

Irvine Unified School District
Irvine, California

Board of Education
Minutes of Special Meeting
December 13, 2011

Call to Order

The Special Meeting of the Board of Education was called to order by President Parham at 2:32 p.m., in the District Administration Center, 5050 Barranca Parkway, Irvine, California.

Roll Call

Members Present:

Gavin Huntley-Fenner, Sue Kuwabara, Carolyn McInerney, Mike Parham, Sharon Wallin

Members Absent:

None

Oral Communication

None

Closed Session

The Board adjourned to Closed Session at 2:34 p.m.

Conference with Legal Counsel - Existing Litigation

The Board discussed existing litigation relative to Great West Contractors, Inc.

Reconvene Special Meeting

President Parham reconvened the Special Meeting at 3:00 p.m.

Pledge of Allegiance

The Pledge of Allegiance to the United States of America was led by Member Kuwabara and was followed by a moment of silence.

Roll Call

Members Present:

Gavin Huntley-Fenner, Sue Kuwabara, Carolyn McInerney, Mike Parham, Sharon Wallin

Members Absent:

None

Staff:

Terry Walker, Superintendent of Schools

John Fogarty, Assistant Superintendent, Business Services

Lee Brooks, Executive Assistant to the Superintendent

Other Staff:

Jeff Dixon, Ian Hanigan, Ed Hernandez, Lloyd Linton

Report of Closed Session Discussion/Action

President Parham reported on the discussion in Closed Session.

Adoption of the Agenda

On the motion of Member Wallin, seconded by Member McInerney and carried 5-0, the Board adopted the agenda, as presented.

Items of Business

Continuation of Responsibility Hearing – Great West Contractors, Inc.

District legal counsel Ed Connor, Connor, Fletcher & Williams LLP, briefly reviewed the purpose of the continued hearing which was to determine whether Great West should be deemed to have been a "responsible bidder" when it submitted its bids on May 8, 2008, to serve as the general contractor for the following two Projects: 1) Northwood Elementary School Modernization Project No. M02088601, and 2) Eastshore Elementary School Modernization Project No. M01088601.

Mr. Connor noted that the additional documents and information requested by the Board at the October 11, 2011 hearing had not been received from Great West's counsel.

Mr. Connor provided each Board member with a copy of a Hearing Memorandum (and supporting documentation) addressing the five issues to be considered by the Board, including 1)

undisclosed licenses; 2) undisclosed lawsuits; 3) undisclosed sureties; 4) revised project completion dates; and 5) non-response to requested information. In response to questions from Mr. Connor, Lloyd Linton, Director, Construction Services, provided input on certain of these issues.

Patricia Teunisse, Pitre & Teunisse, Inc., legal counsel for Great West, reiterated Great West's position, arguing that the only issue raised in 2008 was whether Great West had a different license, which was responded to then, as now, in the negative.

In response to why the additional documents and information requested were not provided, Ms. Teunisse asserted that, in addition to being difficult to obtain, requested materials were irrelevant to the hearing determination. Ms Teunisse stated that she had obtained copies of some court dockets from some of the undisclosed lawsuits listed in the Hearing Memorandum, as well as a settlement agreement from one of those lawsuits. After summarizing the substance of those documents on the record, Ms. Teunisse offered to provide copies of such documents to the Board, but President Parham declined to accept such copies on the grounds that they were untimely and should have been submitted in advance of the continued hearing as previously requested.

President Parham then allowed each attorney five minutes for rebuttal.

Richard G. (Gary) Wolfinger addressed the Board to express his belief that the contract was rescinded due to his affiliation with Richard (Dick) J. Wolfinger, Sr., and a former lawsuit involving RJW Construction Company.

Board members commented on the issues and evidence presented at the hearing, directed questions to Ms. Teunisse and Gary Wolfinger, and expressed unanimous concern about the non-response to the Board's request for information and lack of transparency and willingness to be forthcoming.

On the motion of Member Parham, seconded by Member Wallin and carried 5-0, the Board found that, based on the written evidence and oral statements presented at the hearing, Great West Contractors, Inc. was not a responsible bidder at the time it submitted its bids on the Projects on May 8, 2008.

Adjournment

On the motion of Member McInerney, seconded by Member Wallin and carried 5-0, there being no further Board of Education business, the meeting was adjourned at 5:02 p.m.

Mike Parham
Board President

Terry L. Walker
Superintendent of Schools