

Minutes – Board of Trustees  
September 6, 2006  
6:30 p.m. – LHS Conference Center

The meeting was called to order by board president, John Flores. Other members present were Gary Allen, Juan Alvarez, Jr., Timoteo ‘Tim’ Juarez, Jr., John Manning, Clint Mohle, and Carl Ohlendorf.

Administrators and staff present were: Dr. John Hall, Superintendent; Phil McBride, Assistant Superintendent–Instruction and Operations; Theresa Ramirez, Assistant Superintendent–Human Resources; James Rabe, Assistant Superintendent of Instruction and Student Success; Janie Wright, Executive Director of Curriculum and Special Programs; Tina Knudsen, Finance Director; Monica Parks, Special Education Executive Director; Larry Ramirez, LHS Principal; John Henk, Freshman Campus Principal; Patrick Venglar, Pride HS Principal; Ed Sheppard, LDMC Principal; Susan Brooks, LJHS Principal; Susan Masur, Navarro Elementary Principal; Donna Moore, Clear Fork Elementary Principal; Evangelina Orta, Plum Creek Elementary; Jesus Espinoza, Bluebonnet Elementary Principal; Barbara Bernal, Carver Kindergarten Principal; Terry Mohle, Community Education Director; Darrell Hess, Maintenance Director; Les Goad, Boys Athletic Director; David Johnston, Girls Athletic Director; and Candy Risien, Secretary for Superintendent/Board of Trustees.

Call to Order.

Presentation of Colors by JROTC.

Invocation.

Dr. John Hall gave the invocation.

Open Forum.

Mrs. Josie DeLaCruz spoke to the board about being a lifetime member of the community with 32 years teaching experience. She and her family have contributed to the district and want what is best for the district and community. She stated that along with the many rewards of working for the district, she has also faced much controversy beginning with bilingual, migrant, and special education programs. She feels that the 30 year old GED testing program is not supported by the administration or school board, she has been called by the TEA/GED state administrator who stated the program has his support all the way to the Commissioner of Education. She does not understand why there is so much confusion surrounding a successful, state awarded program and that the actual program seems to be in limbo. She also wants to know why taxpayer time and money is being spent to investigate and fix a program that is not broken. Mrs. DeLaCruz said that email has been confiscated, attorneys have been hired, and letters have been sent to GED administration, TEA Commissioner of Education, and state Representative, when this program received an exceptional rating from the GEDTS, national program.

Business.

1. Consent Agenda.

- A. Approval of Minutes
  - August 7, 2006
  - August 21, 2006

**The motion was made by John Manning, seconded by Clint Mohle to approve the Consent Agenda. The motion carried unanimously (5-0), Carl Ohlendorf and Juan Alvarez were not present.**

2. Action/Communication: Rule of 80 Retire/Rehire Discussion

The administration provided the board with a chart listing Rule of 80 and JR3 teachers, administrators within the district. Dr. Hall stated that the State of Texas is lucky to find people throughout the state that are willing to come back into the teaching field after retirement. He went on to say these folks are educated, experienced, kind, and caring professionals who make a tremendous contribution to our district. Mr. Manning asked that this item be on the agenda and he made a motion that this item be postponed until further notice for the following reasons: the district has not given him all the information he requested to address the issue, he cannot give the necessary information to the board for consideration. In addition Mr. Manning stated that Human Resources went to attorney who has no standing with the 2board of trustees and since HR chose to make this a legal issue, board of trustees and since HR chose to make this a legal issue, he intends to get a legal opinion on his questions from an LISD attorney.

