

THE SCHOOL BOARD OF
ESCAMBIA COUNTY, FLORIDA

MINUTES, JANUARY 17, 2014

The School Board of Escambia County, Florida, convened in Special Meeting at 1:00 p.m., in Room 160, at the J.E. Hall Educational Services Center, 30 East Texar Drive, Pensacola, Florida, with the following present:

Chair: Mrs. Linda Moultrie Vice Chair: Mrs. Patricia Hightower

Board Members: Mr. Jeff Bergosh
Mr. Gerald Boone
Mr. Bill Slayton

School Board General Counsel: Mrs. Donna Sessions Waters

Superintendent of Schools: Mr. Malcolm Thomas (*left at 2:02 p.m.**)

*Mr. Norm Ross, Deputy Superintendent (*represented the Superintendent beginning at 2:02 p.m.*)

Meeting was advertised in the *Pensacola News Journal* on January 3, 2014 - Legal No. 1615672

I. CALL TO ORDER/ADOPTION OF AGENDA

Mrs. Moultrie called the Special Meeting to order at 1:03 p.m. Motion by Mr. Slayton, seconded by Mr. Bergosh, to adopt the agenda as outlined, carried unanimously.

Explanation of Proceedings

At the request of Mrs. Moultrie, Mrs. Waters explained the proceedings for this "hearing" which was governed by the Florida Administrative Procedures Act [*see*: Section 120.57(1), Florida Statutes]. The purpose of this "hearing" was for the School Board to determine where there was just cause to debar KESCO, Inc. from doing business with the School District for a period of two (2) years. Mrs. Waters advised that the standard of proof in this matter was the facts supporting debarment must be proven by the School District to a preponderance of the evidence.

Exhibits, Meeting Minutes, and Verbatim Transcript

Mrs. Waters advised that a copy of the exhibits had been furnished to each School Board Member, Ms. Elaine Richberg, Court Reporter, and Mrs. Holley DeWees, Administrative Recording Secretary (Supplementary Minute Book, Exhibit "A"). Mrs. Waters suggested that Recording Secretary prepare an "action only" form of meeting minutes as a verbatim transcript of the meeting would be available upon request from the Court Reporter.

Time Limits for Presentations and Rebuttal

Motion was made by Mr. Bergosh, seconded by Mrs. Hightower, to set the time limit for each side's presentation at fifteen (15) minutes. Motion carried unanimously. Motion was made by

Mrs. Hightower and seconded by Mr. Slayton, to set the time limit for each side's rebuttal at ten (10) minutes plus any time remaining from their initial presentation. Motion carried unanimously. There was no objection from either party to the time allotted for presentation or rebuttal.

II. APPEAL OF DEBARMENT REGARDING KESCO

Presentation by School District

The actions alleged to support debarment were outlined in a letter sent to KESCO by the School District's Director of Purchasing on December 4, 2013. The Superintendent and his staff presented testimony and documentary evidence regarding the purchases discussed in that letter.

Presentation by KESCO

Mr. Don Theriot, owner of KESCO and his staff presented testimony and documentary evidence in defense of its actions related to the purchases discussed in the letter.

Opportunity for Rebuttal

Representatives from each side were given an opportunity for rebuttal.

Questions and Comments from School Board Members regarding Presentations/Rebuttals

There being no objection from any School Board Members, the rules of order were suspended so that discussion could occur prior to any motion being made. Representatives from both the School District and KESCO responded to various questions posed by School Board Members regarding the testimony and documentary evidence that had been presented by each side. [EDITOR'S NOTE: As suggested by Mrs. Waters, the minutes of this meeting have been prepared in "action only" form as a verbatim transcript of the meeting would be available upon request from Ms. Elaine Richberg, Court Reporter.]

Public Input re: the Appeal of Debarment regarding KESCO

Mrs. Moultrie asked if there were any members of the public who wished to address the School Board regarding this matter; however, there were none.

School Board Deliberation and Action regarding the Appeal of Debarment regarding KESCO

Several School Board Members said they were not ready to make a decision at that time; they each expressed a desire to have additional time to thoroughly review the testimony and documentary evidence presented by both sides. Mr. Slayton recommended that the School Board recess this meeting until the end of the January 21, 2014 Regular Meeting.

The Special Meeting recessed at 3:03 p.m. and reconvened at 3:10 p.m., with all School Board Members, the Superintendent, and Mrs. Waters present.

Motion was made by Mr. Slayton and seconded by Mr. Bergosh, to recess the Special Meeting until the end of the Regular Meeting on January 21, 2014. Motion carried unanimously. The Special Meeting was recessed at 3:31 p.m. on January 17, 2014 and reconvened at 6:28 p.m. on January 21, 2014 with all School Board Members, the Superintendent, and Mrs. Waters present.

Representatives from both the School District and KESCO responded to additional questions posed by School Board Members regarding the testimony and documentary evidence that had been presented by each side. [EDITOR'S NOTE: As suggested by Mrs. Waters, the minutes of this meeting have been prepared in "action only" form as a verbatim transcript of the meeting would be available upon request from Ms. Elaine Richberg, Court Reporter.]

Mrs. Waters advised that the standard of proof in this matter was that the facts supporting debarment must have been proven by the School District to a preponderance of the evidence. After duly considering the evidence, the School Board found that improprieties justifying debarment were not proven by the School District to a preponderance of the evidence.

Motion was made by Mr. Bergosh and seconded by Mr. Boone, to reject the debarment of KESCO on the basis that the findings were not sustained by a preponderance of evidence. Motion carried unanimously.

Mrs. Waters advised that in accordance with the Administrative Procedures Act (APA), she in conjunction with the School Board Chair, would draft a proposed order, each side (School District and KESCO) would also be permitted to submit a proposed order, and all proposed orders would be submitted to the School Board for their consideration at a future meeting; the accepted version would be entered as the final order.

III. PUBLIC FORUM

Mrs. Moultrie called for public forum; however, there were no speakers.

IV. ADJOURNMENT

There being no further business, the Special Meeting adjourned at 7:30 p.m.

Attest:

Approved:

Superintendent

Chair