and BITE about the value of the Community Garden. He added that all involved are on the same page. He reiterated that the issue is that we are dealing with public land and that SDA, as a government entity, must ensure that the proper procedural requirements are adhered to. He added that the SDA cannot just give away the land. He said that there has to be a process that follows the law and is done through a specific sublicense and licensing agreement. He said that he can assure BITE that there isn't a person present who wants the land to be littered, misused and taken over by bad actors. Mr. Nixon said that he can assure BITE that Mr. Da Silva has been pushing the lawyers and the district – that it's a work in progress. He informed BITE that the Board doesn't want BITE's members to have to drive from Jersey City to tell the Board something that the Board already agrees with. He said that he is hopeful that the parties are getting closer to a formal agreement.

He said that he wants BITE to go back and do good for the community because, as one of the speakers said, it is all about the children.

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 May 4, 2022 meeting.

/s/ Jane F. Kelly
Assistant Secretary