He also feels that the posted agenda item does not give enough information as required by the open meetings act, in the future he will come to the Superintendent's office to get the information he requires. He requests that the board consider this item on a future agenda, Mr. Juarez asked whether this was just a communication item. Mr. Flores understood that this was a request to discuss the Rule of 80-Retire/Rehire and he asked Mr. Manning if that was correct. Mr. Manning replied that he did request a communication item with possible action, but he does not have the information he needs for the communication. Mr. Ohlendorf seconded the motion in order to pose the following question. Carl Ohlendorf asked Mr. Manning to educate the board on what he is trying to find out, or what his concern is. Mr. Manning stated that there are issues with people hired after a certain date that cost the school district a great deal of money that has to be paid to TRS in addition to their salaries and he knows of three that cost the district an additional \$37,000. Mr. Juarez inquired of Human Resources to provide by category (individuals on page 9) the salary, benefits, restructuring program, in a column type format so the board can determine what the total amount these individuals are receiving. He would also request a comparison of costs between these individuals and a posted position, he's interested in an apples to apples comparison and wants consideration of the years of experience. Ms. Ramirez states that it does cost the district an additional cost, but she reports that newly hired retired teachers at Clear Fork Elementary realized 100% reading TAKS scores and 100% Math TAKS scores. Mr. Juarez asked for the information that the board has requested before he will be willing to take action. Mr. Manning reminds him that this is an issue that will need to be addressed for next year, if anything at all is done about it. Mr. Manning has concerns about increased utilities, and lower ADA, and he thinks it is prudent for the board to look at all the issues costing the district extra money. Mr. Mohle and Mr. Manning had some questions about hiring practices and need that information before the next discussion. Mr. Juarez reminds the administration that they rely heavily on the information provided to them to do the work they are charged with. Mr. Juarez asked for historical information on the program, so that he can make an informed decision. He also stated that this program, GED, transportation, and food service programs are questions that come up to board members over and over again. He wants to have open, positive discussions on these programs so that hopefully those discussions can come to a close and not have to bring them up as agenda items. Mr. Manning would like the board to have more information and discussion on this subject, with possible action in the spring.

**The motion was made by John Manning, seconded by Carl Ohlendorf to postpone this item until a later meeting for discussion. The motion carried unanimously, (7-0).**

### 3. Action/Communication: Policy Review Committee Discussion

The administration does not recommend changing this policy, FDA Local. The board policy committee submitted this change to TASB for legal review, but it appears that it was actually changed without board approval. Mr. Manning states that the only modification the committee made was to change the word from 'shall' to 'may' be eligible, in an effort to give administrators a tool of decision making. Mr. Flores asked whether this change affected the transfer status of an employee's child or the payment of tuition and Mr. Manning asked what the principals thought about the change. Mr. Espinoza agrees that an employee's child can/should receive additional consideration, but he is ultimately responsible for the other 499 students on his campus. Mr. Allen doesn't think this should be a board decision, Dr. Hall said it was brought to the board because this involved an employee's child. Mr. Mohle and Mr. Alvarez don't think an employee's child should be treated differently than any other. Mr. McBride reminded the board that they approve all transfer students on an annual basis and the student in question was revoked from that list. There was some discussion about the references to transfer tuition, which used to be charged by the district. Mr. Juarez thinks the references make the statement ambiguous and the whole policy should be cleaned up. Mr. Manning is of the opinion that all references to tuition should be removed. Mr. Ohlendorf states that that could cause a major policy change and Dr. Hall was asked for his opinion. Dr. Hall thinks they should leave it alone, the board will receive a certain amount of erosion by virtue of the state as making open enrollment available to any student from an academically unacceptable school. Mr. Manning said Lockhart ISD is the only local school district with open enrollment and he's not sure he wants that reputation. The policy was changed without board approval/adoption and the board would like to see the legal opinion from TASB before making a formal change. Mr. Mohle suggests that we make it clear that we should not be billed for this policy change, Ms. Ramirez said she would talk

to the TASB policy representative tomorrow and make sure they understand what we are asking.

**The motion was made by John Manning, seconded by Carl Ohlendorf to postpone this item until we receive legal opinion from TASB. The motion carried unanimously, (7-0).**

4. Action/Communication: Contract Bidding Report

The administration provided the board with a list of all Contracted Service Contracts and Agreements, and correspondence from Walsh, Anderson on this subject. Mr. McBride also provided a brief of LISD policy in regard to professional services which follows the Education Code, contracts for these professional services shall be made on the basis of demonstrating confidence and qualifications. Mr. Juarez stopped Mr. McBride and asked why the Special Ed and GED contracts are lumped together as one expense, he would like to see those individual contract costs broken down individually on the list. Mr. Juarez thinks the board needs more specific information to make the most informed decisions in the future. Mr. Manning stated that he was told that the GED contracts are not bid out because they are personal service contracts and did not require bidding, Mr. Manning disagrees with that. He spoke with WABSA who told him they did need to be bid out. Mr. Manning states that his only intent in the matter of contracting is to insure that the district follows all applicable laws, regulations, and board policy as written. Mr. Manning will not vote for, nor condone any procurement that does not meet the current requirements of the law or policy. Mr. Manning went on to say, “that in any motion made, he strongly requests that any contract awarded since May 22, 2006 including Special Education professional service contracts that have not met procurement requirements, be rescinded and advertised following the proper procurement laws, regulations, and board policies concerning bidding, solicitations, and professional service contracts on the basis of demonstrated competence, and qualifications to perform the service and for a fair and reasonable price based on practices and fees published by the applicable professional association and may not exceed any maximum provided by the law.” Mr. Manning then quoted from board policy CH Legal regarding professional service contracts and Education Code 44. Mr. Manning went on to say that, “the school district accepts federal funds and we have to follow and go by the guidelines of what the federal government calls FAR or Federal Acquisition Regulations, which are far more stringent than state laws.” Mr. McBride took umbrage with Mr. Manning insinuating that the district’s contracts are breaking the federal law with any intent or criminal negligence. Mr. Ohlendorf asked whether our auditor’s review the contractual procedures and Tina Knudsen responded that auditors take samples of the contracts and review them according to the law. Mrs. Knudsen said that the district could request a more in depth procedural review. Mr. Manning said that in his opinion any contract over \$25,000 should follow a process for competitive bidding or the professional service process. Dr. Hall responded, “Let me make this administratively clear, anything that approaches \$25,000 should be advertised, sanitized, let’s bid it out.” Mr. Juarez said before the administration starts indicating what the procedures will be for the district, the board has the responsibility to ensure it is abiding by what is in the best interest of the district. Mr. Juarez doesn’t think there is enough information at this time to determine what the procedures will be for contract bids, he also stated that he doesn’t think the board has enough information about local or legal procurement procedures should be. He thinks the board should find out what the appropriate audit regarding our procurement for contracts over \$25,000 and send out a scope and have someone come and review what we are doing. And determine whether what the district is doing is adhering to TEA, state requirements, or federal requirements. Mr. Juarez thinks the district should first ‘clean up’ the list and list the individual contracts as such. In addition the expiration dates should be completed, the district is being provided services on a lot of contracts that aren’t even giving the district the option to extend them. Additionally, either at the rate they are currently at or with a slight increase, he feels the district should be flexible enough within the law to have something written into the contracts as opposed to having a higher rate. He would like to see some resolution in this area, but the board needs more information. Mr. Juarez has done a lot of independent study on this issue and contacted other school districts and he is of the opinion that WABSA interpretation is based on an Attorney General opinion that is 20-30 years old. Professional services have changed a lot over that period of time and there should be the ability for a better interpretation, definition and representation from WABSA. Mr. Ohlendorf asked Dr. Hall if LISD’s approach to professional services was much different from other districts he has worked in. Dr. Hall has never worked with a GED program before, but the Special Education contracts were handled very similarly. He referred the board to the communication from

Walsh, Anderson where it states that the district should: solicit qualifications, maintain a list of qualified persons, and utilize personnel in a fair and systematic way, Dr. Hall feels that the district is doing what WABSA counsels. Theresa Ramirez reiterated that these steps are taken and pool is created for interviewing. The Special Ed positions for diagnosticians and speech therapists are posted each year according to Theresa Ramirez and there have been no applicants for over two years; which is why the district continues to use contracted services for these positions. Dr. Hall also reminds the board that the GED program provides services to Camp Gary, GEO, and a small portion for the benefit of locals. The district actually answers a bid to Camp Gary and we are joint ventures with the GED program, with the district being the beneficiary of approximately \$80,000. Mr. Manning still wants to know if positions over \$25,000 are being posted, Mr. Ohlendorf asked Mr. Manning if he expects these positions to be bid out annually whether there is an opening or not. Mr. Manning said that he does and Mr. McBride maintains that these positions are professional services that do not require an annual re-bidding process. Ms. Ramirez states that whenever there is an open position, it is posted and advertised. Mr. Manning feels that a rider/option could be included to the contract process and the district would be in compliance. Mr. McBride maintains that the district is in compliance by virtue of being a professional service. Mr. Juarez doesn't feel that the board has enough information to identify whether the district processes adhere to the true federal, state, and local procedures should be, he wants to get a legal response before the board takes the next step. Mr. Juarez wants to know what ramifications the GED program will face if the contracts are not renewed by November 17 and reminds the board that examiner approvals will take additional time. Mrs. DeLaCruz reminded the board that the GED examiner positions have to be approved on the state (TEA) and national (GED) level. John Flores asked Mr. Manning if reviewing and revisiting the WABSA opinion would provide a solution. Mr. Manning stated that he is not picking on the GED program, he thinks every contract over \$25,000, regardless of the position should go through the bidding process. Mr. Juarez thinks the board needs a legal distinction between professional and non-professional bidding requirements. Mr. Flores wants to know if the administration can get a legal expert to field any questions the board may have in time for the September 25 board meeting.

5. Action/Communication: Consider and/or Approve Advertising Request for Qualifications-GED Program

Mr. Flores wants to know if the legal representative from Walsh, Anderson says the district is required to bid the GED contracts will that give the administration enough time to post and fill position(s). Mr. Juarez advises the administration to not be conservative when providing information to the board, Ms. Ramirez urged the board to let the administration know if they have submitted the information required. If the board needs additional information, please let administration know what else is required. Mr. Alvarez asked if the district has tried to hire professional contracted service personnel in the past. Mrs. Parks and Ms. Ramirez both stated that they have tried to do that, but the staff they use prefers to remain on a contracted service. Mrs. Parks also states that the professional service staff is paid somewhat less than their associations recommend. Mrs. Parks states that residential, regional day school services provide the most inclusive services for the cost and the district also benefits from the use of co-op shared professional services. Mr. Venglar suggested that the board take a few more minutes to tell the administration specifically what information they need.

- Mr. Juarez wants to know what the process/procedures are being utilized now for contracts over \$25,000 professional or non-professional
- Mr. Juarez also wants an interpretation from WABSA of how they determine the definition of professional services; rather than the Attorney General interpretation
- Mr. Juarez also wants the necessary qualifications and requirements for state and national certification Chief Examiner, Examiners, and Proctors
- Mr. Juarez wants the number of hours worked by those individuals at their particular hourly rate to determine the total cost of expenses by the number of GED employees
- Mr. Juarez also requested a Timeline/schedule for contracts, job postings, and ramifications of meeting the Gary Job Corps contract
- Mr. Alvarez would like to see the contract service for LDMC

Mr. McBride asked what the concern would be with administration going ahead and advertising/posting the RFP for the GED examiner. Mr. Juarez is not comfortable that he has enough information on what

direction to provide the administration, he is not opposed to administration being prepared by creating a notice, descriptions, and qualifications, but not proceed without action by the majority of the board.

- Mr. Manning is back to his original request, very simple, if it is over \$25,000 bid it out and post Ms. Ramirez asked for clarification from Mr. Juarez, you also wanted for all retirees salaries, benefits, spreadsheet with apple to apple comparison.

6. Action: Board Member Items

Mr. Manning would like an update on:

- the Catastrophic Leave Policy
- what is the status of Health Occupation teacher at Lockhart Junior High- Ms. Ramirez expects to interview next week
- what is the status vocational certification for CATE instructors
- wants the board to get an answer on the reassignment/promotion of three assistant principals. Was it a reassignment as the board intended or was it a promotion, because they were given promotion percentages when their salaries were calculated

Mr. Manning said this information can be provided as reports, rather than agenda items.

Adjournment.

Agenda completed, meeting adjourned.

SIGNED: \_\_\_\_\_  
John Flores, Board President

SIGNED: \_\_\_\_\_  
Timoteo 'Tim' Juarez, Jr., Board Secretary

APPROVED: \_\_\_\_\_  
Dated

APPROVED: \_\_\_\_\_  
Dated